

The Visa Dance

By Pia Catton

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It was a close call for the East Village theater La MaMa: At least three weeks' worth of box-office revenue was on the line when the Department of Homeland Security questioned the visa applications submitted by artists in an upcoming performance. Although delayed by one week, the show will go on: The Irish Modern Dance Theatre's "Fall and Recover," a dance work inspired by survivors of torture, now opens Friday, March 25.



Left to right, Nina Oiplea, Haile Takabo, Faranak Kahnoom and Francis Acilu in 'Fall and Recover.'

CHRIS NASH

The Brooklyn venue Littlefield wasn't so lucky. Edinburgh, Scotland-based musician Dan Willson —a.k.a. Withered Hand—was delayed for similar reasons, causing him to miss his March 12 engagement. Due to short notice, Littlefield couldn't book a replacement and was dark for its most important night of the week. Mr. Willson did make other New York dates, and then headed to the South By Southwest music festival in Austin, Texas.

In both cases, the artists did make it through the red tape of U.S. Citizenship and Immigration Services, the Department of Homeland Security office that administers applications, but the visa issue is a thorny perennial that affects artists, presenters and the public. What's the state of affairs?

In the last year, USCIS Director Alejandro Mayorkas has earned some credit for seeking feedback from the artistic community and improving application processing speed. There is,

however, evidence that part of the process is growing ever more inconsistent, leading to costly delays.

International artists with U.S. engagements apply to USCIS for nonimmigrant visas. If the application does not appear to meet requirements, the artist receives a Request For Evidence (RFE) and must respond with clarification or more information.

In the case of Dublin's Irish Modern Dance Theater, the RFE was "baffling," says Mia Yoo, artistic director of La MaMa.

The venue requested P-3 visas (covering "artists or entertainers coming to be part of a culturally unique program") for 17 artists. In mid-February, USCIS sent an REF at that read: "Given the multi-ethnic composition of the group and the universal subject matter of the work to be performed, USCIS is unsure whether the term 'cultural' applies in this case."

La MaMa has been presenting arts programs since 1961. And the Irish Modern Dance Theater, founded in 1991, is part of Imagine Ireland, a year-long festival that includes 400 cultural events in 40 U.S. states that was organized by Culture Ireland, a state agency that promotes the arts.

The work in question—"Fall and Recover"—was created by choreographer John Scott, who in 2003 started leading movement workshops at Dublin's Centre for the Care for Survivors of Torture, a humanitarian group that helps individuals rehabilitate and integrate into a new life as citizens of Ireland. The work had its premiere in 2004 at Dublin's Project Arts Centre and was revived for the 2009 Dublin Dance Festival. The choreography incorporates two professional dancers and 11 survivors.

Reiterating all this, Ms. Yoo gathered letters of support, including from Rep. Jerrold Nadler and Sen. Kirsten Gillibrand, and successfully addressed the USCIS concerns.

In the case of Mr. Willson, he sought an O-1 visa (for "Individuals with Extraordinary Ability or Achievement") to tour in support of his new album. The RFE, however, questioned his ability: If he was so talented, why was he being paid so little?

"If you come over as solo performer, and you are judged against Academy Award-winning directors or athletes, you don't look so extraordinary," he said. "Anyone who is trying to survive as a musician knows that often the pay is not measured in monetary terms."

His application was handled by Matthew Covey, managing director of Tamizdat, a New York-based organization that files hundreds of artists petitions a year—and filed at least 200 for South By Southwest. "We've got the to point that 95% get approved," said Mr. Covey, noting that the other 5% are usually returned with RFEs.

Just prior to the 2011 music festival, however, he estimates that 5% jumped to 50%. "There were 10 RFEs coming in one day, another 10 the next day," he said.

The questions ran the gamut, but typically addressed the artist's worth or questioned the event. "From talking to other practitioners, that was happening across the board," he said.

But the senior counselor to the USCIS director, Dan Hantman, says there has been no policy change that might have caused the uptick, adding that USCIS understands the industry's concerns. In July 2010, the director hosted an engagement meeting with arts leaders. And USCIS last year began re-evaluating the standards that would cause RFEs in all visa classifications. Public comment on "P" visas took place from February 25 to March 11. "O" visas are up next.

"It's an attempt to give a sense of standard expectations," said Mr. Hantman. "We need from petitioners clear, detailed filings."

What the arts industry needs from the government is recognition of what's at stake. The arts may deal with fluffy things like feelings, but the industry's total economic activity is \$166.2 billion, according to Americans for the Arts.

As the organization's president and CEO, Robert L. Lynch, says: "It's a business issue."

Write to Pia Catton at Pia.Catton@wsj.com