

IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS

ACTION NEEDED

We urge Congress to:

- **Reintroduce and enact the Arts Require Timely Service (ARTS) provision, which will require U.S. Citizenship and Immigration Services (USCIS) to reduce the total processing time for petitions filed by, or on behalf of, arts-related organizations.**
- **Direct USCIS and the State Department to adopt immediate policy changes to make artist visa processing more accessible, reliable, and affordable, including reinstatement of Traditional Expedite and ensuring that any fee increases are proportional and fair.**

TALKING POINTS

- **American arts organizations and artists provide an important public service and advance cultural diplomacy by presenting international guest artists in highly valued performances, educational events, and cultural programs in communities large and small throughout the United States.** International cultural exchange uniquely supports a diversity of viewpoints and contributes to international peace and mutual understanding. The United States should be easing—not increasing—the visa burden for arts organizations engaging international guest artists so that U.S. audiences can enjoy artistry from across the globe.
- **The ARTS provision has a long history of strong, bipartisan support.** Both the House and Senate have signaled bipartisan support for improving the artist visa process. The ARTS provision was included and passed in the 2013 Senate comprehensive immigration reform bill, the 2006 and 2007 comprehensive Senate immigration reform bills, and the full House approved a stand-alone version of the measure in April 2008.
- **The inconsistency of the U.S. visa process for guest artists—as well as broad travel restrictions that hinder cultural exchange—has harmful results for everyone.**
 - ***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, American artists who were scheduled to work alongside the guest artist lose a valuable source of income and artistic promotion. Furthermore, there can also be long-lasting harmful reciprocal effects on the ability of U.S. artists to tour, perform, and create art abroad.
 - ***Delays and unpredictability create high economic risks for U.S. arts organizations and their local economies.*** Arts organizations and presenters frequently sell tickets in advance, creating a financial obligation to their audiences. Visa delays can stretch to weeks and months despite careful advance planning, which then force U.S. organizations to upgrade to Premium Processing Service (PPS)—at the exorbitant *additional* cost of \$2,500 or to cancel altogether. Both of these options directly impact the bottom line of U.S. arts employers. Given the logistical challenges to schedule and undergo consular processing due to COVID-19 screening and containment, it is critical that the visa approval process from start to finish be as efficient and predictable as possible.
 - ***When guest artists are unable to come to the United States for advertised engagements, 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, confirming, and marketing highly sought-after guest artists in the U.S. requires that the visa process be efficient and reliable so that U.S. audiences may experience extraordinary artistic and cultural talent at home that they could not otherwise enjoy.
- **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 the USCIS is instructed to process O and P arts visas in 14 days. In the event the 14-day timeframe is not met, the ARTS provision would require USCIS to process O and P arts-related visa petitions within a total of 29 days—*twice* the current

statutory requirement, which in itself is eminently reasonable and consistent with security concerns. USCIS has demonstrated the ability to observe the statutory timeframe, but the mandate has not been consistently met. Under its current authority, the agency can make other immediate changes to remedy unreasonable delays, cost, and uncertainty, such as improving the accuracy of the petition process.

- **Arts organizations of all sizes cannot afford the \$2,500 premium processing fee, leaving them to await the unpredictability of regular visa processing.** Arts organizations from all regions of the country and in communities of all sizes engage extraordinary international artists. After filing fees increased by 42% in 2016, followed by three recent increases in the Premium Processing fee (in 2018, 2019, and then October 2020 to its present cost of \$2,500), the financial cost to engage international artists is becoming too expensive for most arts organizations. Moreover, after COVID-19 has completely upended at least an entire season of programming, no arts organization can afford to risk paying high fees for a visa that might not be approved at all or on time.
- **The latest fee and policy proposals threaten to freeze international artistic engagement.** On top of the significant fee increase in 2016, the Department of Homeland Security planned to implement in October 2020 a *further* disproportionate increase of approximately 50% on both O and P petitions, to limit the number of beneficiaries on a single petition to 25 people, and to lengthen the timeline for PPS from 15 calendar days to 15 federal working days. Such changes would severely threaten the ability of many arts organizations to engage guest artists, not only due to the exponential increase in cost, but also in the face of consistent USCIS action and policies seemingly designed to discourage international engagement even at the cost of depriving U.S. employers, fellow artists, and audiences. These ill advised and harmful proposals, made during the Trump Administration, are under injunction and must be completely rejected so that any fee increases are proportional and fair, and the other proposals completely rejected.

BACKGROUND

U.S. arts-related organizations are required to obtain an O visa for individual foreign guest artists, or a P visa for groups of foreign artists, reciprocal exchange programs, and culturally unique artists. Visas are first processed for approval by USCIS before artists interview to obtain their visas at State Department consular locations world-wide. Artists and U.S. 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.

Following the creation of Premium Processing Service, 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 and promised public stakeholders that significant improvements would be made to the quality of artist visa processing. For several years, petitioners experienced incremental improvements to processing times, only to encounter at-times lengthy and highly unpredictable delays and seemingly time-stalling Requests for Evidence for material already in the original filing. 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 artists, which is financially, logistically, and reputationally harmful once an event has been marketed.

Congress can make enduring improvements to the visa process; therefore, we ask that any immigration reform effort include enactment of the ARTS provision. USCIS would be required to treat any arts-related O and P visa petition that it fails to adjudicate within the 14-day statutory timeframe as a Premium Processing case (additional 15-day turn-around), free of charge. This legislation would not diminish the standards by which artists qualify for a visa—it would hold USCIS to a reasonable timeframe, restore the recognition that cultural interests are valued in this country, and impart sorely needed reliability to an unpredictable process that affects U.S. arts employers, international guest artists, U.S. accompanying artists, and U.S. audiences.