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Delivery of Legal Services to Immigrant Small Business Owners: The Problems and a Model to Solve Them

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Delivery of Legal Services to Immigrant Small Business Owners: The Problems and a Model to Solve Them.

By Pablo Ormachea & William Langer

Immigrant entrepreneurs not only provide essential support for individual families, but also serve as key engines of economic growth for United States cities. While immigrant small-business owners continuously stimulate growth in various economic sectors, creating new jobs and helping to develop inner-city neighborhoods, they overcome considerable obstacles and barriers to reach these achievements. This article argues that a deeper understanding of such systemic barriers can help to reduce such barriers so that an increasingly larger number of small businesses may get off the ground and thrive, thereby contributing to heightened job growth and commercial activity in urban communities throughout the nation.

Despite their potential for economic growth and urban development, the role of immigrant entrepreneurs in city economies remains overlooked and little-understood by actors in the public, banking, and legal services sectors alike. The issue of immigrant entrepreneurs has also received inadequate attention from scholarly sources, particularly in the area of access to legal services. This article argues that the scholarly work to date has been narrow in both diagnosis and prescription, emphasizing the language barrier as the principle obstacle to immigrant small-business development, and looking to graduate-school clinical programs to provide the solution. This article seeks to expand on this work and to challenge the above assumptions, specifically by highlighting other equally significant obstacles that must be addressed, and emphasizing that clinicals are only one facet of a broader strategy in meeting the relevant challenges.

The “broader strategy” – which we call the “Clearinghouse Model” – detailed in this article is based on our interviews with professionals in governmental, non-profit, and for-profit organizations, all of whom have participated in efforts to improve the provision of business, financial, and legal services to immigrant entrepreneurs. Working from these interviews, this paper seeks to distill the multitude of insights resulting from careers dedicated, in whole or in part, to immigrant small-business development, and to organize this knowledge into a comprehensive presentation of the challenges faced and of the best methods to overcome them. Lastly, we discuss the implications of our model for government and quasi-government organizations, private business and law firms, graduate students and participants in clinical programs, as well as cultural and community non-profit organizations at the neighborhood level. We hope that this discussion can aid in these actors’ efforts to work towards more efficient and effective strategies of small-business development among immigrant entrepreneurs.
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THE PROBLEMS AND A MODEL TO SOLVE THEM

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1 Every interviewee was a gold mine of information and this article could never have happened without their invaluable insight and extensive experience in the field. We would like to thank each and every one of them. We would also like to thank Professor Jeanne Charn for her indispensable input throughout the drafting process.
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I. INTRODUCTION

Immigrant entrepreneurs are widely recognized as a key engine of economic growth for United States cities. After all, immigrant small-business owners are “entrepreneurial sparkplugs” who create jobs, stimulate growth in a variety of economic sectors, and ultimately transform inner-city neighborhoods into “thriving commercial centers.” They must, however, overcome considerable obstacles before successfully providing for themselves and their families, let alone bring all of these benefits to the community.

But what exactly are these obstacles? Despite a select few instances of pioneering work, discussion is virtually nonexistent. As one study puts it, “despite their growing importance, immigrant entrepreneurs remain a shockingly overlooked and little-understood part of cities’ economies, and they are largely disconnected from local economic planning.” And though the limited academic work has been path-breaking in opening the dialogue, it is often too narrow in diagnosis and prescription, content to absorb itself in discussions about the language barrier and failing to look beyond graduate-school clinical organizations for a solution.

We were struck by the dearth of information and decided to conduct a series of interviews in the

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3 Johnathan Bowles, A World of Opportunity: Understanding & Tapping the Economic Potential of Immigrant Entrepreneurs, Center for an urban Future, February 2007 at 3; http://www.nycfuture.org/content/about/immigrant_entrepreneurs_media.cfm
5 Lim, supra at 581
6 Bowles at 3
7 Indeed, working on Patricia Abril’s piece at the Harvard Latino Law Review was the inspiration for this article.
City of Boston, one of the vanguard U.S. cities in the area of immigrant small-business development. We distilled the multitude of insights from these professionals in government, non-profit, and for-profit organizations whose careers are dedicated, in whole or in part, to immigrant small-business development, and organize this knowledge into a comprehensive presentation of the challenges immigrant entrepreneurs face. In doing so, we challenge the conventional assumption of the language barrier as the principal obstacle and provide a comprehensive framework for understanding and overcoming the other equally significant barriers to small-business development.

Having discovered the problems, we turned our attention to finding a solution. In this Article, we present a citywide model for provision of business, financial and legal services. The model is based on the experiences of the wide array of organizations that seek to stimulate immigrant small-business development in Boston and is tailored to address not only the challenges faced by entrepreneurs, but also by those organizations that seek to help them. We hope that the insights from our interviews and from our model aid efforts — of cities, organizations, communities, and individuals — to create more effective and efficient strategies of small-business development.

The Article proceeds in eight main Parts. Part II profiles our interviewees and Part III summarizes our methodology. Part IV details the insights gained from our interviews and explains the four principal problems for immigrant small business development; namely, (1) the language barrier; (2) financial and time constraints; (3) cultural barriers; and (4) a lack of awareness of the law and the role of business lawyers. Part V explains additional considerations behind the “Clearinghouse Model,” which is designed to overcome the four major barriers and advances a city-wide structure accomplishing the twin goals of maximizing resources while maintaining a trusted neighborhood presence able to connect clients to the service providers. Part VI explains in detail the role played by each component of the Model. Part VII discusses how the Clearinghouse Model addresses each one of the four major barriers. Part VIII serves as the conclusion and calls for action and a broader discourse about immigrant entrepreneurs.
The success of some business owners proves that these barriers are not insurmountable. But for those less fortunate and for those without access to effective financial and legal services, starting a company is akin to launching a poorly constructed ship that capsizes in its first storm. It only takes one legal misstep\textsuperscript{9} to doom a startup. If a community fully understood the obstacles and barriers immigrant entrepreneurs must conquer, it could help small businesses weather any storm and thus amplify the economic benefits to the community.

