



DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input

[CIS No. 2684-21; DHS Docket No. USCIS-2021-0004]

RIN 1615-ZB87

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Request for public input.

SUMMARY: The Department of Homeland Security (DHS) is seeking comments from the public on how U.S. Citizenship and Immigration Services (USCIS) can reduce administrative and other barriers and burdens within its regulations and policies, including those that prevent foreign citizens from easily obtaining access to immigration services and benefits. This effort will help DHS identify process improvements for USCIS, with benefits for state, local, and tribal governments, for businesses (including small businesses and startups), for educational institutions of all kinds, for nonprofits, and for individuals.

DATES: Written comments are requested on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION.] Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments, identified by docket number USCIS-2021-0004, through the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Comments submitted in a manner other than the one listed above, including e-mails or letters sent to DHS or USCIS officials, may not be reviewed by DHS. Please note that DHS and USCIS cannot accept any comments that are hand delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. Due to COVID-19, USCIS is also not accepting mailed comments

at this time. If you cannot submit your comment by using <http://www.regulations.gov>, please contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at 240-721-3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Samantha Deshommes, Regulatory Coordination Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240-721-3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to comment on this notice by submitting written data, views, or arguments using the method identified in the **ADDRESSES** section.

Instructions: All submissions must include the agency name and docket number for this notice. All comments received will be posted without change to <http://www.regulations.gov> including any personal information provided.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov>.

II. Background

On February 2, 2021, President Biden issued Executive Order (E.O.) 14012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.”¹ In E.O. 14012, President Biden announced his objective to encourage “full participation by immigrants” and directed responsible Federal agencies to identify strategies that

¹ “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,” 86 FR 8277 (Feb. 5, 2021).

promote “integration, inclusion, and citizenship” and “identify barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits.” Executive Order 13707, “Using Behavioral Science Insights to Better Serve the American People” (Sept. 18, 2015), states that “the Federal Government should design its policies and programs to reflect our best understanding of how people engage with, participate in, use, and respond to those policies and programs.”² President Biden’s Memorandum on Restoring Trust in Government through Scientific Integrity and Evidence-Based Policymaking (Jan. 27, 2021), refers to Executive Order 13707 and calls for “the evidence-based and iterative development and the equitable delivery of policies, programs, and agency operations,” including approaches “that may be informed by the social and behavioral sciences and data science.”³

To achieve President Biden’s objectives, DHS is soliciting public input to better understand and identify administrative barriers and burdens (including paperwork requirements, waiting time, and other obstacles) that impair the functions of the USCIS process and unnecessarily impede access to USCIS immigration benefits. The relevant burdens might be imposed on state, local, and tribal governments; businesses, including small businesses and startups; educational institutions; nonprofits; households; and individuals. DHS is also seeking input to help identify current USCIS processes or those previously in place that promote equity and inclusion and learn how USCIS might leverage and incorporate those successes and lessons learned in other immigration benefits and adjudication processes.

Independent of the current Request for Public Input, DHS continually evaluates its regulatory program for rules that are candidates for retrospective review. DHS does so through legally mandated retrospective review requirements (for example, Unified Agenda of Planned Regulatory Actions reviews and reviews under section 610 of the Regulatory Flexibility Act, 5 U.S.C. 610) and through other informal and long-established mechanisms (for example, use of

² “Using Behavioral Science Insights to Better Serve the American People,” 80 FR 56365 (Sept. 18, 2015).

³ “Restoring Trust in Government through Scientific Integrity and Evidence-Based Policymaking,” 86 FR 8845 (Feb. 10, 2021).

Advisory Councils, feedback from DHS field personnel, input from internal working groups, and outreach to regulated entities). Today's notice is separate from these existing DHS retrospective review efforts.

III. Request for Input

A. Importance of Public Feedback

To achieve the objectives outlined in E.O. 14012, E.O. 13707, and the Presidential Memorandum on Restoring Trust in Government through Scientific Integrity and Evidence-Based Policymaking, it is critical that public input helps drive process improvements in strategies, processes, and planning. Because the impacts and effects of immigration benefits tend to be widely dispersed in society, members of the public—especially regulated stakeholders and those that typically participate in USCIS rulemakings—are likely to have useful information, data, and perspectives on the benefits and burdens of our existing processes. When processes are especially burdensome, members of the public may have unique knowledge. Given that unique knowledge, a primary factor that will improve the USCIS immigration process is public feedback.

