

Niskanen Center

STATE CAPACITY USCIS PROJECT

The Bureaucratic Maze

Stakeholder feedback about how America's immigration processes are failing and how we can fix them.

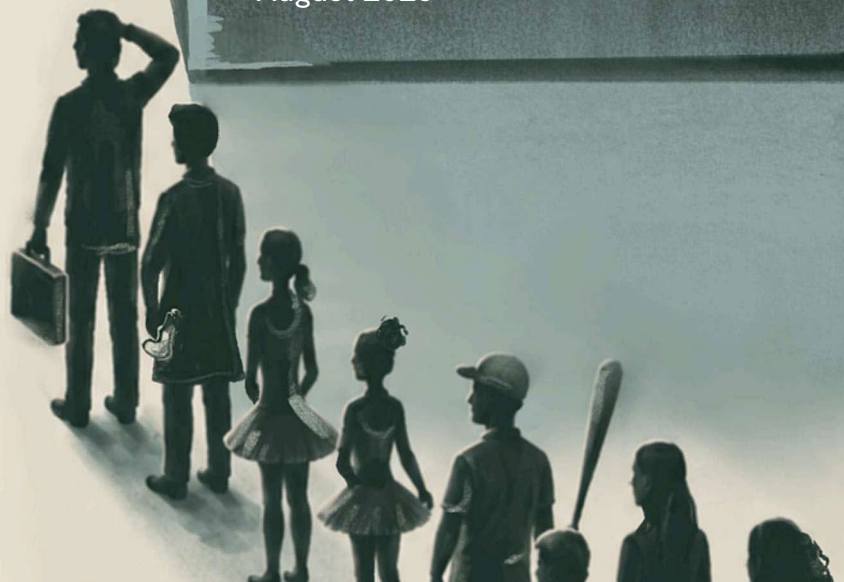


Ur Jaddou ▪ Emilie Hyams
Colleen Renk Zengotitobengoa
Shannon Slattery ▪ Valentina Prieto Black

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LISTENING SESSION SUMMARY REPORT

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The Niskanen Center is a 501(c)3 issue advocacy organization that works to change public policy through direct engagement in the policymaking process.

NISKANEN CENTER | 1201 New York Ave NW | WASHINGTON, D.C. 20005

www.niskanencenter.org

The immigration system is broken, but it can be fixed.

As part of a months long effort, the Niskanen Center State Capacity USCIS Project is gathering firsthand accounts from the people who deal with the immigration system every day. Though we have more listening sessions ahead, the attorneys, employers, congressional staff handling constituent casework, nonprofit service providers, resettlement agencies, and medical professionals we have spoken with so far have painted a picture that is urgent, and in many ways fixable.

This interim report highlights some of the many constructive communication, process, technology, and customer experience improvements stakeholders offered, which the Niskanen Center State Capacity USCIS Project will be using to develop solutions that USCIS can use to maximize its ability to deliver immigration services efficiently, fairly and in a reasonable time.

When asked to describe their experience with U.S. Citizenship and Immigration Services (USCIS) in one word, stakeholders said:

frustrating • inconsistent • delayed
a black hole • opaque • arbitrary
high-stakes • aggressive • obstructionist
tone deaf • unorganized

One hopeful outlier offered the word “potential,” expressing cautious optimism that improving stakeholders’ experiences is possible if the agency reengages with them.

These descriptions aren’t just bureaucratic complaints. They reflect real experiences and real consequences. U.S. employers are losing their workforce due to delays in work permit issuance. Fully trained and licensed foreign doctors authorized to practice medicine in the United States are facing new barriers to practicing in rural communities deepening the public health gaps that people in those communities already face. Domestic violence survivors can be stuck in legal limbo for years as they wait for their immigration paperwork to be processed so they are no longer dependent on their abuser. What’s notable is that across the diversity of voices and experiences, stakeholders feedback converges around similar themes that reflect longstanding challenges within the agency.

1 **You can't reach anyone, and when you do, it barely helps.**

Communication failures were the most consistent frustration across every listening session. Stakeholders described an agency that is difficult to reach, inconsistent in its responses, and opaque in its decision-making. Stakeholders described ineffective communication with the agency as a long-standing issue, with some recent changes making the challenge more acute: People now describe the “GetHelp” inbox, once a useful tool, as a black hole, and a feature that sent opt-in text and email case-status updates no longer functions, a loss felt most by solo and small-firm practitioners. Even when USCIS makes a clear, acknowledged error in a case, there isn't an easy way to correct it, often resulting in lengthy appeals for seemingly straightforward or minor administrative issues.

