



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

May 19, 2021

Department of Homeland Security, United States Citizenship and Immigration Services
Via electronic submission

Re: **Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits & Services**

CIS No. 2684–21; DHS Docket No. USCIS– 2021–0004; RIN 1615–ZB87

The City of New York (“the City”) submits this comment in response to the Department of Homeland Security’s (“DHS”) request for public input entitled “Identifying Barriers Across U.S. Citizenship and Immigration Services (“USCIS”) Benefits and Services” which was originally published in the Federal Register on April 19, 2021 (“Request for Input”). This request for public input is a welcome opportunity for the City to provide helpful and necessary feedback to DHS on how USCIS can reduce barriers for immigrant New Yorkers accessing immigration services and benefits. As the ultimate city of immigrants, we are encouraged by the Biden administration’s willingness to work with municipalities and other stakeholders in order to improve access to our nation’s immigration system and processes.

The New York City Mayor’s Office of Immigrant Affairs (“MOIA”), the Department of Health and Mental Hygiene (“DOHMH”), and the Department of Social Services (“DSS”) contributed to this comment. MOIA promotes the wellbeing of the City’s immigrant residents through programs, policy recommendations, and community engagement efforts that facilitate their successful integration into the civic, cultural, and economic life of New York. Using this multipronged approach, MOIA works to eliminate barriers to opportunity, promote immigrant rights, expand civic engagement, and further the empowerment of immigrant New Yorkers. This includes supporting immigrant access to trusted, free, and reliable legal services. DOHMH strives to protect and promote the health of all New Yorkers, including through outreach to immigrant communities, enrollment assistance for appropriate health and social service programs, promoting access to care regardless of immigration status, and fighting stigma against marginalized communities.

In New York City, DSS encompasses the Human Resources Administration (“HRA”) and the Department of Homeless Services (“DHS”). The Department is dedicated to fighting poverty and income equality. HRA assists over three million New Yorkers, each year, through the administration of more than twelve major public social services programs. These public benefit programs include: the Supplemental Nutrition Assistance Program (“SNAP”, formerly known as the Food Stamps program); temporary Cash Assistance programs, such as the Temporary Assistance for Needy Families (“TANF”) program and New York State and City-funded benefits under the New York State Safety Net Assistance Program; services for vulnerable New Yorkers such as Adult Protective Services and Domestic Violence programs; and Homelessness Prevention Services. HRA includes the City’s Office of Civil Justice, which operates a range of immigration legal services programs for thousands of immigrants in New York City, including legal services for immigrants in cases in the immigration courts. Together, and in partnership with other

City agencies, we support our immigrant New Yorkers on their journeys to becoming citizens and, thereby, have a vested interest in providing feedback to ensure our constituents can access the benefits to which they are entitled.

Over the last four years, the City has submitted over twenty-five comments¹ in response to harmful proposed rules, policies, and regulations that actively prevented our constituents from applying for and obtaining critical immigration benefits, some of which are still in effect. For this reason, the City was eager and encouraged by the President's February 2nd Executive Order 14012² titled "Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans." The Executive Order requires agencies to conduct a comprehensive review of regulations, policies and guidance that have put barriers in place to accessing justice through the immigration system. The City agrees wholeheartedly with the values expressed in this executive order, especially that "... it is essential to ensure that our laws and policies encourage full participation by immigrants, including refugees, in our civic life; that immigration processes and other benefits are delivered effectively and efficiently; and that the Federal Government eliminates sources of fear and other barriers that prevent immigrants from accessing government services available to them."³ These values and the executive order as a whole is consistent with our City values outlined above, and we welcome the opportunity to provide feedback and uplift potential solutions that we hope will be implemented.

New York City is the ultimate city of immigrants, with immigrants making up almost 40% of its population, and over 3.2 million people.⁴ This immigrant population is deeply tied to the City as a whole. For example, nearly 60% of New Yorkers live in households with at least one immigrant. Moreover, immigrants contribute in myriad ways and are embedded in the fabric of the City. Of late, immigrants have contributed by working on the front lines as essential workers at the height of the COVID-19 global pandemic. Immigrants make up 58% of the essential workers that help all New Yorkers meet basic needs like food and health care. In New York City, immigrants make up 53% of nurses, 81.5% of home health aides, 65.5% of cooks, 53.4% of janitors and building cleaners, and 87.0% of laundry and dry-cleaning workers.⁵ Simply put, the City could not function without the contributions and presence of our immigrant constituency, many of whom worked tirelessly during the pandemic to ensure that we could be safe and continue running. The City therefore has a vested interest in supporting the well-being of our immigrant communities, which must include effective and efficient access to immigration benefits and services over which DHS-USCIS has jurisdiction.

The City's Investments in Immigration Legal Services Have Been Undermined by DHS Barriers to Accessing Justice

Recognizing that that the City thrives because of our immigrant communities, this mayoral administration has increased and enhanced access to legal assistance for immigrants by investing over \$30

¹ See N.Y.C. MAYOR'S OFF. OF IMMIGR. AFF., *Public Testimony and Comments*, <https://www1.nyc.gov/site/immigrants/about/public-testimony-and-comments.page>, (last visited May 19, 2021) for links to full comments.

