

Najeen Lee

From: Najeen Lee
Sent: Wednesday, January 26, 2022 2:38 PM
To: CISOmbudsman.PublicAffairs@hq.dhs.gov
Cc: Heather Noonan; Matthew Covey
Subject: Responses to Questions Regarding Expedited Processing of USCIS Benefits
Attachments: USCIS Ombudsman Questions RE Expedited Processing_012622.docx

Dear Office of the Citizenship and Immigration Services Ombudsman,

Thank you very much for requesting stakeholder information about the expedited processing of U.S. Citizenship and Immigration Service (USCIS) benefits. We are pleased to respond on behalf of the League of American Orchestras (the primary host of the www.artistsfromabroad.org website) and Tamizdat. In conjunction with this request for input, we have noticed with interest that USCIS has just updated its policy manual guidance on this very topic per a [policy alert](#) on January 25, 2022 titled "USCIS Expedite Criteria and Circumstances." A USCIS email announcing the policy alert points the public to the USCIS webpage [How to Make an Expedite Request](#), which includes the following:

- **Nonprofit organization (as designated by the Internal Revenue Service) whose request is in furtherance of the cultural or social interests of the United States;**

A nonprofit organization seeking to expedite a beneficiary's benefit request must demonstrate an urgent need to expedite the case based on the beneficiary's specific role within the nonprofit in furthering cultural or social interests (as opposed to the organization's role in furthering social or cultural interests). Examples may include a medical professional urgently needed for medical research related to a specific social U.S. interest (such as the COVID-19 pandemic or other socially impactful research or project) or a university professor urgently needed to participate in a specific and imminent cultural program. Another example is a religious organization that urgently needs a beneficiary's specific services and skill set to continue a vital social outreach program. In such instances, the religious organization must articulate why the respective beneficiary is specifically needed, as opposed to pointing to a general shortage alone.

When the expedite criteria were originally created, the reference to "cultural interests" of the United States was a response to needs expressed by nonprofit arts stakeholders, and arts petitioners were subsequently users of the expedite process. While U.S. arts stakeholders applauded the reinstatement of the expedite process on June 9, 2021 after our sector's eligibility was quietly removed in 2019, the arts are now glaringly absent from this paragraph of examples, which instead mentions medical professionals, university professors, and religious organizations. Arts engagements are uniquely time-sensitive, and stakeholders are eager to learn how this service can be utilized.

Due to the relatively short amount of time during which eligibility has been made available again, we are still getting word out to orchestras and the larger arts community of petitioners that engage international guest artists. Our responses, therefore, are preliminary but we hope you will consider what information we are able to provide below (also attached), and we welcome the opportunity to discuss further the kind of clarity our sector needs in order to better evaluate when this option can be pursued with a reasonable expectation of success. At present, the biggest obstacles are defining what constitutes "urgent" need and what kind of timeframe a petitioner can expect from when it files an expedite request to when it receives an adjudication.

Thank you very much for your time and attention,
League of American Orchestras and Tamizdat

1. How often does your office or organization submit expedite requests with USCIS?

Response:

To the best of our knowledge, in non-COVID times, the orchestral field as a whole may need to file up to a dozen expedite requests over the course of a year, if this option were better understood and could be relied upon to resolve issues. The frequency would also directly depend on processing delays at the California Service Center (CSC) or Vermont Service Center (VSC) that might greatly shorten the window of time to produce a performance as promised to the public. When Expedited Service was available in the past, we are aware of perhaps a half dozen instances of member orchestras that pursued the option, with mixed results. More broadly, petitioners in the performing arts have tended not to submit many requests for Expedited Service due to unreliability when it comes to approval of requests and overall timing. The need for timely service remains a constant for our field, however.

2. For which form types do you frequently submit expedite request?

Response:

Form I-129 petitions

3. For each form type, please provide the USCIS service centers and/or field office from which you have requested the expedite request?

Response:

Both CSC and VSC

4. How do you typically submit expedite requests? Do you call USCIS Contact Center, submit online, send mail, etc.?

Response:

Petitioners have called the USCIS Contact Center and then proceeded accordingly.

5. Which USCIS offices have been the most responsive to your expedite requests and how?

Response:

As recently as late November/early December 2021, CSC approved a request by an orchestra to receive expedited service. Recent experience with VSC is very limited but has not been successful.

6. Which USCIS offices have been the least responsive to your expedite requests and how?

Response:

Not enough data gathered to answer, but not all requests have been approved due to subjective assessment of the financial harm the petitioner would suffer.

7. Have you been able to submit supporting documents with your expedite requests?

Response:

In some cases, petitioners have been directed to email supporting material and have done so successfully. In other cases, the request was denied without the opportunity to submit supporting documentation.

8. If so, how did you submit these supporting documents?

Response:

Via Email

9. If supporting documents were requested by USCIS, how were you notified?

Response:

Email confirmation

10. Have you been notified if an expedite request was granted or rejected? If so, how?

Response:

Mixed results of acceptance and rejection were received via email.

11. Have expedite requests been rejected without your being able to submit supporting documents?

Response:

Yes, some requests have been rejected without the ability to submit supporting documents.

12. Have you made requests where you were not made aware of whether the expedite was granted or denied?

Response:

No.

13. What are some of the inconsistencies you have encountered regarding the review and decision of expedite requests?

Response:

Determination of financial harm, and whether or not arts engagements are considered urgent cultural needs. These decisions have apparently been decided with a level of subjectivity that makes access to the expedite uncertain. Timing of response and decision is also highly variable.

14. Can you summarize specific challenges that consistently come up when dealing with expedite requests?

Response:

The biggest uncertainties that need to be addressed are to clarify the conditions under which arts petitioners may avail themselves of this option and what kind of proof will be generally sought. There also needs to be some sense of overall timing not only to learn whether the expedite request has been accepted, but how long the decision itself would take following an accepted request for expedited processing. The arts are highly time-sensitive, but the \$2500 premium processing fee is absolutely unaffordable for the majority of petitioners, many of which are suffering great financial losses due to COVID and the need to refile many visas that weren't ultimately able to be utilized due to venue shutdowns, travel bans, and very lengthy consular delays.

15. What are some of the approaches that have best worked for you when submitting expedite requests?

Response:

Knowing how to specifically advise arts petitioners that seek to obtain an expedited response from USCIS is very helpful, starting with how to get connected to a live operator at USCIS Contact Center, what specific terminology to use ("traditional expedite" or simply "expedite?"), what paperwork will need to be at the ready, what types of evidence are required to demonstrate anticipated financial and reputational harm. When petitioners have a clear list and a reasonable estimation of timeline, they can make an informed decision as to whether to request expedited service and trust they will receive a timely response that can inform whether the show can go on as planned.