In every listening session, practitioners pointed to the loss of regular, structured engagement with USCIS as an underlying cause of many of the problems they identified. Quarterly and monthly liaison calls used to let stakeholders flag systemic issues, including technical glitches, and see improvements quickly, reducing the need to litigate. Many pointed to a roundtable model that once brought USCIS, Immigration and Customs Enforcement (ICE), the Department of Justice's (DOJ) civil rights offices, and the Executive Office for Immigration Review (EOIR) together on employment eligibility compliance issues as an effective coordination model. Both channels have since closed, leaving few paths to resolve even simple issues.

2 **Agencies aren't communicating effectively and the United States is paying the price.**

USCIS, the Social Security Administration (SSA), U.S. Customs and Border Protection (CBP), EOIR, and the Departments of Health and Human Services (HHS), Labor (DOL) and State (DOS) often operate in silos with serious consequences for stakeholders. USCIS issues status documents that CBP refuses to accept. EOIR grants asylum but USCIS takes a year to issue an Arrival/Departure Record (Form I-94) documenting that a non-immigrant has entered the United States legally. SSA isn't updated when children become citizens through their parent's naturalization. H-2B visa processing for certain seasonal workers requires sequential coordination across multiple agencies. When there are gaps in this coordination, it means seasonal workers sometimes arrive after the work period has started or is already over. Employers across industries are experiencing pain. Similar silos affect employment eligibility compliance guidance, causing confusion for employers and conflicts between guidance and compliance enforcement.

3 **Published times are unreliable and delays have real consequences.**

Stakeholders describe processing delays as pervasive, worsening, and causing real harm. Published processing timelines are widely understood to be inaccurate. Case tracker portals show timelines of weeks for cases that can take months. Online portal status messages cycle through “login error” and “resolving preprocessing checks” without saying anything useful. Cases sometimes sit for years — sometimes for so long that by the time an adjudicator gets to them, evidence has gone stale, affecting the adjudication. Premium-processing cases are receiving Requests for Evidence (RFE) issued right before the processing deadline, raising questions about whether the system is gaming its own clock. Examples abound:

- H-1B extensions for specialty occupation workers are running roughly 10 months
- O-1 petitions filed a full year in advance for those with extraordinary ability are often not decided in time
- Advance Parole's 120-day filing window for travel permissions is shorter than current adjudication takes

As standard processing has grown less predictable, practitioners increasingly must recommend premium processing as a workaround, an unbudgeted and rising cost that falls hardest on nonprofit clients, and one that is not equally available to all filers.

4 Outcomes feel random.

Participants describe a sense of unpredictability and a system in which outcomes can depend heavily on which officer or office handles a case rather than on consistent application of law and policy, with no quality-assurance mechanism to catch patterns, and no formal way to report concerns. Fee-waiver requests are trending toward denial with little guidance or information on the standards being applied. Practitioners report a rise in templated or internally contradictory RFEs and denials — in one case, the same decision stated in one paragraph that a filing was never made and in a later paragraph that it has been — and cannot tell whether the cause is poor human review or automation, a circumstance that stakeholders noted raises its own set of challenges.

5 The online systems don't always work and forms keep getting longer.

The practitioner portal doesn't notify attorneys when cases are updated, so lawyers manually review long case lists looking for changes. Address updates get stuck in "submitted" status for months, and Employment Authorization Document (EAD) cards get mailed to the wrong address as a result. Digital payments bounce with no clear explanation. The Systematic Verification for Entitlements (SAVE) system, which licensing authorities such as DMVs, and federal, state, local, territorial, and tribal benefit issuing agencies use to verify immigration status, can return errors or incorrect results. In one instance reported to us a foreign student was verified as a U.S. citizen. Online filing has its own reliability problems. Practitioners report cases that received an immediate digital receipt but are later rejected, sometimes after the filing deadline has lapsed. The inconsistent requirement for a wet signature on some forms is another source of friction. USCIS accepts digital signatures on some forms but not others, generating RFEs questioning the form of the signature.

Meanwhile, forms are getting longer with limited benefit. The administrative burden is growing, the complexity of forms and instructions is increasing, and the practical effect is more confusion, more errors, and more uncertainty. Humanitarian forms drew particular criticism. Stakeholders described them as needlessly complex with questions that are confusing and unanswerable without an attorney. In some instances, practitioners reported that they have resorted to writing study guides at a third-grade reading level to help clients understand and prepare for the process.

