

# IMPROVING THE VISA PROCESS FOR GUEST ARTISTS

## ACTION NEEDED

### *We urge Congress to:*

- *Direct USCIS and the State Department to adopt immediate policy changes to make artist visa processing more accessible, reliable, and affordable, and ensure that any fee increases are proportional and fair.*
- *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.*

## TALKING POINTS

- **Orchestras 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 foreign 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 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 guest artist cannot obtain a visa in time to make a scheduled performance, the many 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 processing delays can force U.S. organizations to upgrade to Premium Processing Service (PPS)— at the exorbitant *additional* cost of \$2,500 or to cancel altogether. Both options directly impact the bottom line of U.S. arts employers.
  - ***When artists are unable to come to the United States for guest engagements, the American public is denied the opportunity to experience international artistry.*** Marketing highly sought-after guest artists prepares U.S. audiences to experience extraordinary artistic and cultural talent at home that they could not otherwise enjoy. When these pre-scheduled engagements are upended, U.S. audiences lose out on unique opportunities.
- **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 that timeframe is not met, the ARTS provision would require USCIS to process O and P arts-related petitions within a total of 29 days—twice the current statutory requirement, which is consistent with security concerns. 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 in communities of all sizes engage extraordinary foreign guest 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 many arts organizations. Moreover, after COVID-19 has so drastically curtailed 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 proposed in January 2023 a *staggeringly disproportionate* fee increase to file O and P petitions that would effectively more than triple the cost, it would limit the number of beneficiaries on a single petition to 25 people, and it would 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. A final decision on the fee rule has been postponed to early 2024, but these ill-advised and harmful proposals must be completely rejected so that any fee increases are proportional and fair, and the other proposals should be entirely withdrawn.

## BACKGROUND

Engaging guest artists to perform in the U.S. requires obtaining an O or P visa, which is a multi-step process. Visa approval must be granted by USCIS before artists interview to obtain their visas at State Department consular locations and then enter the country to perform. Artists and U.S. arts organizations have confronted uncertainty due to any number of possible delays at USCIS as well as inconsistent policies abroad relating to consular processing. Severe travel restrictions due COVID-19 led to lengthy consular delays that are still lingering today.

Visa processing times have varied widely, 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, 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 procedures, result in petitioners upgrading to PPS or being forced to make drastic changes to published programs.

Congress can make enduring improvements to the visa process and urge DHS to treat arts petitioners more fairly; any immigration reform effort should include 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, free of charge. This legislation would hold USCIS to a reasonable timeframe, restore the recognition that cultural interests are valued in this country, and impart sorely needed reliability to a process that affects U.S. arts employers, international guest artists, U.S. accompanying artists, and U.S. audiences.