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September 9, 2021.

Association of Performing Arts Professionals.

>> Moderator: Good afternoon. I hope everyone can hear me.

Thank you for joining us today. We are pleased to present this webinar on U.S. artist Visas, and International Travel in the age of COVID. My name is Krista Bradley, the director of programs and resources at APAP.

I am joined today by my fellow co-presenters who are visible now onscreen and named in the current slide. We're all so glad to be working together on this presentation and will now be turning cameras off - with the exception of ASL interpreters - so that your screen is filled with the content slides until later in the presentation.

I would like to acknowledge that today we are meeting from several locations but are gathered on the Zoom platform. Zoom is headquartered in San Jose and on the unceded and ancestral lands of the Ramaytush and Muwekma Ohlone people, who have stewarded this land throughout the generations. I would like to

pay my respect to the Ramaytush and Muwekma Ohlone elders both past and present.

Before we get started today, I wanted to share a few quick ways you can interact with each other and also with our speakers. On your screen, you should see Chat and Q&A functionality tabs. Chat allows you to say hello to others attending the webinar and make general comments throughout the session. The Q&A functionality is for the sole purpose of asking our speakers questions that you would like them to address or to raise any technical issue you might have. Any questions put in the Q&A section will only be seen by our speakers. This session will be closed captioned and also ASL interpreted. During today's presentation, the image of the interpreter will appear side-by-side with the slide deck. You can adjust the size of the interpreter box by sliding to the left or right the vertical line that divides the interpreter's video from the slide images. The Closed captioning will appear automatically on your screen. If you would like to disable the chat transcript please click MORE on the bottom of the Zoom window and HIDE SUBTITLE.-- actually, I want to make a correction. To turn on caption, please click the closed caption icon on the bottom of the Zoom window and choose sub-Title. My apologies.

Also, a reminder that the slide deck and recording of this presentation will be made available after today's webinar. We are grateful for the many questions that were shared in advance of this presentation. While we will be monitoring any additional questions submitted during the course of the presentation, we may not be able to respond to them all. Please rest assured that all questions will continue to inform the guidance available on Artists from Abroad and in future learning events. So now we want to go over what we're covering today, and I want to walk you through what to expect. A brief introduction to highlight goals and points that we'll cover today.

We'll review the Artists from Abroad website and the Visa process. Going over COVID-19 travel restrictions and review policy considerations and next steps. I am very happy to acknowledge our wonderful partners for today.

In addition to those we have already described early on. They include all of these organizations on your screen. I don't need to read them, but we're incredibly grateful for their partnership and the work that we collectively do together to make this work happen and to work on behalf of our respective members.

Now I think I am turning this over to my wonderful colleague Heather Noonan. From the League. Heather?

>> Heather: Great. Thank you so much, Krista. Just to echo your thanks. Wanted to share ours from the League of American Orchestras to all of the organizations that have partnered to present the webinar. These groups work collectively year-round to support international artists mobility in really two or three ways. One, to try to provide consistent information for those using the Visa process to help enhance opportunities to navigate what is a very complex and always changing system. And the other is to work collectively to try to influence policies, to always aim to make that system more streamlined, affordable, accessible, and ultimately equitable.

So for today, our goals through the webinar are fundamentally to help support ongoing global opportunities for international cultural activity by giving you the up-to-the-minute information on how the Artist Visa process is working and where the opportunities are.

As we move through the conversation, we'll rely on resources that you may already be familiar with. Some are static, including the Artists from Abroad website. And other guidance you might see. Newsletter, and information communicated [ ] and on experts deep into the Visa processing system day by day. We're going to overview some of the basic requirements.

We know some people are coming to the conversation with a lot of experience in navigating Artist Visas, and for others this the first time stepping through that.

As we go through the conversation, we want to acknowledge that the O and P Visa requirement, the legacy of the 2017 travel ban that was repealed in 2021 but still a long tail to it, and the lack of transparency and predictability on how the U.S. Visa process works from country to country has created barriers for

equitable access for cultural activities here in the U.S.

On top of that, the more recent COVID-19 related travel restrictions have presented still further inequitable barriers to artist's mobility. We want to be sure that as we move through this we seek the process to make this more equitable, and daily process, and policy improvements further to come.

Near the end of the presentation, we're going to move from discussing the how-to's of the artist Visa process to how we could all work together to improve these policies in the long run.

So for the next few moments I am going to hand it over to my colleague Najeann Lee in the League of American Orchestra's Washington office. If you have engaged with the website, Najeann is the person behind the pages keeping the information up-to-date and also creates news updates on a regular basis.

With that, I will now hand it over to Najeann.

>> Najeann: . Thank you so much Heather. I will go over the Artist Visa process. For those of who have a lot of familiarity, please bear with us for a few minutes. We have a pretty wide universe of people signed up for today's webinar. So for those of you who are maybe a little bit less familiar, we wanted to point out that this is a somewhat complicated process. And it does actually involve interfacing with three different U.S. agencies. And the first two are probably going to be the most familiar to you.

But the third that does come into play, as that final step, is customs and border protection. For the most part though, you will hear us referring to USCIS, which stands for U.S. Citizenship and Immigration Services. And the U.S. Department of State for the consular processing. You may see us refer to that as DOS or State. USCIS, the first part of the process, is traditionally the stage where the U.S. based petitioner has to seek approval for a Visa for an international guest artist, which are the beneficiaries that we are discussing today.