6 Employment eligibility compliance is more difficult than ever.

A session focused on employment eligibility verification surfaced problems distinct from benefits adjudication. Employment Eligibility Verification (Form I-9) guidance and the Handbook for Employers (M-274) have improved but still leave employers confused about updating and correcting Form I-9, especially during litigation over programs such as Temporary Protected Status. One practitioner's workaround is advising employers to print the relevant court decision and attach it to the Form I-9. Small businesses are being fined \$25,000-\$30,000 for Form I-9 violations, amounts they described as financially unworkable. Confusion over EAD extensions now consumes the majority of some practitioners' caseloads, and sudden workforce changes carry real reputational and shareholder risk for employers.

Stakeholder Recommendations

1 Don't penalize petitioners and applicants for delays they didn't cause

2 Enhance communication and improve transparency

- Publish real-time, accurate processing data and disclose the methodology behind posted times.
- Commit to real accountability mechanisms when processing timelines are missed, including shortening the waiting period before a case can be raised with "customer service" once it exceeds posted processing times.
- Restore the "GetHelp" inbox and similar contact channels, ensuring they are staffed and monitored on a published schedule.
- Create a simple correction process for acknowledged agency errors that does not require a full appeal or litigation.
- Send proactive case-status notifications by opt-in text and email, restoring the feature that existed before myUSCIS, particularly for solo and small-firm practitioners.

3 Rebuild interagency communication and problem solving

- Restore and upgrade USCIS-SSA data sharing and SAVE verification accuracy as an urgent priority so that eligible individuals get Social Security numbers, driver's licenses or other public benefits timely.
- Establish formal interagency coordination models, with defined timelines and escalation paths.
- Formalize a standing multi-agency roundtable to coordinate employment eligibility compliance guidance.
- Use notice-and-comment rulemaking for significant changes to the M-274 and similar cross-agency guidance.

4 Enhance system integrity and consistency in applying the law

- Ensure cases are adjudicated under the correct evidentiary standard, including in humanitarian cases in which discretion must be exercised case-by-case, consistent with statutory intent.
- Implement a quality-review mechanism that looks at officer denial and RFE rates, flags inconsistent adjudications across officers and offices, and catches templated or internally contradictory RFEs and denials before they are issued.
- Build centers of expertise for niche areas that are highly complex and may require specialized training.
- Expand automation for adjudications that genuinely do not require discretion, freeing adjudicator time for decisions that do.
- Publish clear, example-based eligibility guidance to reduce ineligible filings and the defensively lengthy, overbroad submissions attorneys file out of caution.

Stakeholder Recommendations

5 Improve digital infrastructure and revise forms

- Develop Application Programming Interfaces (API) that allow high-volume filers and practitioners to communicate and share data with USCIS systems, enabling bulk filing and more effective case management.
- Fix backend technical reliability: address updates, receipting, payment processing, and SAVE system accuracy.
- Expand direct online filing (rather than PDF upload) to more benefit types, building toward a fully digital filing-to-output pipeline, including digital EADs and green cards modeled on the existing digital Arrival/Departure Record (Form I-94), integrate digital credentials with E-Verify and SAVE, with a visible case-status queue modeled on the Department of Labor's system.
- Conduct a strategic review of forms to cut unnecessary data collection and rewrite in plain language, including a distinct, plain-language humanitarian form (written to a third-grade reading level), with a pathway to redirect to an alternate benefit where appropriate.
- Modernize signature and identity-verification requirements, considering dual-factor authentication models while working with the DOJ on evidentiary concerns regarding digital signatures, and apply the standard consistently across forms.
- Preserve a non-digital filing pathway alongside any expansion of online filing, for pro se filers, small practices, and applicants with limited digital access.
- Reassess advance-filing windows and calibrate against actual current backlogs.

6 Restore structured stakeholder engagement

- Restore regular (quarterly or monthly) liaison calls with stakeholder organizations; provide access to informal technical contacts who can resolve discrete issues quickly; and preserve a structured process for stakeholders to aggregate and share observed trends.
- Restore standing liaison meetings with USCIS business units, including the Verification Division, to allow direct interaction with subject-matter experts who can act on stakeholder feedback.
- Formalize the multiagency roundtable model (USCIS, ICE, DOJ, and EOIR) as a standing rather than ad hoc mechanism.

7 Modernize employer verification and compliance support

- Modernize M-274 guidance to reflect digital and paper Form I-9 practices. Add concrete examples for correcting errors, including how to handle documentation during active litigation.
- Restore a centralized, regularly updated resource through which employers can track TPS status, related litigation, and extension rules in real time.
- Expand outreach to human resources organizations such as the Society for Human Resource Management, given their direct role in employer-employee compliance communication.