Public Comments and USCIS's Response

Form Type	Comment	USCIS Response	Modify Form Y/N	Modification Notes
Form I-924 & Ins.	What are the standards for re-designating an approved regional center as mentioned in Part 2 of the form? The EB-5 regulations do not discuss redesignation. What standards are being implemented that require approved regional centers to apply for re-designation after five years from approval, or 5 years from the date of last re-designation? Will all documents required for an initial regional center application be required for a regional center re-designation application? Is the fee the same for re-designation as for an initial regional center application? The USCIS needs to provide specific standards for redesignation. Moreover, this kind of change must go through the Administrative Procedure Act rulemaking process; it should not be done by creating a form.	USCIS has decided not to require the re-designation of approved regional centers every five years.	Yes	The Form I-924, I-924A, and instructions have been modified to remove the re-designation procedure.
Form I-924A	It appears that no fee is required to submit the I-924A form each year. However, every five years the I-924A would have to be filed with form I-924, and the proposed $6,230 filing fee must be paid at that time. The fee seems excessive, especially for not-for-profit regional centers that are strictly for economic development and job creation. Is there a fee exemption for the not-for-profit regional centers? USCIS should consider an initial filing fee exemption for not-for-profits, much like not-for-profits are exempt from the H-1B training fee.	See above.	Yes	The Form I-924, I-924A, and instructions have been modified to remove the re-designation procedure.
Form	The concept of —Regional Center re-designation is brand	See above.	Yes	The Form I-924,

I-924 Inst.	new and represents a big change to the EB-5 Program. Changes this big should not be implemented via Form. They need to go through the Administrative Procedure Act (—APA) rulemaking process. Furthermore, IIUSA finds no evidence of regulatory or statutory authority to implement this re-designation process or for the five-year limit on a Regional Center designation. Lastly, the process for an EB-5 investor to become an unconditional permanent resident *and* potentially have his or her capital returned from investment usually lasts at least five years. This provides another angle of risk for investors who are already being asked to shoulder the immigration and capital investment risk. Investors should not be asked to take on another element of risk in this situation. IIUSA asks that USCIS instead put the concept of —re-designation‖ itself through the standard APA rulemaking process so that the agency can take all public comment on the process into consideration before implementing such a big change to the Program. IIUSA would also be interested in USCIS's responses to the following questions on the topic: What are the standards for re-designation? Where did the five-year cycle come from and under what authority? Is the fee ($6,230) the same for re-designation as for an initial application? Do all supporting documents need to be included in an application for regional center re-designation?			I-924A, and instructions have been modified to remove the re-designation procedure.

Form I-924A	It appears that no fee is required to submit the I-924A form each year. However, every five years the I-924A would have to be filed with form I-924, and the proposed $6,230 filing fee must be paid at that time. The fee seems excessive, especially for not-for-profit regional centers that are strictly for economic development and job creation. Is there a fee exemption for the not-for-profit regional centers? USCIS should consider an initial filing fee exemption for not-for-profits, much like not-for-profits are exempt from the H-1B training fee.	See above.	Yes	The Form I-924, I-924A, and instructions have been modified to remove the re-designation procedure.
Form I-924	Would USCIS consider a fee exemption for not-for-profit Regional Centers?	USCIS has established procedures for the granting of fee waiver requests. USCIS plans to use these established procedures in the adjudication of fee waiver requests relating to the Form I-924.	No	
Form I-924 & Ins.	Form I-924 will also be used for regional center amendment requests. Will there be a reduced fee for regional center amendment requests, or will it be the same as the initial fee? Many regional center amendments require fewer documents to be submitted, depending on the amendment being sought, and thus would require less work to adjudicate than an initial regional center application. Additionally, since the supporting documents required for a regional center amendments are specific to what is being sought to be amended, do all sections of the form I-924 need to be filled out for an amendment application, or just the applicable sections?	Upon further consideration USCIS has come to the conclusion that the estimated ten hour public burden to prepare a Form I-924 amendment application underestimates that actual time required to prepare these materials. A review of a substantial number of recently filed	Yes	Amend public burden section of the Form I-924 instructions.