It is important to note that the person filing an O or P Visa, which I will get to in a moment, has to be a party based in the U.S.. What that person will get, if everything goes well--it can take a matter of weeks to months--is an approval notice at the end of that process. And in most cases that approval notice will

then be given to the artist or artists, if you are engaging a group of them. And they would then make an appointment for what we call consular processing. This will take place outside of the U.S. and it involves an interview, and eventually, again, if all goes well, the issuance of the physical Visa that goes into the passport. When the time comes for the artists to enter the U.S., they would interface with customs and border protection. As I mentioned a moment ago, the main classifications we were discussing are Os and Ps. To get a little bit specific for a moment. The O-B is what you engage with soloist or perhaps lead actor. You might hear me refer to orchestral examples. An O-1 B is someone in an individual role. So it's not going to be someone performing as part of a group, but, again, in sort of the orchestral example, a solo violinist, a cellist or music director. And the O-2 is anyone accompanying the primary beneficiary. And then we have the P category. There are a few. (Everyone will get a copy of these slides and you will see these hyperlinks take you to more information.) So the P-1B are for duos to an entire opera company, dance troupe or international orchestra. Sort of one interesting example, an exception to the P-1B is that it could be used as an individual performs as part of a U.S. based organization: a section musicians in an orchestra or dancer as part of an entire troupe. This is not for someone soloing. That would be the O-1B. But as part of the U.S. based ensemble and group, there's an ability to use a P-1B. That could be really useful if the individual in question may not have as many credentials or coverage from winning competitions or contests.

It can be a little harder to prove the O-1B standard can be met. In such a case, P-1B is for an organization with a prominent reputation of its own. And the reciprocal exchange, P-2. Typically not in much use. But a couple of limited examples. American federation of musicians is one.

And actors equity is another.

Feel welcome to click on the link when you get the slides later, and you find more information about that. There are limited examples under which P-2 is available. P-3 for individuals or groups that are culturally unique. That is not to speak to the uniqueness of their citizenship but the uniqueness of the artistry. That does

need to be demonstrated.

And just as there is a category of support personnel for the O-1B there's a P support for P-1s and P-3s.

So you have heard us mention the Artists from Abroad website. It's a website that we try to keep as up-to-date with information as possible. That said, if you ever see an error, feel free to shoot a message through the contact us link you see at the top of the page. This is just a screen grab of the site. But if you go to the [www.ArtistsfromAbroad.org](http://www.ArtistsfromAbroad.org), this is what you will see. Split into immigration procedures and tax requirements.

We'll not be going into the tax requirements today. Immigration procedures is quite enough to be dealing with. But once you go through the entire process, do take a look at the tax requirements at your leisure. There are important things to know about withholding.

But in order to navigate any of this information, you would just click over immigration procedures. And then you will see a whole host of information. It's designed to be pretty self-explanatory and be a way to help anyone walk themselves through the process.

Although many people will call upon the advice of attorneys, this is really also a way that if you give yourself enough time, you can actually navigate the process on your own. Of course, it'll depend on how complex the case is, how much time you have, and whether you are looking to engage someone who is going to be performing with a bunch of different other organizations.

But Artists from Abroad is our hope to make that process a little bit easier to understand.

I'll point out a couple of top links through that resource. It really where we point everyone first. This is kind of your one stop shop.

When you do click on the immigration link, which you saw in the previous slide, if you choose the immigration section, the immigration procedures appendix is really, really useful. And I actually will have that on the next slide to sort of, in brief, show you what that looks like. That truly is your one-stop shop for the links that you could get for cover letter templates, links to forms, special memos,

that can be helpful, and so on.

You will also find on Artists from Abroad the links to filing fees. Those do change from time to time. There's step-by-step guidance on how to complete the form I-129 which you use when applying for any of the O and P categories and for other ones as well. The step-by-step guidance does walk you through how you would fill out the I-129 if you are engaging an O-1B versus a different classification.

And finally, the news updates is also very handy. I will show you a screen grab of that as well. That's where we're really keeping everyone up-to-date with what we know and what we think everyone else needs to know.

So this is that appendix that I had just referenced. It's a much longer page than this. But this just gives you an idea of the kinds of resources that you will find. These are all hyperlinks that will take you to USCIS links or other pages. And we also have several PDFs uploaded through Artists from Abroad. And, again, just like if you see any errors in the website as a whole, sometimes we have been really thankful to users of the site who have let us know when there's a change in consultation fees, for example. So just let us know. And we try to get those updates fixed as quickly as possible.

This is that news page I had mentioned as well. You will find on the home page there's always going to be top news. If you click on any of those, there will always be a link to All News Items. All News Items is what you see in the body of this page here. It'll scroll down much further, if you are looking at the live page.

And I will actually just show you. This is the current and very latest news item right now. And what we are hoping is that this is something that we can keep posted. And so rather than having to bookmark several links, when it comes to COVID-19 Visa and travel status updates, we're going to look to keep this particular page up-to-date.

So as we learn new information, feel free to just refresh this. This page is going to be hyperlinked in the slides. But also if you go to Artists from Abroad, you will see this is the top news item.

You will see it says 8/12/21, and it'll change as we have new information to add. Any of the news we have, as well as the Artists from Abroad guidance throughout the website on both the immigration and the tax withholding information, is informed by legal practitioners from Tamizdat, GG Arts Law, and Blue Skies Immigration. We're glad to have trusted colleagues who are really helpful in kind of giving us a sense of what is happening on the ground. And what kind of practical advice we can let people know about. And to just double check the information before we post it, when there are sort of major changes to flag for people.

And speaking of Tamizdat, I will actually now hand it over to our friend Matthew Covey, who will walk us through some of the main things that brought you here today, which are the impacts of COVID-19.

>> Matthew: Thanks. Can you hear me? Am I on? Okay. Good. Matthew Covey. The executive director of Tamizdat. From the ancestral lands of the Lenape people in Brooklyn. I'm a middle aged white man wearing a blue shirt, and speaking to you from the office, which looks office-y, but you can't see that because the camera is off, but now you know.

We run a program called Tamizdat to dovetail with Artists from Abroad. A free service where you can reach 24 hours, 7 days a week. You can reach a volunteer immigration attorney who can kind of fill in the gaps. If you get yourself into the process of filing your own petition. And if something goes wrong, something on hand to help you figure out what went wrong.

