

IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS

Orchestras from all regions of the country present international musicians in U.S. communities, providing American audiences the opportunity to experience a diversity of musical talent. Engaging international guest artists also encourages a supportive climate for U.S. orchestras to perform abroad. International artistry requires the U.S. visa process to be affordable, reliable, and efficient.

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, nonprofit arts-related organizations.*
- *Direct USCIS and the State Department to adopt immediate policy changes to make artist visa processing more accessible, reliable, and affordable.*

TALKING POINTS

- **American orchestras in communities large and small provide an important public service and advance international diplomacy by presenting foreign guest artists in performances, educational events, and cultural programs that are highly valued by U.S. audiences.** International cultural exchange uniquely supports a diversity of viewpoints and contributes to global peace and mutual understanding. The U.S. should be easing, not increasing the visa burden for nonprofit arts organizations.
- **The ARTS provision has a long history of strong, bipartisan support.** The House and Senate have signaled bipartisan support for improving the artist visa process. The ARTS provision was last introduced in 2018 by Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT), was passed in the 2013 Senate comprehensive immigration reform bill, and was also included in the 2006 and 2007 comprehensive Senate immigration reform bills. The full House approved a stand-alone version of the measure in April 2008.
- **The inconsistency of the U.S. visa process for foreign 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 artist cannot obtain a visa in time for a scheduled performance, the American orchestral musicians scheduled to work alongside the guest artist may lose a valuable source of income and artistic promotion. There could also be harmful reciprocal effects on the ability of U.S. musicians to tour, perform, and create art abroad.
 - ***Delays and unpredictability in the visa process create high economic risks for U.S. nonprofit orchestras and the local economies they support.*** Delays in visa processing impact the bottom line of U.S. nonprofit orchestras that must choose between expediting the petition at significant cost or canceling altogether. When USCIS quietly removed eligibility for nonprofit petitioners with cultural interests to request a free traditional expedite, many petitioners have been forced to pay for Premium Processing Service (PPS), an additional \$1,440 expense, because any delays at USCIS impact the remaining time for consular processing, which itself has become time-consuming due to enhanced vetting. It is critical that the visa approval process at USCIS be as efficient as possible.
 - ***When artists are unable to come to the United States for guest engagements, the American public is denied the opportunity to experience international artistry.*** Nonprofit orchestras typically sell

tickets in advance, creating an obligation and promise to their audiences. Performances are date-, time-, and location-specific and to schedule highly sought-after guest artists requires that the visa process at USCIS and consulates be reliable. If a guest cannot obtain a visa in time, U.S. audiences miss out on experiencing extraordinary artistic and cultural talent at home that they may not otherwise be able to 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 these visas in 14 days. In the event the 14-day timeframe is not met, passage of the ARTS provision would require that USCIS grant PPS free of charge, which would mean nonprofit O and P arts-related visa petitions are processed within a total of 29 days—*twice* the current statutory requirement. This is eminently reasonable and consistent with security concerns. Although USCIS has made efforts on occasion to observe the statutory timeframe, the mandate has not been consistently met. Under its current authority, the agency can make immediate changes to remedy unreasonable delays, cost, and uncertainty, such as improving the accuracy of processing.
- **The latest fee and policy proposals threaten to freeze international artistic engagement.** Following an already-significant fee increase for regular visa processing in 2016, the Department of Homeland Security published a proposed rule on November 14, 2019 that seeks to impose a further disproportionate increase of approximately 50% on both O and P petitions (costing as much as \$715 to file O petitions and \$705 to file P petitions), to limit the number of beneficiaries on a single petition to 25 people, and to lengthen the timeline for premium processing 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 persistent USCIS action and policies seemingly designed to discourage international engagement even at the cost of depriving U.S. employers, artists, and audiences.

BACKGROUND

Foreign guest artists engaged by U.S. orchestras are required to obtain an O visa for individuals, or a P visa for groups of foreign artists, reciprocal exchange programs, and culturally unique artists. Visas are first submitted for USCIS approval before artists interview at State Department consular locations to obtain their visas. Artists and U.S. orchestras have confronted uncertainty in gaining approval for visa petitions due to lengthy processing times, inconsistent interpretation of statute and implementation of policies, and unwarranted denials or requests for further evidence.

Delays began when USCIS adopted a Premium Processing Service (PPS) in June 2001, which currently costs \$1,440—an additional fee that is unaffordable for many nonprofit arts organizations. Regular O and P visa processing has varied widely, ranging from 30 days to six months. On multiple occasions, USCIS publicly pledged to meet the statutory 14-day regular processing time and promised significant improvements to the quality of artist visa processing. Processing times temporarily improved, only for lengthy delays to recur over the past two years. These delays, combined with inconsistent processing, are forcing many petitioners to upgrade to PPS at an unsustainable cost or to cancel plans to engage foreign artists, which is financially and reputationally damaging when events have already 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 upgrade any arts-related O and P visa petition that it fails to adjudicate within the 14-day statutory timeframe to Premium Processing Service free of additional charge. This legislation would not diminish the standards by which artists qualify for a visa—it would hold USCIS to a reasonable timeframe, imparting sorely needed reliability to an unpredictable process that affects U.S. nonprofit arts employers, foreign guest artists, and U.S. audiences.