\textbf{II. \ LIST OF INTERVIEWEES}

\textbf{Jacqueline Gonzalez-Taylor:} Jacqueline Gonzalez-Taylor operates the Economic Justice Project — part of the Lawyers’ Committee for Civil Rights under Law of the Boston Bar Association — and is responsible for greatly expanding the operations of the project and expanding the economic development work of the Lawyers' Committee. The Economic Justice Project (EJP) uses the skills and resources of business attorneys to provide free legal business assistance to low-income entrepreneurs who are starting or expanding small businesses located in under-served communities in Greater Boston. Ms. Gonzalez-Taylor is a 1998 graduate, with honors, of Suffolk University Law School and possesses an extensive history in business and transactional legal practice. Before operating the Economic Justice Project, she worked as Assistant General Counsel at Genuity, Inc., and as an associate in the business practice groups at two Boston law firms.

\textbf{Nader Acevedo:} Nader Acevedo is the Executive Director of the Hispanic-American Chamber of Greater Boston and is responsible for the daily operation of the Chamber in addition to working for the economic development of the Hispanic community in the Greater Boston area. Prior to joining the Chamber, Mr. Acevedo served as Director of Latino and Latin American Programs at the Massachusetts

\textsuperscript{9} For example, a failure to get licensed or certified. Our interviews were full of stories of immigrants whose failure to file the appropriate paperwork stemmed not from a desire to skirt the law, but from a mere lack of knowledge.
College of Pharmacy and Health Sciences, and the Vice President of the Fleet Financial Group in charge of the development and financing of Community Development Corporations and Small Businesses throughout the New England Region. He has been the recipient of numerous awards and recognitions for his contribution to the economic development of the Latino community in the United States.

**Anna Dodson:** Anna Dodson, a partner in the Business Law Department of Goodwin Proctor, LLP, specializes in securitization and structured finance and serves on the firm’s Opinion Committee, Pro Bono Committee and Diversity Committee. She dedicates many hours of pro bono service to clients who need legal assistance through the Economic Justice Project — she was one of EJP's first volunteer attorneys — and has developed and organized several workshops for inner-city entrepreneurs. She has been recognized for her work with the 2004 Robert B. Fraser Pro Bono Award and the 2004 John Adams & John Quincy Adams Pro Bono Publico Award for providing volunteer legal services to poor and disadvantaged citizens in Massachusetts.

**Andre Porter:** Andre Porter works at the Department of Neighborhood Development at the City of Boston. The Department provides a variety of services and programs to the City’s neighborhoods. Mr. Porter serves as Deputy Director of one of the Department’s divisions, the Office of Business Development, and works to revitalize neighborhood business district by offering financial and technical assistance for existing small businesses and startups. The division also assists non-profit organizations with matching capital funds to improve their facilities.

**Brian K. Price:** Brian Price serves as Clinical Professor and Director of the WilmerHale Legal Services Center of Harvard Law School. Mr. Price joined Center in 1997 as Senior Clinical Instructor
of the Community Enterprise Project, and was appointed Director of the Center in July 2006 and HLS Clinical Professor of Law in November 2006. Prior to joining the Center, he served as General Counsel and Senior Director of Certification and Enforcement at the State Office of Minority and Women Business Assistance within the Massachusetts Department of Economic Development. Mr. Price received his B. A. from Princeton University in 1980 and his J. D. from the University of Pennsylvania Law School in 1984.

**Erika Eurkus:** Erika Eurkus is the Senior Director of Capital & Brand Development at ACCION USA. Ms. Eurkus is responsible for the capitalization and management of the ACCION USA Loan Fund specializing in micro loans to low- and moderate-income individuals. In addition, she leads ACCION USA’s branding efforts in positioning the Boston-based organization in the marketplace. Ms. Eurkus has served for two years on the advisory board of the Center for Urban Entrepreneurship at the Pioneer Institute in Boston and currently sits on the advisory council for Onein3, an advisory of young professionals serving the Mayor of Boston. She holds a B.A. from Northwestern University. In 2007, Ms. Eurkus was named to the Boston Business Journal’s “40 Under 40,” which lists the best and brightest young business leaders and innovators in the Greater Boston area.

III. **BACKGROUND**

The scholarship concerning the provision of services to immigrant small-business owners, minimal as it is, seems to unanimously declare language to be the immigrants’ single largest barrier to starting and running a small business. But this conventional wisdom paints far too simple a picture of the troubles immigrant entrepreneurs face. True, the language barrier serves as a monumental challenge for any immigrant seeking to start a small business, but can it truly be *the* challenge? And what other barriers challenge immigrant entrepreneurs?

10 Citation.
1. Why did we choose to interview those who deliver legal services?

We went into the city of Boston to get answers to these questions from people intimately involved in the delivery of legal services to small business owners. Representing members of a diverse group of public and private, non-profit and for-profit, and large and small organizations, every one of our interviewees has seen and helped countless entrepreneurs and each one is therefore uniquely suited to distilling the experiences of his or her clients to a set of concrete lessons and needs. Working on case after case has exposed the interviewees to the full gamut of problems for immigrant entrepreneurs.

