

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."

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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)

HOUSE COMMITTEE ON THE JUDICIARY

United States House of Representatives
2138 Rayburn House Office Building, Washington, DC 20515
Tel: (202) 225-3951, Fax: (202) 225-7680
www.house.gov/judiciary

The House Committee on Judiciary has jurisdiction over all legislative matters relating to the administration of justice in Federal courts, administrative bodies, and law enforcement agencies, including U.S. Citizenship and Immigration Services (USCIS).

Democrats (23):

John Conyers Jr. (Michigan-14), Chair

Howard L. Berman (California-28)
Rick Boucher (Virginia-9)
Jerrold Nadler (New York-8)
Robert C. Scott (Virginia-3)
Melvin Watt (North Carolina-12)
Zoe Lofgren (California-16)
Sheila Jackson-Lee (Texas-18)
Maxine Waters (California-35)
Bill Delahunt (Massachusetts-10)
Robert Wexler (Florida-19)
Stephen I. Cohen (Tennessee-9)
Hank Johnson (Georgia-4)
Pedro Pierluisi (Puerto Rico-AL)
Luis V. Gutierrez (Illinois-4)
Brad Sherman (California-27)
Tammy Baldwin (Wisconsin-2)
Charles A. Gonzalez (Texas-20)
Anthony Weiner (New York-9)
Adam B. Schiff (California-29)
Linda Sanchez (California-39)
Debbie Wasserman-Schultz (Florida-20)
Dan Maffei (New York-25)

Republicans (16):

Lamar Smith (Texas-21), Ranking Member

F. James Sensenbrenner Jr. (Wisconsin-5)
Howard Coble (North Carolina-6)
Elton Gallegly (California-24)
Robert W. Goodlatte (Virginia-6)
Dan E. Lungren (California-3)
Darrell E. Issa (California-49)
J. Randy Forbes (Virginia-4)
Steve A. King (Iowa-5)
Trent Franks (Arizona-2)
Louie Gohmert (Texas-1)
James D. Jordan (Ohio-4)
Ted Poe (Texas-2)
Jason Chaffetz (Utah-3)
Tom Rooney (Florida-16)
Gregg Harper (Mississippi-3)

SENATE COMMITTEE ON THE JUDICIARY

United States Senate
224 Dirksen Senate Office Building, Washington, DC 20510
Tel: (202) 224-7703, Fax: (202) 224-9516
<http://judiciary.senate.gov>

The Senate Committee on Judiciary has jurisdiction over all legislative matters relating to the administration of justice in Federal courts, administrative bodies, and law enforcement agencies, including U.S. Citizenship and Immigration Services (USCIS).

Democrats (11):

Patrick J. Leahy (Vermont), Chair

Herb Kohl (Wisconsin)
Dianne Feinstein (California)
Russ Feingold (Wisconsin)
Charles E. Schumer (New York)
Richard J. Durbin (Illinois)
Benjamin L. Cardin (Maryland)
Sheldon Whitehouse (Rhode Island)
Ron Wyden (Oregon)
Amy Klobuchar (Minnesota)
Edward E. Kaufman (Delaware)

Republicans (8):

Arlen Specter (Pennsylvania), Ranking Member

Orrin G. Hatch (Utah)
Charles E. Grassley (Iowa)
Jon Kyl (Arizona)
Jeff Sessions (Alabama)
Lindsey Graham (South Carolina)
John Cornyn (Texas)
Tom Coburn (Oklahoma)

CULTURAL EXCHANGES THROUGH THE U.S. DEPARTMENT OF STATE

STRENGTHENING TIES BETWEEN THE UNITED STATES AND THE WORLD

ACTION NEEDED

We urge Congress to:

- Increase funding by \$10 million for the Cultural Programs Division of the State Department's Office of Citizen Exchanges in the FY 2010 State and Foreign Operations appropriations bill. This increase should be designated for the Professional Exchanges and Cultural Grant Program and the Performing Arts Initiative.
- Direct the State Department to: 1) make information on projects funded through these programs readily available to the public; 2) encourage broad participation in its grant program in support of artistic and cultural exchanges with an emphasis on simplifying the application process; and 3) recruit applicants widely to represent best the opportunities available for freedom of thought and expression in a democratic society.
- Direct the State Department to increase operational capacity within the Cultural Programs Division to strengthen its ability to process and oversee grants and programs.

Annual Budget for Cultural Programs Division in Millions, FY 2003 to present

| Fiscal Year | '03 | '04 | '05 | '06 | '07 | '08 | '09 |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|
| Cultural Programs Division | 2.7 | 3 | 4.3 | 4.7 | 9.3 | 8.4 | TBA |