So that's a service that we provide. But what I am here today to talk about really is where things stand with artist mobility to the U.S. And what can -- what is possible, what is not possible and what we know and what we don't know.

I am going to work through a series of questions that I keep hearing from our clients. And then we'll do a case study in a little bit where we talk about, so you are a presenter and how do you even begin to think about managing decisions in the current COVID context.

How did the COVID-19 travel restrictions impact international artists traveling to the U.S. and who is impacted? The COVID-19 travel ban prohibits individuals

physically present in the 33 countries in the last 14 days, immediately prior to the travel to the U.S.

On the screen you can see what those 33 countries are. It's important to note that it impacts people who do not have a close family member - a spouse or a child who is a U.S. citizen or a green card holder or a member of the U.S. Armed Forces.

What that means is if you try to bring an artist to the U.S., and they're German, then they're probably affected by the travel restrictions. Unless they happen to be married to a U.S. citizen or in the U.S. Armed Forces which seems unlikely, but that's the way this works. It's not about the citizenship but where they were physically prior to traveling to the U.S. That's important. A lot of people get confused.

I am German, or I am Norwegian, I can't travel to the U.S. right now. That's not what it is about. It's where are you? If you are Norwegian but in Jamaica, you don't really have a problem. You can travel to the U.S.

So let's move on to the next question. That would be the next slide, please. How do I get my artist to the U.S.? My artist is in one of the 33 travel ban countries but needs to enter the U.S. How can I get her here? There are sort of two different categories to answer the question. If the artist has the appropriate P or O Visa that Najean talked about, they have two options. And they hang out for 14 days and then proceed on to the U.S. Lots of people going through Mexico. A lot of Caribbean countries, people traveling to those, and hanging out for two weeks and traveling on to the U.S. It's important to remember that you have to travel to the U.S. by some route that doesn't go through a banned country.

We have seen a couple of situations where an Italian goes to Romania, and hangs out there for two weeks, and flies to the U.S., but, oh, no, they fly through Heathrow (United Kingdom) and the two weeks are wasted and they can't come into the country because they transited through one of the banned countries. And one to receive a National Interest Exception, and we'll get into what that is about in a little bit.

If the artist doesn't currently have the appropriate P or O Visa things get harder. They need to file for the National Interest Exception, what Najean was talking about. And filing is a lot easier said than done. And we'll go through the sort of pain that's related with trying to get appointments and trying to get a National Interest Exception in a moment.

What I also want to point out here. Currently, the U.S. consulates around the world claim they are not processing Visas for third-country nationals. That means if you are an art -- say your artist is say Spanish. They don't have a Visa. They can't go for Mexico, hang out there for a little bit, apply for the Visa in Mexico city, get the Visa issues and proceed to the U.S. The U.S. embassies and consulates are not processing Visas for those not in resident in those countries. That's the rule. We know there have been exceptions to this, but for the most part, if you are -- if you don't have that P or O Visa already, you will be stuck trying to go through the National Interest Exception in your own country. Because this process is hard, and everyone is hearing about how hard it is, a lot of people are wondering if it's possible to do this. Can I get a P or O Visa right now. Getting a P or O Visa is required for performing in the U.S.

The I-129, the Visa application, and if necessary, the National Interest Exception. As always, the I-129 needed to be file by a U.S. petitioner. Proving that the artist is of caliber deserving the status, and has contracted employment in the U.S. This part of the process is currently functioning no worse than it always does. Processing time is around six weeks in Vermont. In California, we're hearing reports of much longer times. But it seems spotty. Sometimes it goes quickly in California, and sometimes it goes slowly.

We're anticipating that we may be seeing significant increases in processing times through the fall. The reason for this is as we move toward removing travel restrictions, we know that the service centers are pretty short staffed, and we're going to see a real backlog building. We're all very concerned with how big the backlog will be and how long the regular processing is going to take. In Vermont, we're seeing four to six weeks but it's not at all inconceivable that it could extend to three or four months, by the new year.

Then once the petition is approved, the artist needs to file the DS160 application at local embassy or consulate and schedule a consular interview. The second part of the process is not working normally at all. Almost all U.S. consulates are functioning on reduced capacity if functioning at all. Many are not scheduling interviews earlier than spring 2022. If you need a Visa earlier, you need to schedule, and contact the consulate and see if they can provide you with an interview sooner than the earliest available interview. You need to convince them that the reason you need to travel to the U.S. is very important.

Coming from one of the 33 countries from which travel is banned, you need to convince them that you are eligible for the National Interest Exception. I will get on to that a bit below.

It's important to note that the DOS, the Department of State, announced that the Visa applicants applying for a Visa in a classification that they previously received in last four years may be eligible to skip the (in-person) Visa interview process and apply for Visas by post.

This works in most non-travel banned countries. And in some travel banned countries, that's a really big country right now. For example, we had been told that London is not accepting mail-in applications but just today we heard that apparently they say they are. Although there's some indication that maybe that's just a rumor. We don't really know. It's always worth exploring if you are in that situation where you have had the Visa before.

And you are trying to get the Visa again, you may be able to avoid this whole getting an appointment problem by mailing in your Visa. Information would be available on the embassy or consulate's own website.

Then the new part of all of this. The thing nobody is used to because it's been created in the wake of COVID. If you come from one of the 33 countries from which travel is banned, you need to convince the consulate that you are eligible for a National Interest Exception.

So moving on here. How does an artist get a National Interest Exception and how does it work? This process is super uncertain. It varies enormously from one consulate to another. And processing times at different embassies and

consulates, varies dramatically. And they each seem to be different procedures they constantly change. Normally you can find fairly reliable information digging around on the consulate website.

The best way to find that is to Google National Interest Exception and the name of the country and that usually brings you to the right place on the U.S. embassy website.

If you are in a situation where your artist or you are trying to help the artist apply for National Interest Exception, the main thing you need to provide to the consulate for the NIE is documentation in the form of letters from U.S. entities, meaning the venue, promoters, booking agency, et cetera, who stand to lose money if the artist is unable to enter the U.S. Specifically, that the artist would be coming to provide vital support for economic activity in the U.S.