While it would also prove useful to ask the immigrant entrepreneurs themselves to explain what problems they face, each small business owner would only be able to speak with authority about the challenges he faced himself and is ill-equipped to make broad pronouncements about the situation in general. Moreover, we learned that perhaps the largest problem is that immigrant entrepreneurs themselves are simply unaware of what they do not know. With that said, there is far too little legal scholarship about immigrant small business owners and the next step should be to commission a study of the immigrant entrepreneurs themselves.

2. Why the Greater Boston area?

The state of Massachusetts has undergone dramatic demographic changes, much like the rest of the United States. A recent report shows that more than 22,000 new immigrants have settled in Massachusetts in every year over the last fifteen years.\textsuperscript{11} About one of every two immigrants entering Massachusetts from 2000-2004 was from Latin America and the Caribbean, and another one in four was from Asia.\textsuperscript{12} Even within the city limits of Boston, non-Hispanic whites have constituted a

\textsuperscript{12} Sum, et. al., 2005
minority of the city’s population since the 2000 Census.\textsuperscript{13}

The demographic changes have been reflected in the city’s new business environment. Just over two decades ago, \textit{The Boston Globe} observed that “Boston’s international population, unlike the Cubans of Miami, has yet to assert itself economically through the establishment of businesses.”\textsuperscript{14} The \textit{Globe’s} assessment stands in stark contrast to a recent report discussing “the \textit{vital} role of immigrant workers in the Massachusetts economy.”\textsuperscript{15} Another recent report uses even stronger language, calling immigrant businesses “engines of change”.\textsuperscript{16}

As Ms. Gonzalez-Taylor puts it, some of the work being done in Boston today is “in the lead or on the cutting edge” in terms of delivery of legal services to entrepreneurs. Mr. Porter emphatically agrees, maintaining that:

\begin{quote}
Boston is better than any city in the country when it comes to providing resources to small business entrepreneurs. That’s not to say there’s not room for improvement, but we are far and away the best in terms of depth and breadth of resources for small business entrepreneurs.
\end{quote}

He credits the success to the sheer numbers of well-educated residents eager to lend a hand and to “Boston’s wealth of organizations and entities doing something around business assistance.”

Boston has developed a sophisticated interrelated network of resources where the public and private sectors work both with each other and amongst themselves. To talk to people on the ground in Boston is to hear of residents coming together to create a resource and support network within their own neighborhoods, to hear of law firms stressing their commitment to pro bono with free clinics and workshops, and to hear of organizations determined to expand the delivery of legal services throughout the city.

The hodgepodge of resources becomes even more bewildering when one realizes that nongovernmental organizations (NGOs) and law school outreach programs like the Hale Dorr clinic at

\begin{footnotes}
\footnotetext[13]{Mauricio Gastón Institute, 2003}
\footnotetext[14]{Longcope, 1983}
\footnotetext[15]{MassINC and Center for Labor Studies, \textit{The Changing Face of Massachusetts}, Sum et. al., 2005 (emphasis added).}
\footnotetext[16]{Report, 3.}
\end{footnotes}
Harvard Law School\textsuperscript{17} are also involved in the delivery of legal services to entrepreneurs, albeit only for their own clients or in their own slices of the city. Ms. Eurkus recounts how ACCION — an economic development organization which, she takes care to point out, is in the business of microlending and not of providing legal services — found it necessary to partner with a firm to create targeted legal seminars educating people on matters like choosing a legal entity, filing taxes, and managing intellectual property.

The seminars were understandably restricted to ACCION’s clients — the NGO, like all similar organizations, has limited resources and simply cannot afford to serve everyone — but even with such a tight rein on the attendance, the program had “excellent turnout.” If she could reliably fill a classroom in the South End of Boston for several years, imagine how many classrooms could have been filled if the seminars were broadly available. The program ended when the partnering law firm folded for unrelated reasons, but Ms. Eurkus continues to point to its success and popularity as “showcasing the need” for similar services in the City of Boston.

IV. WHAT DID WE LEARN?

Immigrants and non-immigrants alike face the problems of limited time, limited access to capital, and limited education about the law and the role of lawyers. Immigrants often labor under the additional handicaps of language and a deep-seated cultural mistrust of anything that could be related to a government agency.

In essence, immigrant entrepreneurs suffer from the problem of information asymmetry and lack sufficient information to gauge their options.\textsuperscript{18} Mr. Acevedo explains,

A lot of immigrants work very hard and come here. Usually, they work under someone else’s license, say at a restaurant or a hair salon. Then they notice that

\textsuperscript{17} Other law schools in the greater Boston area also offer legal services. We offer up the HLS clinic as an example only because of our greater familiarity with the Center.

\textsuperscript{18} Economists have long argued that regulation is necessary to combat information asymmetry when customers cannot properly evaluate the product or service at issue. See Kenneth J. Arrow, Uncertainty and the Welfare Economics of Medical Care, Am. Econ. Rev., Dec. 1963, at 941, 951-52.
it’s a good business and decide to open a similar business themselves. But they don’t know the laws. They don’t know the language. They don’t know where to go.

That is exactly the problem; no one has taught an immigrant entrepreneur where to go. Below, we delve in detail into the four major problem areas: the language barrier, financial and time constraints, cultural barriers, and a lack of knowledge about the law or the role of lawyers.

1. The Language Barrier

Everyone agrees that language barriers pose a serious problem for immigrants seeking to launch a business. Speaking the language of business — English in the United States — probably does make it easier to increase your client base, speak with a loan officer, or deal with your utility bills, to name a few examples. And even if speaking English does not make the process easier in fact, “the immigrant community might feel that there are more hoops to jump through,” as Mr. Price pointed out.

Anecdotal evidence supports Mr. Price’s hypothesis. Mr. Porter recounted one story of an immigrant who spoke English, but still made sure to have his son present to help translate.

