



## IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS AT U.S. CITIZENSHIP AND IMMIGRATION SERVICES

### ACTION NEEDED

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We urge Congress to:

- Enact the Arts Require Timely Service (ARTS) Act, S. 2510, which will require U.S. Citizenship and Immigration Services (USCIS) to ensure timely processing of petitions filed by, or on behalf of, nonprofit arts-related organizations.
- Take steps, in cooperation with the Administration, to persuade USCIS to take ongoing immediate administrative action to improve the artist visa process.

### BACKGROUND

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Foreign guest artists engaged by U.S. arts-related organizations are required to obtain an O visa for individual foreign artists; or a P visa for groups of foreign artists, reciprocal exchange programs, and culturally unique artists. Artists and nonprofit arts organizations have confronted uncertainty in gaining approval for visa petitions due to lengthy and inconsistent processing times, inconsistent interpretation of statute and implementation of policies, expense, and unwarranted requests for further evidence. The nature of scheduling, booking, and confirming highly sought-after guest soloists and performing groups requires that the timing of the visa process be efficient and reliable, otherwise the American public is denied the opportunity to experience international artistry. Also, American artists scheduled to work alongside international guest artists lose important employment opportunities. Additionally, the bottom line is impacted for nonprofit arts groups that have a financial obligation to their audiences.

Delays began when USCIS adopted a Premium Processing Service (PPS) in June 2001, guaranteeing processing within 15 calendar days at \$1,225 per petition. This is often an unaffordable cost for most nonprofit arts organizations. Following the creation of PPS, regular O and P visa processing has varied widely, ranging from 30 days to six months. In the summer of 2010, USCIS pledged to meet the statutory 14-day regular processing time. It also promised public stakeholders that significant improvements to the quality of artist visa processing would soon be underway as part of the agency's major effort to revise its policy and training programs. While these statements were encouraging, they have yet to be fully implemented, and absent legislative action, improvements to the artist visa process are subject to the discretion of USCIS leadership. For a time, petitioners did experience incremental improvements to processing times, however in the past year, petitioners have been reporting lengthy delays at the Vermont Service Center. These delays, combined with inconsistent processing procedures, result in petitioners having to upgrade to PPS at an unsustainable rate or to cancel plans to engage foreign guest artists.

The ARTS Act would not diminish the standards by which artists qualify for a visa. It would merely hold USCIS to the statutory timeframe and impart sorely needed reliability to an unpredictable process that affects U.S. nonprofit arts employers, foreign guest artists, and U.S. audiences. The ARTS Act has strong bipartisan support and was most recently reintroduced by Senators Hatch (UT) and Leahy (VT) in February 2016.

### TALKING POINTS

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- **Immediate assistance is needed to improve the artist visa process. Congress recognized the time-sensitive nature of arts events** when writing the 1991 federal law regarding O and P visas—the categories used by artists—in which USCIS is instructed to process these visas in 14 days. In the event the 14-day

timeframe is not met, passage of the ARTS Act would require that USCIS process nonprofit O and P petitions within a total of 29 days—*twice* the current statutory requirement. This in itself is eminently reasonable and consistent with security requirements. Although USCIS has made efforts in recent years to observe the statutory timeframe, the mandate has not been consistently implemented. Under its current authority, the agency should also make other immediate policy changes to remedy unreasonable delays, cost, and uncertainty, such as improving the accuracy of the petition process.

- **The inconsistency of the U.S. visa process for foreign guest artists has extremely harmful results.**
  - ***When foreign artists are unable to come to the United States, the American public is denied the opportunity to experience international artistry.*** Performances and other cultural events are date-, time-, and location-specific. The nature of scheduling, booking, and confirming highly sought-after guest soloists and performing groups requires that the timing of the visa process be efficient and reliable.
  - ***The absence of international guest artists costs American artists important employment opportunities.*** If an international guest artist cannot obtain a visa in time to make a scheduled performance, then the many American artists who were scheduled to work alongside the guest artist may lose a valuable and much-needed source of income and artistic promotion.
  - ***Delays and unpredictability in the visa process create high economic risks for U.S. nonprofit arts institutions and the local economies they support.*** Nonprofit arts groups frequently sell advance tickets, creating a financial obligation to audiences. Regular visa processing can take too long for arts organizations to accommodate given that delays can unpredictably stretch to weeks and months, and the cost to upgrade the petition or to cancel altogether directly impacts their bottom line.
- **The ARTS Act has strong, bipartisan support.** The House and Senate have signaled bipartisan support for improving the artist visa process. Bill S. 2510 was re-introduced by Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT) in February 2016, and was included in the 2013 Senate comprehensive immigration reform bill. Prior to that, a provision was included in the 2006 and 2007 comprehensive Senate immigration reform bills. The full House approved a stand-alone version of the measure, H.R. 1312, in April 2008.
- **Nonprofit arts organizations of all sizes cannot afford the \$1,225 premium processing fee, leaving them to await the unpredictability of regular visa processing.** Nonprofit arts organizations from all regions of the country and in communities of all sizes engage foreign guest artists. The premium processing fee reduces the amount of money available for a production/performance and represents a significant portion of an organization's operating budget and costs.
- **Global cultural exchange is important now more than ever.** American nonprofit arts organizations provide an important public service and boost international diplomacy by presenting foreign guest artists in performances, educational events, and cultural programs in communities across the country. The United States should be easing the visa burden for nonprofit arts organizations who are engaging foreign guest artists, not increasing it. Only with steady improvements over time will confidence in the U.S. visa process continue to be rebuilt among U.S. petitioning organizations and foreign artists alike. This will greatly enhance international cultural exchange. The 2009 report from New York University's John Brademas Center for the Study of Congress, *Moving Forward: A Renewed Role for American Arts and Artists in the Global Age*, calls for passage of the ARTS Act.