² Exec. Order. No. 14012, 86 Fed. Reg. 8,277 (Feb. 2, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>.

³ *Id.*

⁴ 2020 N.Y.C. MAYOR'S OFF. OF IMMIGR. AFF. ANN. REP., <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>.

⁵ OFF. OF N.Y.C. COMPTROLLER REP., (Mar. 26, 2020), https://comptroller.nyc.gov/reports/new-york-citys-frontline-workers/#Who_are_our_Frontline_Workers.

million dollars in a continuum of free legal service programs for immigrant New Yorkers for fiscal year 2020.⁶ Together with the New York City Council, the City investment rises to a total of approximately \$50 million in immigration legal services. Through our citywide, community-based program, ActionNYC, we provide access to free and reliable immigration legal services and resources. Immigrant New Yorkers have access to free, high quality immigration legal services in their language, at safe locations in their community. The program is operated jointly by MOIA, DSS, NYC Human Resources Administration (“HRA”), and the City University of New York (“CUNY”), and implemented in collaboration with over 30 community-based organizations (“CBOs”) and legal services providers.

In fiscal year 2020, our ActionNYC partners alone conducted over 9,695 comprehensive immigration legal screenings, and opened over 5,563 new cases.⁷ The vast majority of ActionNYC cases are filed with USCIS, where changes by the agency through regulation and policy guidance has been acutely felt and negatively experienced by community members and their City-funded legal service providers.

The regulatory and administrative attacks on immigrants during the last four years have consistently impeded our immigrant communities from navigating the process of obtaining critical benefits. Our constituents and legal services providers bore the brunt of proposed changes to the exercise of discretion and vetting in adjudication, such as with the USCIS policy guidance updated in November of 2020;⁸ the imposition of additional financial barriers, such as proposed rules regarding the USCIS proposed fee schedule;⁹ increased backlogs in naturalization;¹⁰ the dismantling of work authorization eligibility especially for asylum-seekers through the elimination of their eligibility where they entered the United States somewhere other than an official port of entry, if they are filing for asylum more than one year after their last entry to the United States, and by delaying their ability to obtain employment authorization from the current required period of 150 days to 365 days;¹¹ and impeding the most vulnerable from accessing benefits like citizenship such as the October 2019 rule revising medical certifications for the disability exceptions.¹²

⁶ 2020 N.Y.C. MAYOR’S OFF. OF IMMIGR. AFF. ANN. REP. at 11, <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>.

⁷ *Id.* at 72.

⁸ U.S. CITIZENSHIP AND IMMIGR. SERV., USCIS UPDATES POLICY GUIDANCE REGARDING DISCRETIONARY FACTORS FOR ADJUSTMENT OF STATUS APPLICATIONS, (Nov. 17, 2020), <https://www.uscis.gov/news/alerts/uscis-updates-policy-guidance-regarding-discretionary-factors-for-adjustment-of-status-applications>.

⁹ Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 84 Fed. Reg. 67,243 (proposed Dec. 9, 2019), <https://www.federalregister.gov/documents/2019/12/09/2019-26521/us-citizenship-and-immigration-services-fee-schedule-and-changes-to-certain-other-immigration>.

¹⁰ Emily Gelbaum, *Report: Building a Second Wall USCIS Backlogs Preventing Immigrants from Becoming Citizens*, (Oct. 27, 2017), <https://www.immigrationresearch.org/report/other/building-second-wall-uscis-backlogs-preventing-immigrants-becoming-citizens>.

¹¹ Asylum Application, Interview, and Employment Authorization for Applicants, 84 Fed. Reg. 62,374 (proposed Nov. 14, 2019), <https://www.federalregister.gov/documents/2019/11/14/2019-24293/asylum-application-interview-and-employment-authorization-for-applicants>.

¹² Agency Information Collection Activities: Form N-648, Revision of an Existing Information Collection Request; Comment Request, 75 Fed. Reg. 30,050 (May 28, 2010), <https://www.regulations.gov/document/USCIS-2008-0021-0012>.

While we welcome critical actions taken by the Biden administration to withdraw some harmful actions of the prior administration, many regulations and policies regarding accessing immigration benefits through USCIS have yet to be addressed and continue to pose barriers to our partners and constituents. Below, we provide a summary of particular challenges regarding USCIS customer service and thereby access to justice faced by our partners, as well as proposals on how to address them.

Challenges NYC Constituents Face in Accessing Immigration Benefits and Services

I. USCIS Customer Service is Inaccessible

- i. USCIS is currently inaccessible to clients who are not tech savvy or represented by counsel.*

Despite the City's investments in immigration legal services, many New Yorkers must file applications for relief pro se, without representation or support, and for whom USCIS's avenues for customer service are their only sources of obtaining information and addressing questions that arise. Through MOIA's Constituent Services team, our office receives about 15-20 inquiries per week from constituents whose case has been pending longer than anticipated or who generally require assistance getting answers to questions they have about their case. Many of these constituents have a hard time using the existing tech support and channels of communication to obtain this information and come to our agency for help.