We always have to meet him at the store in the morning so that his son is there to translate. [The business owner] speaks English, but it helps him when he has the son there.

Even though the store owner understood English, his discomfort with participating in high-level business or legal discussions forced him to schedule around his son’s availability. It is precisely that discomfort that creates the extra steps that an English speaker does not have to climb.

Mr. Acevedo agrees and explains how immigrant small-business owners often have to pay at least an extra $200 — “if the attorney’s a nice guy” — just to have the attorney provide them with a foreign language translation of the relevant forms; the $200 amount does not include any help whatsoever with filling out the forms. He emphasizes that this expense is only one example of the many hurdles imposing extra costs on immigrants seeking to start a small business. Ms. Eurkus concurs; “Translating all the forms and training materials adds a whole other level of [required]
Our interviewees stressed how difficult it is to quantify the number of people operating under a language handicap. “Sometimes you’ll have folks who prefer Spanish but will work with you in English.” Ms. Dodson goes on to explain that “[i]t’s hard to know in an ideal world how many people would work in Spanish. We’ve had from 20% to 75% [Spanish speakers] in the workshops, clinics, and outreach.”

But perhaps the greatest lesson of all is that academics are wrong to focus all of their attention on the language barrier. The interviewees disagree as to whether language is even the greatest barrier. Mr. Porter agrees that language barriers are a challenge, but maintains that

> [I]f you are that good entrepreneur, you find a way to get the help to make [the business] work. That’s just what entrepreneurs do, no matter what the language might be. If you really are motivated, you just find a way.

He believes that cultural barriers pose “the single greatest problem” for immigrant entrepreneurs who need legal or business services. Other interviewees point instead to the difficulties in securing capital and maintaining a steady cash flow. As Ms. Dodson explains:

> You can be born in the States but still face the same challenges. There’s the language issue, but what’s a bigger challenge? Not understanding the language or being illiterate? You can be a great salesperson, cook, storeowner, and still not be any good at the accounting . . . .

This makes sense. Without access to sufficient capital, an immigrant cannot even launch the business and encounter the oft-discussed language barrier.

2. **Financial and Time Constraints**

   It is possible to sidestep the problem of language as an immigrant small-business owner by hiring an English speaker or by starting your business in, say, a Spanish-speaking part of town. It is not possible, however, to sidestep the problem of financial constraints if the entrepreneur cannot secure enough seed money to get the company off the ground. Mr. Acevedo explains, “The problem is
finances. Space is very expensive in Boston; salaries are high in Boston; benefits are high in Boston.” As Ms. Gonzalez-Taylor took pains to point out, “most people who are starting a business . . . have minimal access to capital.” Minimal enough, she says, that many immigrant entrepreneurs would do without legal services if forced to pay. “Are you going to pay an attorney? Or use it to pay for inventory?”

Ms. Dodson agrees, but she also believes that low-income entrepreneurs lack sufficient knowledge about the financial system. “I would say [that the biggest problem is] understanding or knowing how [the system] works, gaining access to capital, and then using that capital.” She explains in greater detail

[S]ometimes in order to get capital, [an entrepreneur has] to demonstrate that [she] can use it appropriately . . . . If you want to open a coffee shop, you don’t have to own a coffee shop for a year, but [lenders and other service providers] want to see that [she] worked at Dunkin Donuts or Starbucks and can demonstrate that [she] understood the business.

Mr. Rogelio Whittington, a Boston tax accountant who serves the immigrant population, agrees. “You can have everything else, but you’re still in trouble if you don’t know how to use the banks.”

Mr. Acevedo also bemoans the extra burden posed by operating in heavily regulated areas. “Boston has a lot of rules and regulations, like licensing issues. To open a business you might have to go through five or six different steps. In Houston, there is no zoning. My son has been there for seven years and one day I saw a sign announcing a ‘store for lease.’ [In Houston, all someone has] to do is register for $10 with your name and you have a business.” Mr. Acevedo pointed to health insurance — now required in Massachusetts19 — even more so than utility and cell phone companies, as being “priced beyond what people can afford” because “small businesses don’t get a group discount rate.”

Low-income, small business owners — immigrant and nonimmigrant alike — also operate under heavy time constraints. “At the same time that they’re doing all of their business work, they’re also heads of family. They’re caring for others, be it children, relatives, or parents.” Ms. Dodson

emphasizes that “a lot of people that are doing both. Leading their business efforts and leading their family efforts as well,” before wondering where they find the time.

Mr. Porter agrees but also points to the time lost from a fear of theft in immigrant small-business owners’ predominantly low-income neighborhoods. “[Often, they run] a mom and pop business or a cash business where they’re terrified to leave the store for more than two seconds. We do workshops where you can see the merchant across the street, where you can see the merchant, but they won’t cross the street because it means leaving the cash register.”

3. Cultural Barriers

Immigrants often have a strong cultural bias against government. Mr. Porter, perhaps more sensitive to the problem of cultural barriers than our other interviewees because of his role in the government, puts it strongly: “Cultural issues form the single greatest problem when trying to help immigrant small business entrepreneurs.” Ms. Dodson is unhappy about the problem, but is not surprised.

When your life experience has taught you that groups who talk like this, walk like this, can let you down or worse, [then] they’ll turn away from legal services. That’s what the legal workshops are for: to teach people that lawyers are people like you who just know some things that you don’t.

As Mr. Porter explains, immigrants “come from a culture where the government is perceived as anything but helpful.” The immigrant’s experience with corrupt home governments makes it harder for him or her to get correct information. The problem is so acute, that many people only come to government when “they’ve already made the fifteenth mistake” and “only when they’ve exhausted every other avenue and are desperate for help.” “We’ve seen people who thought they had to pay their credit card bills late in order to establish a credit history. And these are sharp people we heard this from . . . . Not all the information out there is going to be correct,” Ms. Eurkus says.