So what we're trying to prove when you apply for -- when you request a National Interest Exception, you're trying to show how economically devastating them not getting a Visa will be for U.S. interests.

So what is interesting about this, is we're not talking -- there's no humanitarian consideration, no personal consideration, no particularly cultural consideration. This is an economic issue. So you need to think as broadly as you can about what are -- what are all the ways that the U.S. economy is going to lose out if this tour or this performance doesn't happen.

And do the best you can to document that and put that together in your request. So that's really the key to it. And what we're seeing is there is no specific number of like if the U.S. economy is losing \$1,000, you get a National Interest Exception, or a million dollars you lose, there's no fixed number. But we're seeing the more you document the information, the claim that you are making, the more likely it is that the embassies will approve this.

Again, different embassies are handling this incredibly differently.

Right now Germany, the U.S. consulate in Berlin, in London, they are both handling this pretty openly. If you apply for National Interest Exception and have a contract to perform in the U.S. and it's a performance of some degree of magnitude, you will probably get the National Interest Exception this week. Next

week, I have no idea.

Whereas the other consulates which are much more skeptical. We have read reports that Madrid is being very strict on who gets the National Interest Exceptions. But their varied on how they handle these.

National Interest Exceptions are valid for 12 months. If issued by the U.S. consulate and embassy.

That's important to know because there could be multiple entries. If the reason for the coming to the U.S. is the same as the reason you got before. In other words, if you are able to bring your -- if you are able to go through the National Interest Exception process now and get your artist approved to come on their Visa for the performances, if you have another tour in three months they don't have to go through the process again. The National Interest Exception will stick and remain valid for up to a year. That's important. It kind of makes going through the process worth it if you know that you are going to get more mileage out of it.

There are rumors that National Interest Exceptions are being processed by passport control at airports upon arrival in the U.S.

This has happened in certain occasions. It is nothing that you should be counting on at all. It's very, very rare that it's happened. They tended to happen more often early on in the pandemic. Early on after the National Interest Exceptions were first created. Most airports have clamped down on this and it's something very unlikely to work at this point. Do not just try to put an artist on a plane and hope they get a National Interest Exception when they arrive. They probably won't get on a plane, but probably be turned away when they arrive, if you have not been through the National Interest Exception process.

I am going to jump from the National Interest Exception to kind of a broader question. What else do we need to know about the U.S. Visa process right now. Especially factors that impact artists not subject to the COVID-19 travel restrictions?

First of all I want to point out this is probably the first time in modern history that it's been easier to get an artist from the global south into the U.S. than an artist

from Europe. I think we should take this as the universe giving American presenters a hint on who they ought to be programming right now.

It'll be easier to get someone from Africa or Latin America probably or Asia, than it is from Europe. That's never happened before.

So run with it.

We know that there are serious staff shortages at the consulate due to COVID evacuations and the most embassies and consulates have not restaffed after huge amounts of U.S. staff went home at the beginning of COVID. The foreign process is at the process of trying to restaff embassies but it's definitely not done and the training not complete. We anticipate that new staff is being placed and trained now. But it'll be some months before consulates are back up to normal capacity. By some months I wouldn't be surprised if it took a year to get back up to normal capacity.

Keep in mind that what staff is available is largely occupied right now managing the Afghan crisis. Since these are often life and death circumstances, it's hard to argue with that priority. But just realize it's really hard to get a favor out of the state department right now. Because they've got bigger things to worry about, unfortunately, than our tours.

Also this kind of speaks back to my first point on booking artists from the global south. We had a lovely 18 months we did not have to deal with the prior administration's extreme vetting procedure. The DS5535 form, causing a lot of disturbance in 2019. I was kind of hoping it would just sort of vanish, but it didn't. It's back now. As we start to bring artists in from a lot of different parts of the world, we're now starting to see that embassies are again applying this extreme vetting procedure.

So as with all things, try to leave as much extra time as you possibly can, even if you have artists coming from countries that don't have a travel ban on them.

Lastly, because there are so many restrictions, the restrictions are changing so often. And there's so little transparency on how the system is working and airlines are freaked out. Because they get fined any time they allow someone to board a plane to the U.S. who ultimately is not allowed in, for whatever reason it

might be.

So we're seeing a lot of problems where airlines are not allowing individuals to board, even though they are fully -- their travel is fully legitimate and allowed. But for some reason airline gets spooked because, okay, were you in this non-banned country for 14 or 15 days. I am not really sure, so we're not going to let you on the plane. Again, like everything else, leave a little extra time so that you are not flying your artist to the performance and having them arrive just in time for sound check, because if you can leave an extra day or two to make sure that they get on the plane and the plane gets here, that's probably going to be wise.

I want to shift now to -- oh, are we going to go to the participant's questions now?

>> The case study time.

>> Matthew: I just saw the slide went up for the questions.

>> Just cue when you are ready for that.

>> Matthew: I want to do a case study and talk about how do you -- I am sure that from what I was just saying it sounds like, wow, that's so much stuff going on. This sounds terrifying. Why would I ever willfully get myself involved in this. How do I think about whether it's feasible to book an international artist in the foreseeable future.

So I want to talk about that. And try to run through a case example. But first of all, I want an interrelated plug. I want to mention that presenting right now is all about framing and managing risk. And this is especially the case with contracting international artists. In these really uncertain times, it is important that the risk be shared and the burden not fallen on -- and [ ] and rethinking how contracts and ensure equity. For more information on the amazing work being done to on how we contract, I will put in links in how we do this future work. It'll be the future of how we contract and a lot of work is being done right now. Putting this in the chat to everyone. There it goes. Three different links. All kind of jumbled together. Those are all really, really useful resources to think about how to manage the risks when contracting.

