

## *Written Committee Testimony*

Written Statement of

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Government Reform Committee  
United States House of Representatives

Concerns with Nonimmigrant Visa Processing and the Chilling Impact on  
Global Cultural Exchange

April 4, 2006

### **INTRODUCTION**

Mr. Chairman, members of the Committee, thank you for the opportunity to testify before you today. I want to commend you, Mr. Chairman, for holding this hearing and placing a spotlight on nonimmigrant visa processing concerns, how the current visa system is preventing our U.S. businesses from being able to compete globally and how it negatively impacts our performing arts industry.

Mr. Chairman, the subject of today's hearing is very important. Cultural exchange is important and our nation can and must continue to improve the visa process to allow our businesses to thrive and prosper. My presentation will focus on the negative impact of visa processing delays on the performing arts. This is about sustaining a vibrant global marketplace for a large core of small and midsize arts businesses – nonprofit and for-profit organizations, artists – in our sector; this is about the intersection of culture and commerce and the critical need for access and exchange. I will provide some examples of the problems are industry is experiencing, discuss the importance of cultural exchange, and offer a handful of recommendations that we feel strongly will improve the process.

### **Background**

Arts Presenters is the national service and advocacy organization for the presenting and touring field. We represent more than 7,000 presenting organizations across the country with a collective earned and contributed income of over \$8.5 billion. This field reaches more than 300 million audience-goers each year. Performing arts organizations care deeply about the improvement of the visa process. I am joined in the gallery by colleagues from our advocacy coalition, our partners in the American Arts Alliance and the Performing Arts Visa Task Force. We have been collectively working on this issue for more than five years. Visa delays are making it

increasingly difficult for international artists to appear in the United States. Nonprofit arts organizations and artists confront very long waits and experience great uncertainty in gaining approval for visa petitions for foreign guest artists.

Our association members range from performing arts centers in major urban cities to rural reaches of the country, include festivals and community-focused organizations, the artists, the academic institutions and their collaborators --all of whom offer audiences the breadth of creative expression, representing disciplines ranging in all forms of dance, music and theater. We are an industry powered by small businesses. Almost two-thirds of the organizations I have described have budgets of less than \$500K.

### **Why Cultural Exchange Matters**

Many U.S. artists tour abroad to share our artistic and cultural heritage, exchange ideas and expressions, and experience other cultures and traditions in their context. Artists from abroad tour the U.S. to share their experiences, cultures and traditions. This reciprocal exchange creates a corps of ambassadors, fundamental to our diplomatic mission. Foreign artists who perform in the United States become ambassadors when they return to their country. Foreign artists who perform in the U.S. experience American culture, perform in many of our communities and in many cases have an opportunity to work with our children in schools. These are artists who are the leading thinkers, change agents and focal points in their society. These are exactly the individuals we want to visit our country, perform on our stages, in our schools and experiencing America.

There is a continuing risk that foreign guest artists will be unable to enter the United States in time for their engagements, which are time specific. This causes financial burdens for nonprofit arts organizations, the international artists, and the local artists who may be scheduled to perform alongside the international guests. We are seeing alarming trends; these performing arts businesses are bringing fewer artists into the U.S. In 2002, we conducted a field wide survey in the U.S. that showed nearly 75% of organizations in our industry were presenting foreign artists. By 2005, that number dropped to almost 60%, largely because of the onerous visa process and risk that these performances would have to be cancelled. When performances and tours are cancelled our industry loses money and public trust.

In September 2005, a Congressional Research Service review of 29 studies on public diplomacy demonstrated that a majority of the studies recommended an increase in U.S. cultural exchange programs. The Administration's leadership agrees. Homeland Security Secretary Michael Chertoff has stated that our heritage and our national character inspire us to create a more welcoming society. Recently Secretary of State Rice has committed to increasing exchanges with the rest of the world, and Undersecretary of State Karen Hughes has characterized exchanges as the single most successful public diplomacy initiative in the past 50 years. However, the current ineffectiveness and inefficiencies of the visa process cannot support this desired mission.

As an organization with a growing international membership, I regularly travel abroad to performing arts conferences and arts markets to represent our organization and the U.S. industry. Despite representing the largest marketplace in the world for artists to perform, I am

disappointed to report that a growing number of international artists are not looking to tour the U.S. and not looking to us as the same open cultural marketplace. Our visas policies send the message that we are not open and interested in experiencing diverse cultures, ideas, not open for exchange.

Additionally, we know some countries are discussing the development of reciprocal policies to restrict U.S. artist performances abroad in their countries with more complicated, costly visa processes.

### **How the Visa Process affects the Performing Arts**

- Touring and presenting is a time specific industry. Current industry practice is to secure performances 1-3 years in advance. Once a performance is booked, advance marketing and ticket sales are initiated, significant costs are incurred upfront – our organizations - many small businesses - are making an economic investment to take these risks for the enjoyment and experience of our citizens.
- The vagaries of the visa process regularly place our industry in jeopardy - facing unpredictable economic losses associated with delays and in worst-case scenarios complete cancellations of performances and tours. Our industry loses money and the American public loses out on these rich cultural experiences.