ISBOs are used to doing things a certain way in their original country and they risk failing to
create a legally enforceable agreement. “[I]n many Latin American countries, people do things with a handshake, but a handshake won’t do in this country. You need to have [the agreement] on a piece of paper if you want it enforced,” Ms. Gonzalez-Taylor says before telling us the story of one of her organization’s clients.

We were having a business legal clinic this Wednesday. At the last minute, [a colleague] had a client in the Jamaica Plains area who wanted to come to the clinic. He was having an issue with electricity. The root of the issue is that he’s subleasing a place. He thinks that he bought it for five years. He’s renting the space, but he used to work for the company that sublet him the place. I asked if he had anyone look at the lease. He responded that the company attorney gave it a look. I told him that the company attorney works for the company, not for him. That’s the trust and misunderstanding issue. Yes, there’s an attorney there, but he’s working for the company. [The attorney] only has the interests of the company at heart.

Immigrant entrepreneurs also sometimes labor under a misapprehension about the free service providers themselves, believing that owners must be completely law abiding to avail themselves of those resources. Mr. Porter with the City of Boston made it clear that “legal noncompliance is none of our business. Our assistance, whether financial or technical is not dependent on whether you comply with legal requirements.”

But even Mr. Acevedo seemed to be misinformed when he told us that NGOs ask how many employees a company has or whether they report one hundred percent of the income they make. If the situation was unclear to Mr. Acevedo, an educated man heavily involved with every step of starting and running businesses in the greater Boston area, then how can it be any clearer to an immigrant entrepreneur? Instead of availing themselves of the free resources, the members of the local Hispanic Chamber of Commerce often go to the private sector for help because “private people don’t ask whether they meet the requirements — they’re not the state — but they do charge, say, $150. That’s $150 they spend that other people don’t have to.”

Immigrant small-business owners have also been known to impute their mistrust of government onto attorneys. “A lot of people mistrust attorneys because they see that as affiliation with the
government,” Ms. Gonzalez-Taylor explains. That’s why I work with community organizations. The client already trusts them.” She understands the roots of the mistrust.

You have to think about the cultural differences. You have to think about how people arrived in a country — even if their status has since been adjusted they’ll always have a tendency for mistrust even after they get status to avoid making waves. Building the trust is very important.

The mistrust can be aggravated by social snafus. Ms. Dodson gave us one example when she told us “that sometimes the lawyers will be too casual. If you’re working with Hispanics, people need to dress up for meetings.”

Boston has evolved a neighborhood-based model to address the problem of trust. As Ms. Eurkus explains, “It would be easier to have one session downtown or one program, but the fact of the matter is that it probably has to be localized and offered.” The mistrust of government institutions is so acute that “it’s important to have some name recognition associated with any programs [because] people would feel more comfortable going to something if someone unaffiliated with the government sent them,” Ms. Eurkus says. Mr. Porter agrees and tells us that the City of Boston has pursued a similar strategy of “partnering with a local community-based organization that has built trust within that particular community.”


Attorneys look at immigrants as people who don’t follow the rules. But if you don’t tell your son to follow the rules, he won’t know to follow [them]. . . . Immigrants don’t have the guidelines or the experience for someone to explain to them the importance of the rules.

—Mr. Acevedo

The neighborhood relationships are necessary to address the fourth and final major problem: a lack of awareness of the law and the role of business lawyers. Or as Mr. Price phrased it, “access and an awareness of that access.” Mr. Acevedo told us the following story:

One person worked in construction and bought a beat up truck and put on a sign. He took his savings and bought his tools and started working. . . . I asked him
for his license [when he wanted to become a member of the Chamber].
“I need a license?”
“What about the permit to rent property for an apartment?” “What???”

As Mr. Porter explained, “any small business person can find himself in trouble if he doesn’t keep up
with the requirements, especially members of the immigrant community.” Ms. Eurkus put it more
bluntly, “just a little thing like signing a lease contract . . . might doom the business right there. A
hidden cost or whatever comes up might be the nail in the business before it even opens.”

Immigrant small-business owners, like U.S.-born entrepreneurs, also often misunderstand the
role of the business attorney, making the situation even more dire. Ms. Gonzalez-Taylor spoke about
one client who had a problem with the original lease contract.

I asked if he had anyone look at the lease. He responded that the company
attorney gave it a look. I told him that the company attorney works for the
company, not for him.

Ms. Gonzalez-Taylor attributes the misunderstanding to seeing lawyers as only courtroom lawyers
rather than someone trained to also help with other matters. She hopes to teach her clients that “[t]he
business attorney is key to prevention as an advisor there to help limit exposure to litigation.” Ms.
Eurkus points out that “[e]ven American small businesses often know very little about the legal world.
They don’t see the cost-benefit in paying for it.” She is right; seeing attorneys as nothing more than
courtroom lawyers is not unique to immigrants.

Even so, greater insulation from U.S. life may compound the problem for immigrants. Ms.
Eurkus explains

There’s one less layer or challenge for an American or an English speaker who
can understand everything they can read, but [talking to a business lawyer is] still low on their priority list. They’re scrapping to run their business and
focusing on marketing, dealing with suppliers, renegotiating better deals, making
more sales. They don’t think about their legal questions. But [the American]
may have absorbed something about our legal system, be it from a family
member who also ran a business, or something else.

She tells us that “[t]here’s certainly not a lack of willingness to learn, from what I’ve seen, but more a
lack of order about the channels that might get them the information. Any resourceful person could
figure things out, but if that person is running a business, working two jobs, taking care of a family, or whatever, there’s a limit to what they can do.” Ms. Dodson agrees before pointing out that “immigrants are often not people who used lawyers in their own countries.”

