IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS AT U.S. CITIZEN AND IMMIGRATION SERVICES (USCIS)

Orchestras from all regions of the country and of all budget sizes present international musicians to U.S. audiences. By inviting foreign musicians to perform, orchestras provide American audiences the opportunity to experience a diversity of musical talent and encourage a supportive climate for U.S. orchestras to perform abroad. Arts organizations of all sizes and budgets in every area of the country must rely on the U.S. visa process to be affordable, reliable, and efficient.

ACTION NEEDED
We urge Congress to enact the Arts Require Timely Service (ARTS) Act, H.R. 1785, which will require U.S. Citizenship and Immigration Services to reduce the total processing times for O and P petitions filed by, or on behalf of, nonprofit arts-related organizations to a maximum of 45 days.

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 11th), when USCIS adopted the 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. (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.) 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 delay, expense, and unwarranted requests for further evidence.

There is a continuing risk that foreign guest artists will be unable to enter the United States in time for their engagements, causing a great financial burden to nonprofit arts organizations, the international performer, and the local artists that were scheduled to perform alongside the international guest. Long delays and cancellations also deny the American public an opportunity to experience international artistry.
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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. On April 1, 2008, the full House passed the "Arts Require Timely Service (ARTS) Act by unanimous consent, as introduced by Rep. Howard Berman and cosponsored by twelve other bipartisan congressional leaders. A companion bill was introduced by Sens. John Kerry (D-MA) and Orrin Hatch (R-UT), but did not pass in the Senate before the end of the year. Congress must now commit to passage of the artist visa provision.

TALKING POINTS

• **Delays and unpredictability in visa processing create high economic risks to nonprofit institutions and the local economies they support.** Orchestras 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 and their ability to present foreign artists to their audiences.

• **Regular visa processing times are unpredictable.** 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 the visa process to be efficient and reliable.

• **Delays can 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 alongside the guest artist may lose a valuable and much-needed source of income and exposure.

• **Relief from the Premium Processing Fee should be available to nonprofit arts organizations of all sizes.** No matter the size of the arts organization, the $1,000 fee is burdensome. Larger-budget organizations often engage a larger number of foreign guest artists, so the expense of the premium processing service is significant.
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.”

The proposed time-frame for processing O and P visas is eminently reasonable and consistent with security concerns. Congress recognized the time-sensitive nature of the arts 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.

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. 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 Dianne Feinstein (D-CA), Orrin Hatch (R-UT), Edward Kennedy (D-MA), John Kerry (D-MA), Patrick Leahy (D-VT), Arlen Specter (R-PA), Sheldon Whitehouse (D-RI); and Representatives Howard Berman (D-CA), Marsha Blackburn (R-TN), Howard Coble (R-NC), John Conyers (D-MI), Louie Gohmert (R-TX), Zoe Lofgren (D-CA), Dan Lungren (R-CA), Michael McCaul (R-TX), Jerrold Nadler (D-NY), Linda Sanchez (D-CA), Adam Schiff (D-CA), James Sensenbrenner (R-WI), Lamar Smith (R-TX), Maxine Waters (D-CA), and. Anthony Weiner (D-NY).