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## IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS

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### ACTION NEEDED

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#### We urge Congress to:

- **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, nonprofit arts-related organizations.**
- **Direct USCIS and the State Department to adopt immediate policy changes to make artist visa processing more accessible, reliable, and affordable.**

### TALKING POINTS

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- **American arts organizations and artists provide an important public service and advance international diplomacy by presenting foreign guest artists from across the globe in high-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 nonprofit 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 last introduced in 2018 by Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT), was included and passed in the 2013 Senate comprehensive immigration reform bill and was included in the 2006 and 2007 comprehensive Senate immigration reform bills. The full House approved a stand-alone version of the measure in April 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 may lose a valuable source of income and artistic promotion. In addition to these immediate costs, 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. nonprofit arts organizations and their local economies.*** Nonprofit arts groups frequently sell tickets in advance, creating a financial obligation to their audiences. Visa processing at USCIS can take too long for arts organizations to accommodate, given that delays can unpredictably stretch to weeks and months past the initially posted processing estimate, and the nature of booking artists frequently means employers have less than six months available from the engagement period. Unexpected delays exacerbate the time crunch all parties face, and the already-high cost to upgrade petitions to Premium Processing Service (PPS) only continues to rise, yet is currently the only expediting option remaining after USCIS quietly removed the eligibility for nonprofit petitioners with cultural interests to request the free traditional expedite. The choices to expedite processing at an additional cost of \$1,440 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 to obtain the physical visa, and with consular processing having become more time-consuming to schedule and undergo in this age of enhanced vetting—including asking for social media handles, which many artists find to be invasive and threatening to free artistic expression—it is critical that the visa approval process at USCIS be as efficient as possible.
  - ***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 so that U.S. audiences may experience extraordinary artistic and cultural talent at home that they could not otherwise enjoy. The inability to issue timely visas to guest artists reflects poorly on the U.S. visa system and threatens the audience's trust in the U.S. presenting organization.

- **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 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. USCIS has demonstrated the ability to observe the statutory timeframe, but the mandate has not been consistently met. 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.
- **Nonprofit arts organizations of all sizes cannot afford the \$1,440 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 financial burden to present international artists to American communities grew heavier following a 42% fee increase in 2016 to the regular filing fee, a nearly 15% fee increase in 2018 for premium processing fee, another PPS increase effective December 2019, all of which reduce the amount of money available for a production/performance and represents a significant portion of an organization’s operating budget and costs
- **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 published a proposed rule on November 14, 2019, that includes plans to impose a *further* disproportionate increase of approximately 50% on both O and P petitions (costing as much as \$715 to file O petitions and \$705 to file P petitions), to limit the number of beneficiaries on a single petition to 25 people, and to 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.

## 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 U.S. 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 an additional cost of what is now \$1,440 per petition. This fee is unaffordable for many nonprofit arts organizations given that it is in addition to the base filing fee and various additional expenses. 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 at-times lengthy and highly unpredictable delays once again over the past two years, and even more acutely since summer 2019. These delays, combined with inconsistent processing procedures, result in petitioners having to upgrade to PPS at an unsustainable rate or cancel plans to engage foreign artists; which can hurt their finances, logistics, and reputation once an event has been marketed.

Congress can make enduring improvements to the visa process; therefore, we ask that any immigration reform effort include enactment of 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 (additional 15-day turnaround), 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, restore the recognition that cultural interests are valued in this country, and impart sorely needed reliability to an unpredictable process that affects U.S. nonprofit arts employers, foreign guest artists, U.S. accompanying artists, and U.S. audiences.