Immigrant constituents tend to be older and are learning English as a second or third language.¹³ Moreover, many of them do not have a formal education and limited access to technology, which is required in order to navigate many of the existing portals of communication within USCIS. Our recommendation is to ensure that customer service is accessible to those who are elderly, limited English proficient, and without access to or fluency in technology.

- ii. Obtaining Case Information for Humanitarian Cases.*

A significant challenge with the centralized customer service center for USCIS is the impossibility of getting any case updates related to time-sensitive humanitarian applications for relief. For those eligible for relief under the Violence Against Women Act (VAWA) as well as eligible for U and T non-immigrant visas for survivors of crimes and trafficking, providers and constituents are unable to inquire about applications that may be "stuck." While we understand and appreciate the sensitivities around protecting the information associated with these cases, it also means that it is nearly impossible to get any information from USCIS if there are any complications, particularly once the case has been transferred out of the Vermont Service Center. As a result, for many years, providers and constituents in the City have had dozens of cases that languished for years with no movement due to their inability to obtain information from USCIS. Over the past few months the local New York City field office has attempted to be helpful with this issue, however, a legal services representatives with a signed G-28 should have better access to information about their client's case.

¹³ 2020 N.Y.C. MAYOR'S OFF. OF IMMIGR. AFF. ANN. REP., at 22-4, <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>.

iii. Eliminating Unnecessary Interview Requirements

We are aware of and appreciate that the New York field office has taken measures to reconsider when in-person interviews are necessary and when cases may be adjudicated without such an interview. In some cases, this practice has enabled our constituents and their legal representatives to more efficiently move forward with their case without having to expend additional time or resources. We urge USCIS to further eliminate mandatory in-person interviews for routine cases across the country so as to ensure that legal services providers and their clients do not have to spend precious resources preparing for or attending these.

iv. Case Processing Times Need to be Updated.

In conversations with our legal service provider partners, we received feedback that the information provided by USCIS about its processing times is not accurate. For instance, the current processing time listed on the USCIS website for an I-485 is between 13.5 to 36.5 months, and for an I-751 the processing time is somewhere between 17 and 35 months. However, these estimates are not helpful to our constituents or our partners filing applications. Given that our partners are operating at capacity and trying to serve as many people as possible, having a more accurate sense of how long each application they submit will take is important for them to prioritize their caseloads and better serve our constituents. Improving the processing time to ensure quicker adjudication along with providing updated case processing information will allow providers to more efficiently manage their dockets and allow clients to have a more accurate sense of how long their applications will be pending before they receive a response. Our recommendation is that USCIS provide updated and accurate processing estimates in addition to providing notice to providers and applicants whenever processing times will be outside of the expected timeframe.

v. The Infopass Appointment System Needs to be Reinstated and Restructured.

The elimination of Infopass appointments has created unnecessary challenges to service providers and clients. The creation of “contact centers” makes it difficult to speak with a representative to resolve emergency cases. Legal representatives can sometimes spend hours on the phone waiting to speak with a representative in order to advocate for their client. Once they do speak with someone, the likelihood that this results in a confirmed appointment for the client is minimal given that USCIS requires a call-back number so they can contact either the service provider or the client within 48 hours.

However, this can be further complicated when non-profit legal service providers who are already spread thin are not immediately available at that moment USCIS calls and can't answer the phone. In these instances, the individual has no choice but to start the process over, and in some cases, we have been told that clients or their representative's provider don't even get the initial call to schedule the appointment. This phone web creates hurdles for our services providers and constituents who need these appointments in order to move forward with their case. The recommendation from our providers is to reinstate emergency appointments so that clients and service providers can get appointments quickly without having to spend hours on or by the phone in cases of emergency.

vi. Reopening Additional Field Offices.

In New York City, the only field office for interviews that is currently open exists in Manhattan. While central to many, most of our immigrant communities reside in other boroughs, primarily in Queens and Brooklyn. USCIS could better serve our constituents by reopening field offices in the communities in

which they reside. This would be especially helpful for our older, disabled constituents who have a difficult time commuting far from their homes.

vii. Providing Opportunities for Public to Provide Feedback

While opportunities for formal feedback are appreciated, there should be more meaningful and accessible ways for the public to provide feedback about their experience with USCIS. Case information and processing is crucial, as is the need for USCIS to get an accurate sense from applicants on a more regular basis to provide feedback.

Conclusion

We are grateful for the opportunity to provide DHS with input on barriers to USCIS benefits and services in furtherance of promoting equity for immigrant New Yorkers. It is our hope that by removing unnecessary administrative barriers and facilitating access that immigrants will not only be able to better access benefits but also have a restored sense of trust in our legal processes. NYC is proud of its immigrant residents and knows it would not be the vibrant, resilient place that it is without their presence and many contributions. We hope to continue working closely with the Administration to ensure that all of our constituents, regardless of immigration status, are able to fully participate in our civic life – starting with accessing benefits necessary to achieving stability and security in our City and country.