

Executive Summary

USCIS Entrepreneurs in Residence Information Summit

Overview

On February 22, 2012, U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas hosted an Information Summit at the NASA Research Park in Moffett Field, California to launch the USCIS [Entrepreneurs in Residence](#) (EIR) initiative. The Information Summit provided an opportunity for stakeholders to offer their individual feedback on the current challenges facing immigrant entrepreneurs and to inform the work of the EIR Tactical Team. This team, comprised of USCIS employees and external business experts, will collaborate over a period of 90 days to ensure that immigration pathways for foreign entrepreneurs are clear and consistent, and better reflect today's business realities.

The Information Summit opened with a panel discussion titled "How Immigration Helps America Attract Entrepreneurial Talent Today." Four prominent immigrant entrepreneurs shared their stories of building businesses in the United States, and commented on the importance of streamlining immigration pathways for foreign entrepreneurs. The panel discussion was followed by a special naturalization ceremony where 20 candidates from 13 countries became United States citizens. During the ceremony, five naturalized immigrant entrepreneurs were recognized by Director Mayorkas as Outstanding Americans by Choice—Christopher Che, President and CEO of the Che International Group; Ping Fu, President and CEO of Geomagic; Michael Moritz, Partner at Sequoia Capital; Shervin Pishevar, Managing Director of Menlo Ventures; and Vivek Wadhwa, Vice President of Singularity University.

In the afternoon, USCIS staff moderated two rounds of three concurrent breakout sessions. The first set of breakouts focused on the unique characteristics of startup companies and small businesses with sessions on Valid Offers of Employment, Startup Investments, and Financial Documentation. The second round of breakouts focused on soliciting innovative ideas for the EIR Tactical Team with sessions on Training, Process Efficiencies, and Measuring Success.

Principal Themes

Several key themes emerged throughout the day regarding the adjudication of petitions for startups and entrepreneurs. These thematic issues, summarized below, will inform the work of the EIR Tactical Team.

Demonstrating the Legitimacy of Startups through Investments

USCIS acknowledged that many of the unique characteristics of startups and small businesses are also traditional indicators of fraud or ineligibility and asked stakeholders for input on what evidentiary criteria could help USCIS evaluate the legitimacy of startups. Several stakeholders commented that researching the investors of a startup venture can provide reliable information on the startup's legitimacy. An investor will not invest if he or she doubts the founders and their organization. One stakeholder suggested creating a database of accredited investors to provide reliable information to USCIS. Other stakeholders recognized that it is easy to conduct a background check on domestic investors, but that it can be very difficult to conduct checks on foreign entrepreneurs who provide their own equity. When discussing the subject of investors, stakeholders asked USCIS to provide further guidance as to how much equity the entrepreneur can own in the enterprise.

Understanding the Organizational Structure of a Startup

USCIS acknowledged that it is less familiar with the organizational structure of a startup than traditional large businesses. Several participants offered several common features of a startup enterprise, and suggested that USCIS could benefit from visiting the work locations of startups and other small business ventures. Several participants noted that a lack of office space had raised concern in their adjudications process. These participants explained that many startups are run out of more informal spaces such as a coffee shop or a living room, and that a lack of office space should not raise immediate concerns of illegitimacy. One participant explained that a startup company should be easily located on an internet search engine, and that internet searches were a reliable way to prove a small business venture's legitimacy. Another participant explained that the roles and titles in a startup are more fluid. A startup can often lack the features of a big business such as a CEO and a board of directors, and one stakeholder explained that these features are often not established until funding is obtained. Participants emphasized that partnerships with big companies are easier to document than organizational structure. One participant reflected that most early stage companies do not create an organizational chart until USCIS asks for one. Another participant asked USCIS to provide information on how to structure small businesses and startups, and that venture capitalists and entrepreneurs will try and work within these standards.

Defining Specialty Occupations

The topic of specialty occupations was raised in multiple discussion groups. Several stakeholders discussed the USCIS officers' overreliance on the Occupational Outlook Handbook (OOH). One participant believed that there should be more flexibility, theoretical knowledge, and practical application when adjudicating specialty occupations. A second participant believed that the OOH guidelines do not sufficiently track current trends in today's occupations and positions. Several stakeholders provided feedback on the H-1B category. One stakeholder explained that he totally discounts the H-1B visa category as a means to bring in potential entrepreneurs, while another stakeholder claimed that H-1Bs work for their purposes 70-80% of the time. Finally, one participant asked if the EIR Tactical Team could identify better sources for evaluating specialty occupations, given that the OOH is not in touch with the modern economy.

Training and Culture

Several stakeholders commented that streamlining the immigration pathway for foreign entrepreneurs requires new training practices for USCIS officers. One participant suggested that success for the EIR Tactical Team requires closing the knowledge gap between USCIS and immigrant entrepreneurs. Another participant said that USCIS should provide more opportunities for officers to meet the people they are working with, and several participants felt that USCIS needs a cultural change. One participant felt that USCIS tended to look at smaller and newer operations with more suspicion, and with a more limited understanding as to how these new business practices would qualify the beneficiaries for the benefits under existing laws and regulations. One stakeholder explained that USCIS should look at the size of the business in light of the age and type of company, and that the smallest companies should be evaluated by the most experienced adjudicators. Another participant felt that USCIS should create specialized teams of officers as a good solution to evaluating startups. Several participants felt that it would be helpful to have more USCIS contact with entrepreneurs to humanize the process. One stakeholder suggested that officers should host a panel where they can discuss their cases and share promising practices with immigrant entrepreneurs. Several participants expressed the belief that education for both communities must occur simultaneously.

Requests for Evidence (RFEs)

Several participants raised concerns about RFEs in the immigration process. One participant suggested that USCIS should create a more updated framework to continue dialogue with the entrepreneurial community. Another participant believes that direct access would be more useful than a long RFE, especially when only one piece of evidence is missing. Similarly, one stakeholder asked if RFEs could be sent via an electronic platform. Several participants said they would prefer to talk to officers directly, and

that there is a feeling of trying to guess exactly what the officer is interpreting. Other participants discussed having no idea what is happening during the immigration process, and that USCIS should release more information on the process flow. One participant discussed an old Department of Labor (DOL) feature where DOL had state agencies where you could pick up the phone and quickly clarify a situation. Several participants felt that being able to resolve things more directly would reduce suspicion and the perceived adversarial attitude between immigrant entrepreneurs and USCIS officers. Several participants said they would prefer to communicate in real time.

Next Steps

USCIS aims to have the Tactical Team in place to begin their work in March to more fully merge the strategic thinking gathered at the EIR Information Summit with specific proposals and looks forward to updating stakeholders with the results of those efforts. Stakeholders interested in sharing additional feedback and concrete suggestions with the Tactical Team can email us at public.engagement@dhs.gov with the subject line “Entrepreneurs in Residence.”