<https://creatingnewfutures.tumblr.com/>

<https://www.danceusa.org/technical-and-standardization-documents>

<https://www.apap365.org/Programs/Building-Ethical-and-Equitable-Partnerships>

How do you frame and manage the risks and all of the unknowns?

I will do an analysis now. Kind of the analysis we would do with the client.

But first I want to point out three big unknowns. The first question we don't know the answer to, will USCIS [ ] processing time for regular processing petitions increase from the currently roughly month to six weeks to much longer delays?

As I said, given staffing issues at USCIS, this something we anticipate happening as soon as borders open back up again with the [ ] nations. And the second big unknown. Will the COVID national requirements be lifted by the time for the dates that are you anticipating. Different U.S. consulates are processing NIE's with radically different times.

Some six weeks and others are turning around decisions in a couple days. To accurately predict the amount of time that it'll take to get the artist in the U.S., it's critical to know the time frame that the U.S. consulate is working. We hoped this would go away but with the COVID numbers rising all bets are off.

An enormous amount of pressure on U.S. to remove the COVID restrictions but I don't think anyone will know when this might end. The other third big unknown. Will artists be able to get interviews. And they're working at low capacity and it's very difficult to schedule the Visa interviews. The consular delays may not disappear. It could get worse. Because more people could be eligible for Visas.

As I said, the Afghan refugee cases are rightfully forcing pretty much every other topic on to the back burner for all other departments of state, and USCIS staff. We're seeing significant delays that we had not seen just before the Afghan crisis started.

This is kind of the way that we step through an analysis for a client. Let's work backwards from a January 8 entry date for a UK artist. Say you are trying to bring an artist to the U.S. to do a performance some time into January you want them to enter the U.S. on January 8.

I will take a UK artist, simply because we probably know the most of how the time frame works.

We don't have slides for the case study. I am just vamping here. There's no slides. Just -- this is just about listening and trying to wrap your head about how I am thinking about it.

Working backwards from the January 8 entry date, the first thing we know is that currently the London consulate is taking roughly two weeks to process the national interest request following the interview. The interview needs to happen no later than December 25. But that's Saturday. And the day before is Christmas Eve. So say the interview has to happen no later than December 23. That's the first -- we're working backwards from our deadline. We know that we have to do the interview no later than December 23. Currently, the soonest normal interview appointment time in London is spring 2022. Assuming the delay doesn't improve, the artist needs to book the spring '22 appointment and then ask the consulate to grant her an earlier appointment, which is not likely to be for somewhere between 6 to 8 weeks. She needs to schedule that appointment no later than October 28.

Okay? In order to complete the interview, and to the artist needs completed petition. They need the receipt number for the petition. They can't schedule the appointment until they have the receipt number. So that means you have to get the petition filed to get the receipt number so you can schedule the interview, so you can start the process of scheduling the interview that takes another six weeks in order to do the interview by December 23 in order to have the passport back and travel on the eighth. It's pretty complex but I hope it makes sense how we're working backwards from our deadline.

So if you are willing to pay the government's \$2,500 premium processing fee, you could file the petition a week before the artist needs to schedule the interview. In which case the petition needs to be filed no later than October 20. Okay? If you are willing to do premium processing you can wait until October 20 to file the petition. You could still probably get them here by January 10<sup>th</sup>. The UK artist. Or January 8. However, if you want to avoid the premium processing fee,

assume that USCIS is processing the petitions in six weeks. And you will need the petition filed no later than September 15<sup>th</sup>.

So premium processing is pretty much a given for early January. But there's still more -- is the premium processing up to three weeks? No. That's still 15 calendar days. There were some talk to it being shifted to 15 business days but that did not happen.

Premium processing pretty much a given right now for early January. But other variables we should be considering here. If by mid-October National Interest Exceptions have been removed you could probably risk filing with regular processing up until mid-October. We won't know in mid-October what the petition processing delays will look like in nobody, or consulate processing in December, there's no harm in initially being optimistic in mid-October. You can't let it go much later.

If early November rolls around and appears that the petition processing delays are increasing, we recommend that you upgrade this to premium processing to ensure you have approved petition in hand by late November.

If early November rolls around and it appears that the processing delays are increasing and/or it appears that the consular delays are shortening, we might advise you hold off on upgrading until early December. Because if it looks like the processing is going to be -- is getting better, and you get to early December, you don't want to waste the \$2,500 if you didn't need to. And you can still get approval by mid-December, which means the rest of the schedule works.

Remember, even if the COVID travel restrictions remain in force, if the artist already has a valid Visa and can be in a non-banned country two weeks prior to travel to us, you will probably be fine. Reminding you because we're talking about the National Interest Exception and trying to figure out how to get Visa interviews. But remember a lot of artists out there already have Visas and they're still valid. If they do, you can hang on to those -- then as long as they can travel through some route other than the restricted country, you are going to be fine.

I am just going to take a quick look to see if there's any ... that was really

complex. But I hope it made sense. Even if the details were opaque. I hope that the idea of working backwards. I need them here on this date. What the deadlines I need to look at, that will get me to having them on the plane in time for the date I am looking at. That's the way the annual significance has to sort of fold backwards in time.

That's the case study. Obviously, the details would change significantly if it was a different consulate. And so like we were using London, but if it happens to be Stockholm or Rio de Janeiro, all of these will change the way that the calculation works. But the method remains the same.

So that's the case study. I would like to hand over now to my colleague Liz Moller to go through some of the questions that we've received from the attendees in advance of the session. Liz?

>> Elizabeth: Thank you. Thank you, Matthew.

My name is Elizabeth Moller, with Tamizdat and speaking to you from the unceded, and ancestral land of Lenape people in Manhattan. Moving on to the questions. Heather did you want to ask the questions? It's a conversation? Or do you want me to -- sure.

>> Elizabeth: Okay, great.

>> Heather: Any opportunity to talk with you, any time.

>> Elizabeth: Thank you.