Everyone agrees that using a lawyer is important. Several interviewees likened it to the integration of “public health” strategies to supplement traditional medical care and reduce emergency room visits, that is, an emphasis on prevention over emergency care. Ms. Gonzalez-Taylor considers legal advice so important that she asks her clients to discuss any contract, with negotiable terms or not, with legal counsel.

Particularly for the immigrant entrepreneurs, they see a space and love it. They don’t want to make any waves. They think that signing the lease as is maybe the way to go . . . . But taking it to an attorney doesn’t necessarily create waves. The attorney can tell you about the good, the bad, and the ugly. You have two choices at that point. You might decide to deal with the bad, take the place anyway, and pray to God that nothing bad happens. Your other choice is to decide it’s just too bad and try negotiating or finding some other location. It doesn’t mean that you have leverage in the situation, but you should understand what you’re getting into.

She remembers one client who was in exactly that situation. She saw him recently and he thanked the organization for saving him from the lease. Ms. Dodson agrees. “Even if the person will sign a contract that no one will ever negotiate on, it’s still good to know what you’re signing.”

V. DESIGNING THE CLEARINGHOUSE MODEL

We focused on two main objectives. First, we hoped to maximize the quality and quantity of available legal and business services. Second, we demanded that the model maximize the number of clients — the immigrant small business owners — it can connect with the service providers.

Ultimately, we decided that the sheer variety of challenges facing small business owners and service providers calls for a coordinated effort in which one organization serves as a clearinghouse and coordinates the network of neighborhood, community, business development, and professional service

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20 See e.g., Barry Bloom, *The Wrong Rights*, NEWSWEEK, Oct. 11, 1999
By creating this “Clearinghouse Model” and connecting the entire spectrum of complementary organizations into an integrative and collaborative effort, cities will be in the best position to help immigrant entrepreneurs meet those challenges.

The Clearinghouse Model addresses the primary objectives by, first, organizing the providers into a cohesive network of pooled resources and, second, by connecting those providers to their clients through a central agency with strong connections to the neighborhood non-profit, cultural, and community organizations located where immigrant small-business owners live or work. The coordinated effort has the extra benefit of maximizing resources by avoiding the duplication of work among the different organizations. The coordinated client outreach program also eliminates the need for personnel focused on solicitation and halts the circulation of contradictory information.

The model is heavily based on our study of the delivery of legal and small-business services in the City of Boston which have organically developed an approximation of the model. Examples of organizations in Boston that serve the “Clearinghouse” function are the Office of Business Development (OBD) – a division of the government of the City of Boston – as well as the Economic Justice Project (EJP) – part of the Lawyer’s Committee for Civil Rights under the auspices of the Boston Bar Association – and finally the Hispanic American Chamber of Commerce (HACC). Appropriately, these offices are in close contact and collaboration with each other, sharing in the relative advantages of the OBD’s connections with community non-profit organizations, the EJP’s relationships with legal service providers and the private bar, and finally the HACC’s ties to business services organizations. Boston thus serves as one example of how a city can pursue an efficient and effective network for small business development under the Clearinghouse Model.

While we believe that the general elements of the model – namely the anchoring of small business services around at least one clearinghouse organization that manages and coordinates a

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21 The network consists of both legal service providers, such as law firms of all sizes, solo legal practitioners, law schools and legal clinics, as well as business service providers, such as business development organizations, business and financial advisors, and accountants.
network of various service providers and connects them to clients via channels of various community organizations – can be applied to most cities, individual cities will certainly need to vary the specifics of the model to account for particularities such as population size and density, as well as local factors relating to the nature and organization of providers and clients alike.

VI. COMPONENTS OF THE CLEARINGHOUSE MODEL

1. The Clearinghouse

The model is centered around one or more central organizations working with neighborhood or community organizations to receive individual clients which are then connected to the service providers who can best serve any specific needs. The clearinghouse also serves the important function of identifying and recruiting members of the business and legal community, both by reaching out to providers already engaged in immigrant small-business development, and also by spreading awareness of the demand for and the value of such efforts, to universities, professionals, and pre-professionals who may also be interested in participating.

Good candidates to serve as a clearinghouse organization include those willing and able to build the network relationships and to coordinate collaborative initiatives. This definition best fits local government, quasi-government, and private business development organizations, though smaller organizations such as legal clinics and neighborhood-level community development corporations can also serve as clearinghouses, perhaps on a smaller scale as part of the citywide network managed by other clearinghouse organizations. These organizations should take the lead in identifying and recruiting the various professional service providers and community organizers into the network.

2. Business and Legal Service Providers

It is important that the network include both solo practitioners and small-to-medium-size firms that charge a fee for service, although ideally on a sliding scale in order to accommodate the different
needs of a diverse clientèle, in addition to large firms offering their services pro bono. But the model is intended to provide more than just legal services. On the business side, the clearinghouse needs to develop relationships with accountants, business advisors, and financial to help entrepreneurs navigate their relationships with the banks and obtain essential financial services.

Quasi-governmental, private, and non-profit business development organizations such as community development corporations, agencies of the Small Business Administration and the Chamber of Commerce, as well as microfinance institutions have large roles to play as enablers of entrepreneurial activity and are thus essential participants in the network. Not-for-profit entities such as legal services clinics are also important, especially for their ability to bring in pre-professional students, thus integrating and educating future lawyers and business advisers who will be better positioned to play a role in and promote the network once they are part of the profession. Along similar lines, law schools and business schools are also essential in instilling a commitment to public service initiatives, and in providing awareness of how future lawyers and business professionals can contribute to the public good through the provision of their services to entrepreneurs living and working in traditionally underserved communities often operating on the fringes of the mainstream economic market.