### **State Department Delays Can be Costly**

- Ø *The Halle Orchestra from Manchester, England cancelled its American tour due in large part to U.S. State Department visa policies. Each member of the 100-person orchestra and staff was required to travel to the U.S. embassy in London for his or her interviews at an additional total expense of nearly \$80,000 and two days of their time.*
- Ø *Dino Saluzzi, a Brazilian Bandoneon player and scheduled to make a rare U.S. tour, was told by the consulate office that he needed to travel to Buenos Aires to be interviewed. This was cost prohibitive and the tour cancelled.*
- Ø *Folk Arts Rajasthan was left in limbo when the group did not hear from the consulate in Delhi, India and did not receive a notification of the interview even after they had received their approval notice 2 months prior to their scheduled tour. The artists went to the Embassy the day of their flight in the hope of getting their interviews and were finally approved just hours before their flight was scheduled to depart. The additional visa expense to expedite this tour was 15% of the total gross revenue earned.*

One helpful solution for our industry would be for the State Department to grant multiple consular notifications and to insure that petitioners have the ability to interview at the closest embassy of the petitioner's choice. This would avoid the additional travel, costs or the need for an entire artistic group to interview at the same consulate. Additionally, the requirement for an artist to travel to their country of birth for an interview is extremely costly, time-consuming and illogical, if the individual no longer resides in that country.

### **USCIS Delays Can be Costly – again can we add dollars lost, timeframe and # of weeks/dates cancelled?**

- Ø *John Williams is a highly regarded guitarist. He received the I-797 but CIS listed the country of birth incorrectly. CIS refused to correct the problem in a timely fashion and insisted that he reapply for the visa. The tour was almost cancelled.*
- Ø *Young Concert Artists, based in New York City applied for a P-3 visa they could not afford to go PPS. Finally received the I-797 after 5 months but had to cancel the performance because of the delay.*
- Ø *Shauna Rolston the world-renowned Canadian cellist applied for a visa through CIS and was scheduled to tour Shreveport, LA in March 2006, Harvard Musical Association in April 2006 and Augustana Arts in May 2006. That same month CIS notified her that additional information was required for the tour. The artist's agent's were working frantically to get the information in and hired additional lawyers at great cost.*

Delays and problems caused by U.S. Citizenship and Immigration Services (USCIS) continue to make 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 the Premium Processing Service, guaranteeing processing within 15 calendar days for a fee of \$1,000 per petition – an unaffordable option for most nonprofit arts organizations and artists.

One helpful solution for our industry would be for USCIS to create a policy change that would bring processing times for O and P arts-related visa petitions back to the pre June 2001 wait time of 45 days. We are recommending that USCIS treat any arts-related O and P visa petition that it fails to adjudicate within 30 days as a Premium Processing case (15-day turn-around), free of additional charge.

### **More Oversight of the Process is Needed**

The examples we provide in this testimony shed light on the significant economic impact and hardship that largely bureaucratic delays have caused for the performing arts industry. These are symptoms of a larger problem – leadership and responsive action and coordination for the entire processing system.

We agree with the September 2005 Government Accountability Office report “Border Security, Strengthened Visa Process Would Benefit from Improvements in Staffing and Information Sharing” and also believe that DHS must exercise more leadership and responsibility in overseeing the entire nonimmigrant visa process. The GAO report chronicles the need for State and the FBI to communicate more and for State to have access to key information. We would support these recommendations with the hope that they would eventually lead to frequent traveler status for artists who make return visits to the U.S. to perform.

### **Our Work with the Agencies and the Industry**

We have met with officials at all three agencies over the past five years with varying success. We have found the State Department the most receptive to our needs in recent years. But progress has been very slow.

We have done our part to educate our industry and we do not come to the table just asking for reform and relief with visa processing. As an industry we invested significant time and dollars to train and inform all of our constituents, keeping them apprised of changes and increasing their capacity to try and complete the petition process. Together with the American Symphony Orchestra League and with funding from the National Endowment for the Arts, Arts Presenters created the website [www.artistsfromabroad.org](http://www.artistsfromabroad.org), to provide best practices and comprehensive resources, the latest memos, procedural legislative changes and a step-by-step guide to the process. We conduct seminars at our annual conferences with representatives from the three government agencies involved in visa processing and also survey our members to assess their issues and concerns.

### **Recommendations**

In addition to encouraging a frequent traveler status for non-immigrant visas and asking for flexibility regarding location of consular interviews. We also request that you and your colleagues designate more funds to these agencies to specifically improve the visa processing, interviewing and approval system as well as to assure more leadership over the process.

### **Conclusion**

In conclusion, Mr. Chairman, the performing arts industry plays a vital role in our nation's public diplomacy mission and goals and it is time we establish a visa process that truly strikes at the balance between secure borders and sending a message that the United States is open for cultural exchange and supports cultural commerce.

Arts Presenters' vision statement best captures why the visa issue is so critical to our community and to our nation:

We envision a world where

- all people can experience the transformative power of live performance;
- art and ideas circulate vigorously and freely;
- artists play a leading role in civic affairs and global dialogue;
- people of all cultures interact and affirm themselves through the arts; and ,
- public and private sectors alike support the performing arts as a priority.

Thank you.

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