>> Heather: Frame it up. There's a lot of information shared already. We want our audience to know, first of all, we really appreciate the questions you shared in advance, and distilled some to key themes. Any questions you send us now or previously that are not answered here help to inform the guidance we're posting on Artists from Abroad and elsewhere. The questions are in three sections. One around the general Visa process.

And then we'll get back to some questions specific to the NIE and consular processing procedures.

I think we've touched on the question on the time frame. For how early to start the Visa applications to USCIS to get your classification approved. And the answer is, on that part, as early as you can. As earliest as you have a firm view

of how many and which artists you plan to engage.

But we did hear some questions around the premium processing fee. It's been referenced several times here. We know it's largely unsustainable for most to use on a regular basis. The question here, what alternatives might you have beyond premium processing. I wonder, Liz, if this is a space where we can touch on traditional expedite, which was recently reinstated at CIS.

>> Elizabeth: Yes. Absolutely. I would say first in response to that question, it's a great idea to work with and support your arts organizations that are advocating to reduce the premium processing fee or make it unnecessary.

We have been doing that, the League of American Orchestras as well, and thanks to their hard work and everyone's hard work involved with that, there's now an option called traditional expedite. That's available to many of the nonprofit presenters who are bringing artists over. Do you want to expand on that at all? Heather? The traditional expedite. I think you have quite a bit of experience with that?

>> Heather: Sure. And I would just say we do have a section on Artists from Abroad that provides details. Previously CIS, when they thought about this option they regarded it as a case in which a petitioner through no fault of their own needed rapid processing.

So the agency might not be very sympathetic if you can't make the case for why you are coming to them with a need for rapid processing, beyond the usual processing times. So I would start there.

Also, because this option was frozen for a while, we're still finding out exactly how the agency is using it, administering it. Now that it is back again. So this is another case where your experience and informing us, the national organizations, with your experience will be really helpful. In the meantime, check out the section on Artists from Abroad.

The next question, and I have seen some variations on this a bit in our live questions during this webinar as well. The question is around if one entertainment company invites artists from two different countries under a single petition and for the same event this the U.S., how does that work right now.?

>> Elizabeth: That can work. You can absolutely put two, more than two artists from different countries on a single petition for the same event in the U.S.

The only complexity that might come up with that is if the artists are coming on P-3 Visas, culturally unique Visas in which case they need to show that they are presenting their traditional and culturally unique culture, indigenous culture, and that's harder to prove coming from different countries that share an indigenous culture.

>> Heather: It depends on the nature of the activity that the artists are doing for the duration of their stay in the U.S. Typically, more than one artist on a single petition, they're really bound to the events on that combined work together. If you have an artist that's going to be separating from their colleague and doing independent work, they may need to be on their own Visa petition, correct?

>> Elizabeth: Yes. Yes. We're talking about if they're participating in the same event or events, then they can be on the same petition. But if it's going to be separate, then they might need to separate out into different petitions.

>> Heather: And then the next question is around green card status. And we'll point out green card status and permanent residency is beyond the scope of the artist from abroad website. This question asks about transitioning from students Visa to green card status. You are welcome to touch on that, Liz. We often get questions on artists transitioning from student Visa to O-1 status or work-related Visa status. Do you want to comment on that general topic?

>> Elizabeth: Right. There's no requirement. I think the question we received asked if it was necessary. It's not a requirement. Artists in particular do often transition to another category such as an O-1 because it allows them time to develop their credentials. And build up their eligibility for the green card, which is the EB-1 classification.

>> Heather: So we'll move on to the next section of question, which is some clarifying questions around Visa classifications.

And one of these is a fundamental one that's really important to go over it. At what point is the requirement for a U.S. Visa like an O or P triggered and how does that relate to the compensation offered to the artist?

>> Elizabeth: Right. We got the question about compensation a lot, in terms of if I am not being compensated do I still need an employment Visa. Unfortunately, the fact that there's no compensation -- doesn't do away with the requirement that he have -- it doesn't do away with the requirement that they have employment-based Visa. Other factors in play require them to have an employment Visa, exactly which Visa classification is appropriate is going to depend on a lot of factors.

There are situations maybe not this one, maybe not one where there's a big concert or something, but there are situations where an employment [ ] Visa wouldn't be required. And there's a lot more information on that on Artists from Abroad, as you, of course, know. And folks are also welcome to contact us at Tamizdat. We have limited pro bono sort of e-mail channels that we can respond to.

And that's available at Tamizdat.org.

So we can sometimes sort of [audio breaking up] the distinction and look at nuances of the particular case to determine whether or not an artist would need an employment O or P based Visa.

>> Heather: Great. I think I'll take the questions a little out of order. I think the final one touches on this question around the need for a Visa. And specific for student performers. And a question around compensation. Related just to compensating the artist or also to the nature of the event.

And whether it's a paid or free concert.

>> Elizabeth: Yeah. The paid or free part of it is not as relevant. But there are a lot of -- it's very, very case specific and nuanced. So that's something where I would advise just contacting Tamizdat pro bono channel directly. It's available at Tamizdat.org to share sort of all the specific facts.

>> Heather: Then we have two questions here and more in our Q&A box and live as well, that are related to the requirements and the eligibility and the experience required to qualify for an O-1 Visa.

So the question really is given that you have to demonstrate that an artist needs this requirement -- meets the requirement, the requirements for an O-1 Visa,

what kind of general advice do you have about the kind of supporting documents, the range of evidence that can be gathered to make the case for an O-1 and when it might be advantageous to seek the maybe a P-3 status or another Visa classification that would work outside of the O-1 Visa.

>> Elizabeth: Right. I mean right now the O-1 can often feel like a pretty high bar. And I may ask Matthew to weigh in on this as well. If there's an opportunity for the artist to apply for a P-3 Visa, that is if their art they want to bring to the U.S. is closely tied to their national or ethnic heritage, which is what USCIS means by a culturally unique P-3 Visa, then it is a good idea to apply for the P3. Because there's not as much documentation required. No particular standard of renown and they need to show that they perform a traditional and culturally unique art form and that all of their performances will feature them in this traditionally and culturally unique art form.