Form I-924 & Ins.	Form I-924 will also be used for regional center amendment requests. Will there be a reduced fee for regional center amendment requests, or will it be the same as the initial fee? Many regional center amendments require fewer documents to be submitted, depending on the amendment being sought, and thus would require less work to adjudicate than an initial regional center application. Additionally, since the supporting documents required for a regional center amendments are specific to what is being sought to be amended, do all sections of the form I-924 need to be filled out for an amendment application, or just the applicable sections? Also, The USCIS, like all federal agencies, must follow Office of Management and Budget ("OMB") Circular No. A-25 (http://www.whitehouse.gov/omb/rewrite/circulars/a025/a025.html) when determining fees to charge for its services. I do not believe that USCIS has followed this OMB circular in determining a fee for regional center amendments. In A12d of the *Supporting Statement: Application for Regional Center under the Immigrant Investor Pilot Program: Form I-924, and Form I-924A* (OMB No. 1615-NEW), USCIS states that the adjudication of amendments to Regional Center designations requires 10 hours of work per response, compared to 40 hours for initial designation. Based on this difference, USCIS should charge a lower fee for amendments than for original regional center applications.	amendment requests by previously designated regional centers reveals that most amendments involve a diverse variety of adjudicative issues, such as changes in the regional center's: • Geographic scope • Organizational Structure • Capital investment projects, and; • Exemplar Form I-526 petitions While an amendment filed for but one of these issues might possibly only require ten hours to prepare, USCIS is convinced that the typical burden hours to prepare a detailed amendment application is substantially the same to prepare an initial application. USCIS has amended the Form I-924 Supporting Statement,	Yes	Amend public burden section of the Form I-924 instructions.

		OMB No. 1615-NEW, to reflect this updated estimate. According to the OMB Circular A-25, user charges must be sufficient to recover the full cost of the federal government in providing the service. USCIS has determined that the amount of resources required to adjudicate amendments to a regional center's designation do not vary significantly from that required to adjudicate initial applications. This is due in part to the requirement that the entire record must in most cases be reviewed to adjudicate the amendment request.		
Form I-924	The USCIS, like all federal agencies, is required to follow the Office of Management and Budget (—OMB‖) *Circular*	See above.	Yes	Amend public burden section of

	No. A-25 Revised (http://www.whitehouse.gov/omb/rewrite/circulars/a025/a025.html) when determining the fees to charge for its services. In the case of the proposed $6,230 fee for proposed Form I-924, IIUSA does not believe USCIS has met this burden set forth in Section 7f of the aforementioned Circular. That section states that ―every effort should be made to keep the costs of collection to a minimum.‖ In A12d of the *Supporting Statement: Application for Regional Center under the Immigrant Investor Pilot Program: Form I-924, and Form I-924A* (OMB No. 1615-NEW), USCIS states that the adjudication of amendments to Regional Center designations required 10 hours of work per response, compared to 40 hours for initial designation. IIUSA believes USCIS should consider a separate and lower fee based on the 30 hours difference in adjudication time between initial designation applications and amendments to existing designations. This rationale also applies to ―exemplar I-526 petitions.‖ The Association supports a full fee for initial exemplar petition adjudication. However it is IIUSA's position that USCIS should lower the fee for filing amendments to already approved exemplar I-526 petitions, which are usually filed to make sure all ―material change‖ requirements have been met. USCIS states that an amendment takes 25% as much time to adjudicate. According to Section 7f of the OMB Circular, USCIS is required to keep the fees associated with this service to a minimum. As such, the fee for amendments to existing Regional Center designations or approved exemplar I-526 petitions should be 25% of the initial designation fee.			the Form I-924 instructions.