Just as the entrepreneur faces barriers to finding a service provider, so do service providers face barriers to finding clients. As the model takes root, the clearinghouse should develop a more prominent reputation, creating a “domino effect” that should eventually have the service providers reaching out to the clearinghouse themselves, once they know where to reach out.

3. Community Organizations

While the establishment of a comprehensive network of service providers is the key to the functioning of the model, the final piece of the puzzle consists of connecting the providers to the clients. The clearinghouse achieves this by reaching out to the various non-profit, cultural and
community organizations located in the neighborhoods where immigrant small-business owners live and work. Collaboration with these organizations provides a local presence that is essential both in spreading awareness of the existence and utility of the services and in making the services available locally. Developing strong relationships and working partnerships with these local organizations is essential to connect clients to professionals and for the efficient provision of meaningful business and legal services.

Ideally, the delivery of business and legal services will follow a three step process. First, the neighborhood or community organization spots the need for technical, business, or legal services and refers the client to the clearinghouse. Second, the clearinghouse assesses the need and reaches out to the applicable service providers. Finally, the clearinghouse puts the client directly in touch with an available provider.

We envision the network going still one step further and actively including workshops and clinics providing useful information on general legal and business issues to groups of small-business entrepreneurs. These services should take place in the individual neighborhoods where clients live or work and be conducted in the languages of the community.

VII. ADDRESSING THE MAJOR CHALLENGES

The Clearinghouse Model addresses the major challenges, as described in Part IV, of (1) financial and time constraints, (2) the language barrier, and (3) cultural barriers and problems of awareness.

1. Financial and Time Constraints

Financial constraints present a consuming and ongoing challenge for small-business owners and service providers alike. The Clearinghouse Model addresses this issue by pooling the financial and human resources of the various organizations that play a part in small business development, and
ensuring that particular organizations can concentrate on their comparative skills while benefiting from the complementary skills of other members of the network. An example of this is where the clearinghouse recruits members of professional service organizations to conduct the neighborhood or community workshops as scheduled by the local organization that engaged in community outreach.

The model seeks to maximize and achieve the most efficient allocation and use of the scarce resources available to organizations engaged in small business development. This best allows providers to work in the underserved neighborhoods and communities at times convenient for the entrepreneurs’ schedules. Time constraints pose a significant problem for immigrant small business entrepreneurs and curtail their ability to attend workshops and clinics in another part of the city. Local availability during regular, predictable, and well-publicized hours will thus maximize clients’ access to these services.

The easier we make it for the providers to reach potential clients, the easier we make for the clients to conserve their scarce financial resources. These services, done well, empower entrepreneurs to become more effective and efficient consumers of business and legal services, learning, for example, the value of paying for counseling early to reduce the risk of future costly problems. The services should also help them navigate the banking system and connect them to essential financial services.

2. The Language Barrier

The model’s effort to gather, pool, and maximize output of scarce human resources also addresses the language barrier. Today, the barrier exacerbates the immigrant entrepreneurs' challenges and complicates the professionals' efforts to provide effective services. The Clearinghouse Model ameliorates the situation in two ways. First, the increased coordination among organizations allows the clearinghouse to bring multi-lingual providers to bear precisely where their services are need. Second, the presence of a clearinghouse with its hand on the pulse of the small business development world gives the city an organization with a far more accurate assessment of what languages are needed,
undoubtedly improving the ability to recruit those with strong language skills and to increase awareness about the problem. The coordination may even encourage potential providers to improve their foreign language skills so that they too can participate. An example of the latter would be language classes for professionals as well as pre-professionals, such as the “Spanish for lawyers” courses currently offered at certain law schools.

If the clearinghouse can effectively pinpoint the need, it could also bring pressure to bear for more professional language courses. Spanish, Portuguese, Chinese and Vietnamese are becoming increasingly important as immigrant entrepreneurs from around the world create vibrant business environments in low-income neighborhoods throughout the United States. Increasing professionals’ language abilities is an obvious win-win, because it enables them to better serve their community while also making them more effective and marketable in today’s increasingly global economy.

Our interviewees recounted several experiences with clients who can speak English but often feel more comfortable — and perhaps more importantly, are more forthcoming — speaking in their native language. A failure to provide adequate and competent personnel in a comfortable environment, risks deterring clients from seeking out professional services at all. Bringing the right staff of professionals to bear in the right communities could potentially increase outreach by teaching immigrant entrepreneurs that, yes, they can seek out effective professional services in their own language. These experiences highlight the importance of not only offering time-efficient services in immigrant neighborhoods, but also conducting the services in the right language to successfully reach out to those in need.

3. **Cultural Barriers**

Cultural barriers present formidable obstacles to the delivery of effective services. In pursuing client outreach, providers must understand the disinclination of many immigrants to interact with government, lawyers and other authority figures. They must also understand that even after immigrants
achieve legal status, they may continue to mistrust authority and remain reluctant to engage with those close to the system, preferring instead to keep a low profile and to navigate the system on their own. Finally, many immigrants, particularly Latin Americans, come from cultures where it is unusual to conduct business with persons with whom one does not have a personal relationship.

These cultural barriers complicate efforts to connect providers to clients, necessitating a deep understanding of these issues which can be provided by those organizations with personal or close connections to an individual neighborhood. Cultural organizations or other entities with day-to-day contact with the immigrants and a solid relationship absolutely must play a key role in client outreach.