As for the documentation required for an O-1, that's -- it's fairly specific. It's in the regulations. It is quite a bit more. Do you want to address that at all, Matthew?

>> Matthew: Sure. It is hard to explain. It's sort of hard to summarize that out of context, because the documentation is generally assembled to support an O-1. It tends to be kind of a mountain of different kinds of evidence.

>> Elizabeth: Right. but there's a system. There's six types of evidence, you have to get three of the six. The way they adjudicate is there's a check list. If you hit the point, even if the four elements of evidence type one, and the three elements of evidence type two, you will be approved. And if you don't, or if there's ambiguity, you will get a request for evidence or denial.

So I think that the way that a lot of people when they're doing this the first time, when filing a petition the first time, they're just kind of trying to gather everything they've done and put in a box and send it off to Vermont. That's not the way to get approved. The way to get approved is to really look at the regulations, understand what they're looking for and present the documentation you have in a way that speaks directly to what the regulations are looking for.

And that's -- it's not that hard, but it does take some work and it does kind of take

some parsing through the regulations. The regulations are all available on the Artists from Abroad website.

>> Elizabeth: Right. That's actually what I was thinking is going to the Artists from Abroad website. And it has very clear explanation of the different documents and things that you can submit for an O-1.

>> Yes. Providing examples of supporting evidence. And also we have a sample petition and cover letter in the appendix at Artists from Abroad. The cover letters can be really important. When the CIS agent is going through a stack of evidence and want to get to the stuff that they really want to see, the cover letter can point them there. Those are resources for you. And the other thing I just mentioned, we're all looking for good news in the Visa process. One bit of good news is that the new Administration has instructed CIS adjudicators to be really cautious about when they go back to a petitioner with a denial or a request for evidence and that those not be frivolous.

They're independent -- that they not be frivolous. They are under new Administration. To make sure that it's appropriate. You can help them with that by an artfully crafted cover letter that goes with your petition. I think we'll move on to our final slide of questions that dig into the consular processing and the NIE process. And the first one is, again, around the consular interview process interventions that can be done.

You've already said time and again, Matthew, that the time frames are variable. They vary by consulate. They vary within a consulate in a span of time. Contacting the consulate [ ] the time frame is like is your best bet. If it's not going to work for your concert date is there anything you can be done or try to speed that up? And, Liz, or Matthew?

>> Elizabeth: Yeah. Matthew, do you want to -- as Matthew sort of addressed before, you need to get your interview on the calendar. Even if the first available day is spring 2022. And then you need to be in contact with them. And convince them that it is very important. And that it's technically an emergency situation. Meaning that the venues that the venue can contact the consulate. They will lose money and the show needs to go on. And then you will

also -- also if from one of the 33 countries that are subject to the travel ban, you need to get a National Interest Exception.

Do you want to talk about anything that's more than that, Matthew?

>> Matthew: No. I think that's about it. The procedure for getting an interview, like if you are applying somewhere where there's no interview anywhere in the foreseeable future, Liz is right. You have to schedule whatever is available and then go [ ] in the books and go about the process of trying to get something earlier than that. If that fails, if you put together a proper request for emergency interview and the request is denied, right now given the staffing issues, and the Afghanistan issues, we have had very little luck getting embassies to reconsider a denial at an interview. You are kind of out of luck at that point. I think you are probably -- there are some situations where you can try another consulate, but even that's difficult right now. If you are in a country with only one consulate, you'll be out of luck there.

So I wouldn't advise that. Yet the process is really making sure that when you request an emergency interview that you are preparing in the best possible case you can.

>> Elizabeth: Yeah. I guess the only thing that did occur to me, as you were speaking Matthew, is the mail-in option. There are situations where I think, again, this was mentioned in the overview discussion. But if you are applying -- if an artist is applying for a Visa classification that they already received in the previous four years, they may not need to go to the consular office for another interview.

They may be able to apply by post. So that's [ ] going to expediting a consular interview but perhaps a way to not to have to go through that step of the process.

>> Heather: That's --

>> Elizabeth: Again. You have to check with the particular consulate. It's very consulate specific.

>> Heather: So much of this is, right?

>> Elizabeth: Yes.

>> Heather: Back to the practices. There's a question on -- the separate NIE

required for the spouse. Does that happen usually simultaneously?

>> Elizabeth: So there's no -- so for the COVID travel restrictions, there's no provision that allows for the spouse to come with. So the spouse would independently need to meet the National Interest Exception standard. Or if they're eligible for [Name?] or a B1, B2 Visa, they could possibly come in that way.

And if they're from one of the 33 countries that is restricted due to COVID, they would need to travel via a non-banned country.

To get in that way.

>> Heather: Great. So I know a number of questions have come in live during this. It's been about the 14-day option. The option of going to a non-banned country. So we want to familiarize ourselves with that. So many are saying that the NIE process doesn't seem to work for us. What is my other option, that is the one, correct?

>> Elizabeth: Yes.

>> Heather: Yeah.

[ Overlapping Speakers ] A couple of other follow up questions. And one is a very practical one that we might have touched on earlier. If you receive an NIE, it's really not like the sense that the Visa is being stamped in the passport. How do you know you have one and how do you put it to use once you have it?

>> Matthew: The NIE is sometimes noted in people's passports if part of the visa process. In other words, if you get the Visa and the NIE at the same time, it may be noted in the passport, in the foil.

Otherwise, a lot of times it's simply an e-mail that you get from the embassy saying, yep, you've been approved, and you want to print that out and travel with it.

And you will -- when you get to the airport, you show it to the airline officials.

They'll look at it and say, okay, that's great. Probably double check it with the database. The custom and border protection database. But probably going to be an e-mail that you print out.

