

Arts Comments on Proposed Fee Increase and Policy Changes

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Johanna Cruz
Management Analyst
Office of the Comptroller
Bureau of Consular Affairs
Department of State

Re: RIN 1400-AF33 / DOS-2021-0019

On behalf of the undersigned arts organizations, we submit these comments in response to the proposed rule published in 86 Fed. Reg. 74018 (December 29, 2021) to make changes to the Schedule of Fees in 22 CFR 22.1.

As a community of national organizations that support thousands of U.S.-based arts organizations, we are dedicated to improving opportunities for international cultural exchange. Arts organizations and artists provide an important public service and advance international 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. Inviting guest artists from abroad to perform in the U.S. enables American audiences to experience a diversity of artistic talent, provides valuable employment opportunities for U.S. artists perform alongside international guests, and encourages a supportive climate for U.S. artists to perform abroad.

International 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, individual entertainers joining U.S.-based internationally recognized entertainment groups, reciprocal exchange programs, and culturally unique artists. As an industry, we field many inquiries from, and provide technical assistance to, U.S.-based arts organizations and artist managers from all regions of the country and in communities of all sizes undertaking the nonimmigrant O and P visa petition process. We also serve international arts organizations and artists with guidance for successfully navigating the U.S. visa requirements.

As professional organizations on the frontlines of the artist visa process, we are aware that artists and U.S. arts organizations have long confronted uncertainty in gaining approval for visa petitions due to visa processing difficulties at U.S. Citizenship and Immigration Services and during consular State Department processing. Those organizations that attempted the visa process since the onset of the COVID-19 pandemic have faced a barrage of logistical challenges due to: postponed or canceled concerts which left them with little to no options for adjusting those visas once approved by USCIS or issued by a consulate; few if any available consular appointments; and in some cases, abrupt announcements that all appointments were canceled without any information or guidance as to how to proceed. Those artists who were required to obtain a National Interest Exception (NIE) waiver endured great uncertainty and inconsistency in attempting to meet the subjective standards for qualifying for the NIE. Many requests for an NIE waiver were denied, which compounded problems for the U.S. organizations counting on these visas to come through for performance activity that would support the nation's economic recovery.

We object to the dramatic and disproportionate fee increase proposed for petition-based nonimmigrant visa consular processing. The U.S. Department of State's proposal to increase consular fees for petition-based nonimmigrant visa consular processing, which includes O and P arts visas, from \$190 to \$310 would impose a 63% increase for what State openly acknowledges in its published proposal represents only 10% of its nonimmigrant visa (NIV) workload. This is a substantial, not incremental, hike at a time when arts organizations can least afford it given the prolonged and continuing negative impact of the COVID-19 pandemic on the ability to hold live arts events. To increase this financial burden so dramatically on U.S.-based visa petitioners, and in the midst of persistent challenges due to the unavailability of consular appointments, will severely hamper the opportunity for U.S. audiences to enjoy artistry from across the globe. Substantially increasing fees will only exacerbate inequity when it comes to accessing visas and have a chilling effect on engaging international artists and cultural exchange more generally. The ability for arts organizations to reopen and welcome audiences back to for live performances relies in large part on a visa process that is both reliable and affordable. Budgets are tighter than ever, and while the arts community would never welcome such a disproportionate increase in fee, to propose this when recovery is still so fragile is altogether a step in the wrong direction.

The financial burden associated with presenting international artists to American communities is already substantial. In late 2016, the Department of Homeland Security imposed a 42% increase in the regular filing fee for form I-129 visa petitions, and then during COVID-19, Congress approved a proposal by USCIS to increase its fee for Premium Processing Service from \$1,440 to \$2,500. Each increase has been substantial and made without regard to the inequitable effect on the arts sector and particularly on petitioners operating on modest budgets that belie the quality of art they present to deserving audiences in communities large and small. The petitioners served by our member organizations include nonprofit organizations, small entities, and artists whose mission is to serve their communities through the arts. The budgets that support presenting international artists are extremely lean; accommodating the fee increase will be very challenging for all, and impossible for many.

Any fee increase must be accompanied by immediate and measurable improvements to the O and P artist visa process. This proposal to increase the cost burden for those endeavoring to bring international artists to the U.S. comes at a time when confidence in the consular petition adjudication process is particularly low. We urge the Department of State to ensure that any fee increase be measured, but also accompanied by significant improvements in consular wait times, availability of in-person interview waivers, and a clearer sense of what artists can expect in terms of timing between interview and receiving a visa. The current level of service is inadequate, inconsistent, and has been creating very harmful barriers to international cultural activity.

To engage foreign guest artists and facilitate international cultural exchange, the arts community *must* be able to rely upon timely and reliable visa issuance. Demonstrated improvements must be evidenced through policy changes made **before** a fee increase can be justified, let alone one that proposes to increase the fees so disproportionately high given how essential it is to further cultural interests in the U.S. and improve the reputation of the U.S. in the international community.

Greater consideration must be given by consulates to the time- and date-specific nature of arts events. Flexibility should also be available for those artists that received visa approvals prior to the onset of COVID-19 and that will now need to alter the planned dates for U.S.-based performances. It cannot be emphasized enough just how essential it is that arts organizations

be able to rely upon the visa process to make plans and continue presenting art to communities throughout the U.S. – especially when recovery and resumption of key economic activities are top priorities for us all. After the highly unusual year of hybrid programming, the ability to plan and offer artistic content to audiences that are hungry to experience live performing arts again is of utmost importance to our cultural as well as economic health.

High costs, delays and unpredictability in the visa process create high economic risks for U.S. nonprofit arts organizations and the local economies they support. The consular interview is an important part of the visa process, and the steep fee increase proposed by the Department of State would be yet another barrier that harms the ability of U.S. arts organizations to present international artists to local communities. The loss will affect not only the guest artists seeking to perform in the U.S., but it will also affect U.S. artists and communities.

When artists are unable to come to the United States for guest 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 and confirming highly sought-after guest artists in the U.S. requires that the visa process at USCIS be efficient, affordable, and reliable so that U.S. audiences may experience extraordinary artistic and cultural events. We have sought to illustrate in these comments that such a steep and disproportionate increase in consular processing of petition-based nonimmigrant visas would be unfair and highly damaging at a fragile time. We urge the Department of State to reconsider and revise its proposal to usher in a more incremental increase that can be more readily adapted into budgetary and artistic planning, and one that would not price the ability to engage international artists out of the means of organizations that cannot afford a sudden 63% increase on top of all the other expenses and hurdles involved in the overall process. We stand ready to be of assistance in further informing consulates about opportunities to support international cultural activity through improved visa policy. Thank you for the opportunity to comment on this proposed rule.

Sincerely,

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