The Clearinghouse Model addresses these issues by incorporating those entities which have already developed close, personal, and trusting relationships with a substantial portion of potential clients: the neighborhood and community organizations. When introduced to the network through a trusted local organization, clients should prove far more willing to engage with service providers. This “easing” into the network should give them the comfort and confidence that comes from working with people they personally know, or with service providers that are vouched for by their trusted local contacts. Furthermore, connecting the clients with the service providers, the Clearinghouse Model provides far-reaching channels of robust communication which enable everyone in the network to work together in identifying awareness problems or cultural barriers to best develop strategies to overcome them.

4. Lack of Awareness about the Role of Lawyers and Other Professionals

In addition to building the trust and confidence necessary to reach clients, service providers must also understand the awareness problem that dissuades entrepreneurs from seeking legal and business counseling. Immigrant entrepreneurs are often unfamiliar with U.S. business norms and did not use lawyers in their home countries. This means that they often lack any concept of a business or corporate attorney — viewing lawyers as little more than litigators — and have no idea about legal
miscompliance, ultimately risking losing the business altogether. Zealous and confident entrepreneurs urgent to raise capital may pursue their business ideas unaware of the need for permits or licenses and believing that lawyers are expensive and only necessary in the event of a legal dispute.

Thus, it is crucial that providers educate immigrant entrepreneurs about the *preventive* role of the corporate lawyer and instill an understanding that many considerations and legal issues must be addressed early on to avoid much costlier problems in the long term. Providers must understand these informational asymmetries to best help entrepreneurs become more sophisticated and more effective and efficient consumers of legal services. Even as more entrepreneurs learn about the role of the business attorney directly from the clearinghouse network, word of mouth alone should spread awareness of the need for these services in local communities.

This channeling of information and awareness throughout network can also be beneficial in rectifying informational asymmetries among the professional service providers. The clearinghouse network can make an effort to cultivate an awareness among solo-practitioners and small firms of the growing need for such services among entrepreneurs who either do not know that they need the services or do not know where to find them.

For large firms, attempts can be made to increase corporate *pro bono* work, both among corporate lawyers less suited to litigation *pro bono* and among lawyers in general, many of whom gravitate toward litigation-focused services. The underrepresentation of corporate *pro bono* services may very well stem from simple path dependence or the notion that corporate *pro bono* work does not deal with intellectually challenging and stimulating legal questions. However, although corporate *pro bono* work may finely hone a junior associate’s technical expertise, lawyers should appreciate the additional value of these services in providing training in attorney-client interaction and relationship building. The ability to be an effective counselor and advisor who does not dominate or spar but rather listens to the client and helps them to make their own decisions is a fundamental skill that all lawyers should develop.
Law firms must also battle the perception of litigation as more morally compelling because it involves civil rights or human rights advocacy. Oftentimes, litigation aimed at rectifying rights violations is seen as urgent and beneficial work, while helping someone start or grow a business is seen as much less so. Nonetheless, it is important for lawyers to understand existing problems of inequality of access to resources, and thus to the legal system and to the economy, which can serve as a formidable barrier to the ability to provide for oneself and one’s family. Economic self-sufficiency in and of itself helps avoid exploitation or intrusions on civil and human rights.

Access to business and corporate legal services can thus be seen as vital to one’s integration into the mainstream economy and thus to meaningful participation in civic life. Pro bono services are relevant to this integration and inclusion into the market because, while the goal is for entrepreneurs to eventually pay for these services, many are understandably reluctant or not yet able to pay for them at the point. Too often, they opt to proceed without what they perceive as prohibitively expensive business or legal counseling, with detrimental consequences to their businesses that perpetuates an exclusion from the market. The Clearinghouse Model can spread awareness and understanding among providers that may help hesitant attorneys see this work as similarly urgent and beneficial.

As stated above, working with neighborhood or community organizations is crucial in connecting clients with those business and legal service providers inexperienced in community outreach. But it also allows providers to become more effective in their provision of services by sharing cultural lessons learned with other providers and by building personal relationships through their collaborative efforts.

VIII. Conclusion

The Clearinghouse Model is designed to help cities address the entirety of the problem and should maximize the quality, quantity, and availability of legal and business services for immigrant small business owners. We ask that cities create a “Clearinghouse” to not only organize service
providers into a cohesive and managed network, but also to make use of the non-profit, cultural, and community organizations already located in the neighborhoods where immigrant small-business owners live and work. The participation of the neighborhood-based organizations is an integral part of the Model because it both puts a familiar face on the delivery end of the services and reduces the time commitments for an immigrant needing legal or business assistance. A Clearinghouse Model also captures the benefits of economies of scale by putting the neighborhood organization in touch with the people with the necessary skills: the business lawyers and the business and tax advisors.

We also call on graduate schools, professional organizations, and universities to play a pivotal role in instilling the desire and the ability to help in students through clinicals and other service-provision opportunities. The graduate schools and universities can foster the desire to help by increasing awareness of the need and value of business development services. Indeed, many students may pursue a degree with only a vague understanding of the need to overcome barriers to access to professional services and to fully integrate underserved populations into the legal system and mainstream economic market. Teaching these students about these needs and improving their abilities by offering professional foreign language courses and allowing the students to get involved and contribute towards solving the needs will help even further to create a culture of service. Ultimately, this should make the students more likely to participate in the network once they become professionals.

And the academic discourse must move away from its single-minded focus on language as the be all and end all of challenges for immigrant entrepreneurs trivializes their achievements by ignoring all the other obstacles they overcome. Immigrant entrepreneurs overcome more than just a language barrier when starting a successful business. Our interviews show that they also overcome an innate cultural distrust of government, tremendous financial and time constraints, and a crippling hole in their education about the law and the role of a U.S. business attorney. The discourse must reflect the entirety of the issue or we risk having a city or organization waste resources in a futile attempt to address only one aspect of the problem while ignoring the opportunity to tackle everything else.