B. Maximizing the Value of Public Feedback

This notice contains a list of questions, the answers to which will assist DHS in identifying potential USCIS immigration processes that may benefit from DHS review with the goal of reducing burdens on the public, saving costs for both the public and USCIS, increasing navigability, saving time, reducing confusion and frustration, promoting simplification, improving efficiency, and/or removing barriers that unnecessarily impede access to immigration benefits. DHS encourages public comment on these questions and seeks any other information or data commenters believe are relevant to this notice. The type of feedback that is most useful to DHS will identify *specific regulations and/or processes*, and include *actionable* information and/or *data* and/or provide *viable alternatives*, that meet statutory obligations and regulatory objectives and requirements. Public feedback that simply states that a stakeholder feels strongly

that USCIS should change its processes but does not contain specific information on what change should be considered or how a proposed change will reduce barriers, or otherwise improve existing processes, is less useful to USCIS.

We highlight a few of those points here, noting that comments that will be most useful to DHS are those that are guided by the below principles. Commenters should consider these principles as they answer and respond to the questions in this notice:

- Commenters should identify, with specificity, the regulation or immigration process at issue, providing the Code of Federal Regulation (CFR) and/or USCIS Policy Manual citation where available or applicable. (If a new regulation is being suggested addressing a subject matter that is not currently codified in regulations, it should be identified with as much specificity as possible and with references to the program/process and statutory authority.)
- Commenters should provide, in as much detail as possible, an explanation why a USCIS regulation, form or information collection, or immigration process should be modified, streamlined, expanded, or repealed, as well as specific suggestions about how USCIS can better achieve its regulatory objectives and reduce unnecessary burdens on public institutions, the private sector, households, individuals, or other stakeholders.
- To the extent feasible, commenters should provide specific data that document the costs, burdens, and benefits of existing requirements and/or how proposed changes would reduce costs and burdens, and/or increase benefits to USCIS or the public. Commenters might also address how USCIS can best obtain and consider accurate, objective information and data about existing regulations, processes and procedures, and whether there are existing sources of data that USCIS can use to evaluate the post-promulgation effects of DHS regulations USCIS administers over time to help identify inefficiencies and actually or potentially unwarranted barriers to those interacting with or affected by USCIS.

- Comments should emphasize any burdensome processes that have been in effect for enough time to warrant a fair evaluation, in most cases for more than one year.
- Comments that reiterate substantive issues already raised in public comments submitted on recently issued rules will be less useful, unless they provide new information – by, for example, pointing to new studies or data, or offering novel alternatives.

C. List of Questions for Commenters

The below non-exhaustive list of questions is meant to assist members of the public in formulating comments, and is not intended to restrict the feedback that members of the public may provide:

(1) Are there any regulations; policies; precedents or adopted decisions; adjudicatory practices; forms, form instructions, or information collections; or other USCIS procedures or requirements that you consider to be unjustified or excessive barriers that impede easy access to legally authorized immigration benefits and fair, efficient adjudications of these benefits? Please provide specific examples identifying the specific program or subject matter (for example, adjustment of status, naturalization, H-1B nonimmigrant status, refugee status, asylum, parole).

(a) With respect to the identified regulations; policies; precedents or adopted decisions; adjudicatory practices; forms, form instructions, or information collections; or other USCIS procedures or requirements that you have identified as potential barriers, are the barriers you perceive created by duplication, overlap, or inconsistency of requirements? If so, please specify.

(2) Are there any USCIS regulations or processes that are not tailored to impose the least burden on society, consistent with achieving the regulatory objectives?

(3) Are there USCIS regulations or processes that disproportionately burden disadvantaged, vulnerable, or marginalized communities? If so, please specify the regulation and/or process, to include any applicable CFR and/or USCIS Policy Manual citation, providing a description of the specific burden to the relevant communities.

