

THE NATIONAL OPERA CENTER AMERICA

IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS AT U.S. CITIZENSHIP AND IMMIGRATION SERVICES AND STATE DEPARTMENT

ACTION NEEDED

We urge Congress to:

- 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.
- Take steps, in cooperation with the Administration, to make immediate improvements at USCIS and State Department so that artist visa processing will be accessible, reliable, and efficient.

TALKING POINTS

- **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. In February 2016, Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT) re-introduced the ARTS provision as S. 2510, which had previously been included in the 2013 Senate comprehensive immigration reform bill. Prior to that, the provision was included in the 2006 and 2007 comprehensive Senate immigration reform bills, and the full House approved a stand-alone version of the measure, H.R. 1312, in April 2008.
- **The inconsistency of the U.S. visa process for foreign guest artists has harmful results for everyone.**
 - ***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 and U.S. consulates be efficient and reliable.
 - ***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, then the many American artists who were scheduled to work alongside the guest artist may lose a valuable and much-needed source of income and artistic promotion.
 - ***Delays and unpredictability in the visa process create high economic risks for U.S. nonprofit arts organizations and the local economies they support.*** Nonprofit arts groups frequently sell tickets in advance, creating a financial obligation to their audiences. Regular visa processing at USCIS can take too long for arts organizations to accommodate given that delays can unpredictably stretch to weeks and months, and the cost to upgrade the petition or to cancel altogether directly impacts the bottom line of U.S. nonprofit arts employers. Any delays at USCIS immediately impact the remaining time for artists to undergo consular processing in order to obtain the physical visa.
- **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 the 14-day timeframe is not met, passage of the Arts Require Timely Service (ARTS) provision would require that USCIS process of nonprofit O and P arts-related visa petitions within a total of 29 days—*twice* the current statutory requirement, which in itself is eminently reasonable and consistent with security concerns. Although USCIS has made efforts in recent years to observe the statutory timeframe, the mandate has not been consistently

implemented. 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.

TALKING POINTS (CONTINUED)

- **Nonprofit arts organizations of all sizes cannot afford the \$1,225 premium processing fee, leaving them to await the unpredictability of regular visa processing.** Nonprofit arts organizations from all regions of the country and in communities of all sizes engage extraordinary foreign guest artists. The premium processing fee reduces the amount of money available for a production/performance and represents a significant portion of an organization's operating budget and costs. This burden has already grown heavier with the December 2016 decision by USCIS to impose a 42% increase in the regular filing fee.
- **Global cultural exchange is important now more than ever.** American nonprofit arts organizations provide an important public service and boost international diplomacy by presenting foreign guest artists in performances, educational events, and cultural programs in communities across the country. The United States should be easing the visa burden for nonprofit arts organizations who are engaging foreign guest artists, not increasing it. The 2009 report from New York University's John Brademas Center for the Study of Congress, *Moving Forward: A Renewed Role for American Arts and Artists in the Global Age*, calls for passage of the ARTS Act.

BACKGROUND

Foreign 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, reciprocal exchange programs, and culturally unique artists. Visas are first processed for approval by USCIS before artists undergo final steps to obtain their visas at State Department consular locations world-wide. Artists and nonprofit arts organizations have confronted uncertainty in gaining approval for visa petitions due to lengthy and inconsistent processing times, inconsistent interpretation of statute and implementation of policies, expense, and unwarranted requests for further evidence.

Delays began when USCIS adopted a Premium Processing Service (PPS) in June 2001, guaranteeing processing within 15 calendar days at \$1,225 per petition, which is often an unaffordable cost for most nonprofit arts organizations. Following the creation of PPS, regular O and P visa processing has varied widely, ranging 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 to processing times, only to encounter lengthy delays once again in the past year. These delays, combined with inconsistent processing procedures, result in petitioners having to upgrade to PPS at an unsustainable rate or to cancel plans to engage foreign artists.

Comprehensive immigration reform provides an opportunity to make enduring improvements to the visa process, therefore we ask Congress to include enactment of the Arts Require Timely Service (ARTS) provision in any immigration reform effort. 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 (additional 15-day turn-around), 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.