

BOOKING

FOREIGN ARTISTS PART 2:

Guide to Visas When Booking Foreign Performers

One of the most basic considerations when booking foreign artists is the visa. There are several hurdles to obtaining the appropriate documents to both allow foreign artists to enter and to work in the country, including knowledge of the different kinds of visa, an understanding of the visa petition process, and an appreciation of the time it takes to obtain these documents.

Work Permit vs. Visa

There is an unfortunate confusion engendered by the use of the word “visa” for both the work permit and the actual entry visa into the country. The work permit is often referred to as an “O” or “P” visa but is in reality a work permit from United States Citizenship and Immigration, allowing an artist or artistic group to “work” in the United States. Without this visa, performers are not allowed to perform since USCIS considers any performance “work”, regardless of whether the artist is paid or not. In other words, performing a “free” concert does not waive the work permit requirement for any foreign artist.

Different Kinds of Visas (Work Permits)

There are four kinds of work permits available to artists: the O1B, P1, P2 and P3 visas. An O1B visa is for internationally renowned individual artists of extraordinary ability; a P1 visa is for internationally recognized entertainment groups; a P2 visa is a special category under a reciprocal exchange agreement with the American Federation of Musicians (A.F. of M.) for its members only; and a P3 visa for artists performing a culturally unique program (as defined by USCIS). Essential support personnel is permitted to accompany artists but must be petitioned for separately.

The Visa (Work Permit) Petition Process

A work permit petition can be prepared up to a year in advance and necessitates the preparation of a document (I-129) and evidence of the artist’s background and achievements. This evidence entails providing documented proof of such things as touring itineraries and fees (artists are expected to have toured outside their own country and commanded higher than normal fees), concert venues (playing in well-known halls is a distinct advantage), concert reviews (press clippings from newspapers

and magazines), awards (evidence of the artist’s achievements), reference letters (from acknowledged authorities, if possible) and a record of commercial success (reviews of CD and other sales, sales figures, etc.) This material is appended to the petition application. Each application costs approximately USD\$500 and can take up to 3-4 months to be approved. There is a Premium Processing option which costs an additional USD\$1,225 and gets a response within 15 days. (Not necessarily an approval.) There are two processing centers in the United States: one in St. Albans, VT and one in Laguna Beach, CA. Petitions MUST be submitted by U.S.-based employers, agents, managers, sponsors, presenters, organizers, or U.S. agents appointed to do so by the foreign artists.

Length of Stay for a Work Permit Visa

With the exception of the O-1B visa which can be approved for up to three years, the visa length of stay is restricted to one year and then only when the artist has activities to justify the petition. Often, an artist has a single booking and so must petition for that booking only. If the artist is touring then the petition can cover a multiple-event itinerary and can be petitioned for by one petitioner who is appointed to this task by all employers on the tour.

Work Permit Visa Approval Process

All petitions sent in to USCIS are assigned a receipt number. An adjudicator at USCIS examines the petition and approves or denies it. Petitions for regular processing receive the receipt and approval via mail; petitions for premium processing receive the receipt and approval via email. In both cases, the actual approval (a form I-797) is sent to the petitioner.

Dealing with the Consulate

Once the receipt number is in hand, an artist can apply on the internet via the DS-160 process for an entry visa. This entails filling out a lengthy form, including background information, security questions and more, paying the requisite fee and making an appointment to visit the Consulate for the visa interview. If successful, the artist will surrender a passport to the Consulate and the entry visa will be produced.

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Entering and Staying in the U.S.

Note that an artist can enter the U.S. up to ten days prior to the official start of the petition approval start date, and remain in the country up to ten days after the petition approval end date, so long as no actual work is undertaken during those periods.

Final Thoughts

1. Make sure whoever is responsible (Festival? Artist?) starts the petition process as early as possible
2. Have the paperwork prepared carefully and thoroughly
3. Good luck!

Robert Baird is President of BAM! Baird Artists Management Consulting in Toronto, Canada and an acknowledged expert in international touring including visas, withholding and taxation. He offers free advice to artists, agents, managers and venues and has an international clientele. He served for many years on the Executive Board of Festivals and Events Ontario (FEO) and is a former Vice-President of that organization. He can be reached at: P: 1-800-867-3281 E: robert@bairdartists.com or for more information go to: www.bairdartists.com