- (4) Are there USCIS regulations or processes that disproportionately burden a specific industry or sector of the economy, geographic location within the US, or government type (e.g. a specific tribal or territorial government or a specific local government)?
- (5) What aspects of the immigrant and nonimmigrant perspectives or experiences should USCIS be aware of that could better inform our qualitative and quantitative analyses when identifying actually or potentially excessive administrative burdens, or when evaluating regulatory impacts in general?
- (6) Are there existing sources of data that USCIS can use to evaluate the post-promulgation effects of regulations and administrative burdens over time?
- (7) Are there instances where the costs of USCIS regulations to the public far surpass the benefits, for reasons that were not anticipated or discussed during the rulemaking process?
- (8) Are there instances where the administrative burdens imposed in USCIS regulations are not cost-effective, in the sense that a different approach would achieve regulatory goals with significantly lower burdens?
- (9) Are there instances where current regulations may have added unintended or unanticipated costs, or imposed unintended or unanticipated administrative barriers, and in which those costs and barriers may not have been adequately considered in previous assessments of the regulation's direct costs?
- (10) Are there USCIS regulations that are still necessary, but have not operated as well as expected, such that a modified approach is justified to reduce unnecessary administrative burdens? For example, are there current regulations, policies, or procedures, specifically related to citizenship and naturalization, family-based immigration (including intercountry adoptions), educational opportunities in the United States, employment-based immigrant/nonimmigrant programs, adjustment of status, or humanitarian programs that could be modernized, streamlined, or otherwise improved?

(11) Is there information you believe USCIS currently collects that it does not need or that USCIS does not use effectively to achieve regulatory objectives?

(12) Are there data-sharing activities in which individual DHS components (for example, USCIS, U.S. Customs and Border Protection, and/or U.S. Immigration and Customs Enforcement) should engage, so that repetitive collections of the same data do not occur from one component to the next?

(13) Are there data-sharing activities in which DHS components should engage with other Federal Government agencies (such as the Departments of State, Justice, Labor, or Health and Human Services) so that repetitive collections of the same data do not occur from one agency to the next?

(14) Are there areas where DHS components' regulations (including those of USCIS) create duplicative, conflicting, or difficult to navigate situations for individuals also navigating regulatory requirements of another Federal Government agency (such as those from the Departments of State, Justice, Labor, or Health and Human Services), such that consideration of greater cooperation or coordination would be warranted?

(15) Are there regulations or forms that have been overtaken by technological developments or that should be amended as part of USCIS' eProcessing initiative?⁴

(16) Are there new technologies that USCIS should consider leveraging to modify, streamline, or do away with existing regulatory or form requirements?

(17) Are there "bright spots," in the form of existing USCIS regulations and/or processes – or processes previously in place – that are not burdensome, and that you recommend DHS/USCIS look to as examples it can emulate in other program areas?

⁴ USCIS' eProcessing initiative aims to increase public availability to digital services and forms across USCIS benefits and better integrate existing USCIS systems for filing, storage, and adjudication; *see* Citizenship and Immigration Services Ombudsman, U.S. Dep't of Homeland Security, "Annual Report 2019," pages 62-69, (July 12, 2019), https://www.dhs.gov/sites/default/files/publications/cisomb/cisomb_2019-annual-report-to-congress.pdf (last viewed Feb. 23, 2021); *see also* U.S. Citizenship and Immigration Servs., U.S. Dep't of Homeland Security, "USCIS Accelerates Transition to Digital Immigration Processing" (May 22, 2019), <https://www.uscis.gov/news/news-releases/uscis-accelerates-transition-to-digital-immigration-processing> (last viewed Feb. 24, 2021).

IV. Review of Public Feedback

DHS will use the public's feedback to help initiate strategic plans, consider reforms, and execute reports pursuant to President Biden's requests of DHS outlined in E.O. 14012. DHS will also use the public's feedback to consider reduction of administrative burdens more broadly.

This notice is issued solely for information and program-planning purposes. Public input provided in response to this notice does not bind DHS to any further actions, to include publishing a formal response or agreement to initiate a recommended change. DHS will consider the feedback and make changes or process improvements at its sole discretion.

Commenting on this notice is not a substitute for commenting on other ongoing DHS rulemaking efforts. To be considered as part of a specific rulemaking effort, comments on DHS rules must be received during the comment period identified in the relevant rule published in the *Federal Register*, and in the manner specified therein. Finally, comments submitted in response to this notice will not be considered as petitions for rulemaking submitted pursuant to 5 U.S.C. 553(e) unless they comply with DHS regulations at 6 CFR part 3, *Petitions for Rulemaking*.

Tracy L. Renaud,
Senior Official Performing the Duties of the
Director,
U.S. Citizenship and Immigration Services,
U.S. Department of Homeland Security.

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