TALKING POINTS

- ***Policymakers agree that cultural exchange is critical to our security efforts around the world.***
 - President Barack Obama's arts policy platform states: "Opening America's doors to students and professional artists provides the kind of two-way cultural understanding that can break down the barriers that feed hatred and fear."
 - Secretary Hillary Clinton in her Confirmation Hearing Statement explained that her proposal of using "smart power" includes culture as a valuable diplomatic tool.
 - Public Diplomacy is among the Government Accountability Office's list of 13 urgent issues that require the attention of President Barack Obama.
 - Vice President and former Senate Foreign Relations Committee Chairman Joe Biden has stated that "cultural exchanges can help erase borders of hostility and build a stronger foundation of broader and deeper understanding among peoples."
- ***Increased funding and operational capacity for the Cultural Programs Division will strengthen exchange and collaboration in the arts and cultural fields that build bridges among people of different countries, cultures, and faiths.***
 - A May 2006 evaluation of the State Department's Jazz Ambassadors Program found that more than 90 percent of embassy staff agreed that the program is effective in extending the reach of traditional diplomacy and providing alternative venues for policy dialogue.
 - A July 2005 assessment of U.S. state-based international exchange programs sponsored by the State Department revealed that among survey respondents, 98 percent of foreign exchange visitors gained a better understanding of the United States and its people. Similarly, 87 percent of foreign exchange hosts reported gaining knowledge about the country and culture of the foreign exchange visitor.
- ***A Congressional Research Service report declares exchanges are a key public diplomacy tool.***
 - In a September 2005 review of 29 studies on public diplomacy compiled by the nonpartisan Congressional Research Service, the most popular recommendation for public diplomacy reform was to increase U.S. exchange programs.
- ***International cultural exchange carries an economic benefit.***
 - According to a report by the National Governors Association, "How States Are Using Arts and Culture to Strengthen Their Global Trade Development," state governments find that incorporating arts and cultural exchanges in their international trade and business development serves to expand trading relationships with other nations and open markets abroad as a complement to more traditional efforts to generate exports.

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BACKGROUND

Funding for cultural exchange has never recovered from the elimination of the former United States Information Agency (USIA) and the USIA's Arts America Program. State Department cultural exchange program funds are climbing from a low point of only \$2 million a few years ago, to an estimated \$11 million in FY 2008. An increased appropriation would expand the State Department's ability to foster mutual understanding between the United States and other countries.

The ECA Bureau is responsible for the public diplomacy activities of the United States, including international cultural exchange programs. The Cultural Programs Division is the principal Department of State element focused on cultural diplomacy. The Division's activities include grant opportunities to U.S. nonprofits for cultural exchange activities; residency, mentoring, and training programs; programs that are carried out overseas by or under the sponsorship of U.S. Embassy public diplomacy offices; and presentations at major international visual arts exhibitions and cultural centers. The Professional Exchanges and Cultural Grant Program provides grants to U.S. nonprofit organizations to carry out exchange programs in the arts, arts management, and arts education. The Performing Arts Initiative provides financial support to U.S. Embassies for presentations of American performing art and artists.

2008 Grant Recipients

American Association of Museums

2008 Museums and Community Collaborations Abroad Program

Bronx Museum of the Arts

Fellowships in the Visual Arts, Film and Architecture and Urban Design

Brooklyn Academy of Music

DanceMotion USA

Carnegie Hall Society

Distance Learning Cultural Exchange

Institutions for Training and Development (ITD)

Visual Arts Exchange Program

Jazz at Lincoln Center, Inc.

The Rhythm Road- American Music Abroad Program

John F. Kennedy Center for the Performing Arts

Cultural Visitor & Fellows Mentoring Programs

Southwest Chamber Music Society

The Ascending Dragon Cultural Exchange: Southwest Chamber Music and the Vietnam National Academy of Music

University Film & Video Association

American Documentaries Showcase

University of Iowa

International Writing Program (IWP)

WSOS Community Action Commission, Inc. (WSOS)

Visual Arts Exchange Program

The Cultural Programs Division has also funded traveling American art exhibits to U.S. Missions. Recent exhibitions include the *American Roadside Architecture* and *Landmarks of New York and After the Flood*. Other exhibitions touring in 2009 are *Picturing America* (in partnership with the National Endowment for the Humanities) and *JAM Session: Jazz Ambassadors* (in partnership with Meridian International).

HOUSE COMMITTEE ON APPROPRIATIONS

**SUBCOMMITTEE ON STATE, FOREIGN OPERATIONS,
AND RELATED PROGRAMS**

United States House of Representatives
HB-26 Capitol Building, Washington, DC 20515
Tel: (202) 225-2041

The Subcommittee on Commerce, Justice, State, and Judiciary has jurisdiction over the amount of funding provided to the U.S. Department of State.

Democrats (8):

Nita M. Lowey (New York-18), Chair

Jesse L. Jackson Jr., (Illinois-2)
Adam B. Schiff (California-29)
Steve Israel (New York-2)
Ben Chandler (Kentucky-6)
Steven R. Rothman (New Jersey-9)
Barbara Lee (California-9)
Betty McCollum (Minnesota-4)

Republicans (4):

**Kay Granger (Texas-12),
Ranking Member**

Mark Steven Kirk (Illinois-10)
Ander Crenshaw (Florida-4)
Dennis R. Rehberg (Montana-AL)

SENATE COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON STATE AND FOREIGN OPERATIONS

United States Senate
127 Dirksen Senate Building, Washington, DC 20510
(202) 224-7284

The Subcommittee on State and Foreign Operations has jurisdiction over the amount of funding provided to the U.S. Department of State.

Democrats (8):

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Daniel Inouye (Hawaii)
Tom Harkin (Iowa)
Barbara Mikulski (Maryland)
Richard Durbin (Illinois)
Tim Johnson (South Dakota)
Mary Landrieu (Louisiana)
Jack Reed (Rhode Island)

Republicans (7):

Judd Gregg (New Hampshire), Ranking Member

Mitch McConnell (Kentucky)
Arlen Specter (Pennsylvania)
Robert Bennett (Utah)
Christopher Bond (Missouri)
Sam Brownback (Kansas)
Lamar Alexander (Tennessee)