>> Heather: So two more questions regarding the NIE. We've talked about the

case that the individual has a strong connection to the economic strength of the organization that they're working with and that that organization has a strong economic impact on its community. And in a minute or less, can you advise on ways to make that case? Are we talking about dollar figures? Are we talking about third party folks maybe like mayors saying that the organization has an economic impact. What do you advise what works?

>> Matthew: All that have works or helps make the case. Certainly an affidavit or just a letter from the U.S. entity, the promoter, the venue.

Break down, explaining, we have sold 1,000 tickets at \$50 each. All those tickets also have to be returned. We employ 40 people on the night of the show. All of them will lose work for that night and for the day of prep before. Basically, break it down like this. The hotel that the entourage of 15 will stay at. And they'll lose \$4,000 of hotel bookings. Break it down as broadly as you can, the factors. The more renowned the person writing the letter is, or entity, coming from Carnegie hall it'll make more difference than some dive bar on the lower east side.

If it's coming from the mayor, it's going to make more difference than from somebody who doesn't have the mayor's letter head.

>> Heather: So the last question is kind of asking I think all of us to gaze into the future. To imagine if there's any signals that might tell us that the U.S. COVID-19 travel ban will be changed over lifted any time soon.

We know that there are talks across the U.S. and in the EU over the summer. A task force was created to have discussions on the topics. But we saw a lot of variations with what the EU posture was and our continued ban here in the U.S. What does this suggest to you about the bigger picture on the travel ban?

>> Matthew: That is a risky question to try to answer in front of 251 people, but I will give it a whirl.

I think that we are seeing chatter amongst the lawyer class that there may be a COVID related -- a vaccination requirement for nonimmigrant Visas. There's already a vaccination requirement for immigrant Visas. There's talk that may be put in place soon.

If that happens, then it kind of opens up some of the -- makes the broader travel ban less necessary. If they're starting to put in place ways to make the travelers who are coming are vaccinated.

That has just kind of cropped up in the last week that we've seen that. I feel like there's so much pressure on our government to stop this. There are so many industries being massively negatively impacted by the travel restrictions and I think they'll need to come up with some kinds of ways of making this -- making travel more viable in the next two or three months.

>> Heather: So I think this is a good point to wrap things up with a few comments about how our community collectively has been trying to influence what happens next in the space. And I am just going to quickly summarize what the long-term policy efforts are and the near-term requests, what those are on this. And I think most of you who are listening to the webinar have actually been helping us all to make the case for changes in the U.S. artist Visa process that will make this much more efficient, affordable, reliable, accessible, all in support of being able to plan international engagements.

And so we continue to be in dialogue with the U.S. citizenship and the immigration services. The new administration, the state department, all of the things that the agencies can do under the laws that they're working with now to streamline the artist Visa process. At the same time, we're also working with some leaders in Congress who seek opportunities to tweak the O and P process in ways that will kind of seal the effort to make the process turn around faster and work the way it's intended to. Long-term efforts in in addition to trying to improve consular processing, by and large.

At the same time, since the onset of COVID, we've been collectively forming and advancing very specific policy suggestions. And lots of things -- to -- lots of thanks to our friends at the Tamizdat who got under the detail of every regulation to point out to the federal agencies that there are things that they can do that will help.

The most recent request has been to ask the administration to provide an

opportunity for artists to be more clearly eligible for the NIE. So that there will be more options for that. As you just heard from Matthew, it's hard to read signals on when the current policy will change. As long as we continue to make the case, we've seen exemptions made for other types of workers. As long as we have a presence in the conversations we have hope to be able to get access to the NIE's at least until the travel ban is lifted. We also have been pointing out to USCIS, and we have seen questions related to this as well, so much has been invested in the applications for processing during COVID and before COVID, and we hope the agency provides opportunity to acknowledge the requests without the cost and burden of completely refiling them. We don't yet have a positive or affirmed answer on that. But it's a request that we continue to move forward. If you can advance the slide. I think our last point to make is to summarize that there are things you can do to continue to help.

Please do document the difficulties in the time frames are you experiencing. Keep your elected officials informed of that so that it helps to make the case to policy changes. And also please keep all of us, the national service organizations, informed of your experience. Because what we hear from you really does fuel the policy action that we take next.

So with that, and just 2 minutes to spare, and a reminder to keep checking the Artists from Abroad site, I will turn this back over to Krista for a conclusion.

>> Krista: Thank you Matthew and Elizabeth and Najean, and thanks to our ASL interpreters as well. Here's a contact slide. Please do be in touch with any of us for more information and to report out how things are going. Or the experiences that you are having. You can reach me at [kbradley@apap365.org](mailto:kbradley@apap365.org). Or Najean or Heather at the e-mail addresses that you see here ([nlee@americanorchestras.org](mailto:nlee@americanorchestras.org); [hnoonan@americanorchestras.org](mailto:hnoonan@americanorchestras.org)), and Matthew and Elizabeth's e-mail addresses that they put here ([matthew@tamizdat.org](mailto:matthew@tamizdat.org); [elizabeth@tamizdat.org](mailto:elizabeth@tamizdat.org)), and I think they also put that into the chat.

If we can go to the last slide. I want to thank again our partners. Our partners

on -- with the League of American orchestras, and Artists from Abroad, and Tamizdat, and other amazing partners who helped support this: American Association of Independent Music, Chamber Music America, Dance/USA, Folk Alliance International, National Performance Network, North American Performing Arts Managers and Agents, OPERA America, Performing Arts Managers and Agents Coalition, and Theatre Communications Group.

Before we depart, a reminder that everyone who registered for today's event will receive an e-mail with the recording and the PowerPoint presented today. You will also receive a request to complete an evaluation of this webinar, and we appreciate any feedback you can offer. We hope this was valuable for you, and we look forward to hearing from you. That you again for joining us and have -- thank you again, for joining us and have a fantastic rest of your day.