

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

ACTION NEEDED

We urge Congress to enact legislation that will require U.S. Citizenship and Immigration Services (USCIS) to reduce the total processing time for O and P petitions filed by, or on behalf of, nonprofit arts-related organizations to a maximum of 45 days. The O category is used by individual foreign artists, and the P category is used by groups of foreign artists, reciprocal exchange programs, and culturally unique artists.

TALKING POINTS

- *Congress has already indicated strong, bipartisan support for this provision.* Key House and Senate Judiciary Committee members have signaled bipartisan support for improving the artist visa process, and a provision was included in the 2006 and 2007 comprehensive Senate immigration reform bills. The full House approved a stand-alone version of the measure, H.R. 1312, in April 2008, and a similar bill, S. 2178, was introduced in the Senate. It is time to enact this noncontroversial measure.
- *The proposed timeframe for processing O and P visas is eminently reasonable and consistent with security concerns.* Congress recognized the time-sensitive nature of arts events when writing the 1991 federal law regarding O and P visas, in which the USCIS is instructed to process O and P arts visas in 14 days. This mandate has never been implemented by USCIS.
- *Nonprofit arts organizations of ANY SIZE cannot afford the \$1,000 Premium Processing fee, leaving them to await the unpredictability of the regular visa processing.*
- *Delays and unpredictability in artist visa processing:*
 - *deny the American public the opportunity to experience international artistry.* Performances and other cultural events are date-, time-, and location-specific. The nature of scheduling, booking, and confirming highly sought after guest soloists and performing groups requires that the timing of the visa process be efficient and reliable.
 - *cost 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 along side the guest artist may lose a valuable and much-needed source of income and exposure.
 - *create high economic risks for nonprofit arts institutions and the local economies they support.* Nonprofit arts groups must sell tickets in advance, creating a financial obligation to their audiences. Regular visa processing now takes too long for arts organizations to accommodate, directly impacting their bottom line.
- *Global cultural exchange is important now more than ever.* American nonprofit arts organizations provide an important public service 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 foreign guest artists, not increasing it. When Secretary Michael Chertoff announced the U.S. Department of Homeland Security's agenda on July 13, 2005, he said, "Our heritage and our national character inspire us to create a more welcoming society for those who lawfully come to our shores to work, learn, and visit."

(continued)

BACKGROUND

Delays by U.S. Citizenship and Immigration Services (USCIS) are making it increasingly difficult for international artists to appear in the United States. Nonprofit arts organizations confront long waits and uncertainty in gaining approval for visa petitions for foreign guest artists. These delays began in June of 2001 (prior to September 11), when USCIS adopted a Premium Processing Service, guaranteeing processing within 15 calendar days at an **unaffordable cost** for most nonprofit arts organizations—**\$1,000 per petition**.

Prior to creation of the Premium Processing Service, regular O and P visa processing took an average of **45 days**. For those unable to pay the \$1,000 Premium Processing fee, regular processing times have varied between **45 days to six months**. Inconsistent policies in processing artist visa petitions result in delays, expense, and unwarranted requests for further evidence.

In response to requests from arts advocates, USCIS extended the earliest petition filing date from six months to one year in advance of a performance. While this extension, which took effect May 16, 2007, may provide relief for some petitioners prepared to file far in advance of a performance, most petitioners must complete the petition process in a much smaller window of time.

There is a continuing risk that foreign guest artists will be unable to enter the United States in time for their engagements, causing financial burdens on nonprofit arts organizations, the international artist, and the local artists that were scheduled to perform alongside the international guest.

The total processing times for O and P arts-related visa petitions should be reduced to a maximum of 45 days by requiring USCIS to treat as a Premium Processing case (15-day turn around), free of additional charge, any arts-related O and P visa petition that it fails to adjudicate within 30 days.

In both 2006 and 2007, the Senate approved the above provision as part of their Comprehensive Immigration Reform Act bills. Congress must now commit to passage of the artist visa provision. On April 1, 2008, the full House approved H.R.1312, the Arts Require Timely Service (ARTS) Act, introduced by Rep. Howard Berman (D-CA) and co-sponsored by twelve other bipartisan congressional leaders. A companion bill, S. 2178, was introduced by Sens. John Kerry (D-MA) and Orrin Hatch (R-UT).

Numerous members of Congress, including members of the House and Senate Judiciary Committees, have already gone on record urging USCIS to improve the visa process for foreign guest artists. The following members of the Senate and House are leading congressional efforts to improve the artist visa process:

Senators

Patrick Leahy (D-VT)
Edward Kennedy (D-MA)
Dianne Feinstein (D-CA)
John Kerry (D-MA)
Arlen Specter (R-PA)
Orrin Hatch (R-UT)
Sheldon Whitehouse (D-RI)

Representatives

John Conyers (D-MI)
Zoe Lofgren (D-CA)
Howard Berman (D-CA)
Jerrold Nadler (D-NY)
Adam Schiff (D-CA)
Maxine Waters (D-CA)
Anthony Weiner (D-NY)
Lamar Smith (R-TX)
James Sensenbrenner (R-WI)
Marsha Blackburn (R-TN)
Howard Coble (R-NC)
Dan Lungren (R-CA)
Louie Gohmert (R-TX)