Form I-924 Inst Page 1	Section 5, under the heading, *Who Must File Form I-924 Supplement for Each Fiscal Year?*, states: In reference to 8 CFR 204.6(m)(3)(iv), provide a *detailed prediction* which addresses the prospective impact of the capital investment projects sponsored by the Regional Center, regionally or nationally, with respect to increases in household earnings, greater demand for business services, utilities, maintenance and repair, and construction both within and without the Regional Center. (Emphasis added.) The statement about a detailed projection is superseded by § 11037(a)(3) of the 21st Century Department of Justice Appropriations Authorization Act, which authorizes the approval of Regional Centers based on —general predictions.‖ The provision reads as follows: The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result of such capital investments, and the other positive economic effects such capital investments will have. IIUSA urges USCIS to change the reference on the Form I-924 Instructions to the 2002 amendments, allowing Regional Center applications based on —general predictions.	USCIS agrees that the regional center may provide general predictions which address the prospective impact of the capital investment projects sponsored by the Regional Center, regionally or nationally, with respect to increases in household earnings, greater demand for business services, utilities, maintenance and repair, and construction both within and without the Regional Center. The draft instructions have been modified accordingly.	Yes	Delete "detailed" from initial evidence 5 and replace with "general".
Form I-924 Inst. Page 1	I do not fully understand the language of the Purposes section in the instructions for form I-924. Page 1, section B describes when a regional center amendment may be filed for preliminary project approval. Subsection B.1 mentions an exemplar form and seems to follow the USCIS December 11, 2009 memo on that issue. Subsection B.2	Several commenters were confused by the language used in subsection B.2. of the Form I-924 instructions. To clarify this subsection has been	Yes	Delete What is the purpose of this form 2.B.2.

	states, "An actual investment project where an exemplar investment project that is materially the same as the actual investment project was previously approved for use by the regional center for EB-5 capital investments." What does that mean?	eliminated as amendments of this nature are covered under subsection 2. A. 3.		
Form I-924 Inst.	B.2. states, "An actual investment project where an exemplar investment project that is materially the same as the actual investment project was previously approved for use by the regional center for EB-5 capital investments." What does that mean?	See above.	Yes	Delete What is the purpose of this form 2.B.2.
Form I-924 Inst. Page 1, Section B	What is the purpose or meaning of Section 2(B)(2) under the heading "What is the purpose of this Form?" This section reads "[a]n actual investment project where an exemplar investment project that is materially the same as the actual investment project was previously approved for use by the regional center for EB-5 capital investments." Please clarify.	See above.	Yes	Delete What is the purpose of this form 2.B.2.
Form I-924 & Inst.	Form I-924 and the instructions fail to define what constitutes a material change, which would require a regional center amendment (as to the regional center itself or as to a project approval). Thus, regional centers have no way of knowing when they are required to file an amendment. What happens if a regional center thought a change was not material but USCIS later determines it was material? USCIS should define material change narrowly to only apply when changes in the business plan lower the total job creation prediction below ten per investor.	Several commenters requested that USCIS define what constitutes a material change which would require an amendment to a regional center's designation. USCIS notes that the Form instructions in Part 2. under "What is the Purpose of this Form?" have been modified to remove all reference to	Yes	Modify Part 2. "What is the Purpose of this Form?"

		material change requirements. The circumstances within which a regional center may wish to file an amendment to a regional center designation are outlined in Part. 2.		
Form I-924 Inst	There remains no definition or guidance of what makes for a —material change‖ that requires a Regional Center to submit an amendment (either to their designation or to a previously approved exemplar I-526). Changes in initial business plans are a part of doing business. In fact, the ability to adapt to those changes quickly often defines the success of a fledgling business. It is in the interest of the Program as a whole that there are clear guidelines on this issue so Regional Centers know when they have to submit an amendment. This kind of certainty is imperative to investors' confidence, which will always be the backbone of this, or any investment deal. It is the position of IIUSA that material change should be narrowly defined to only apply when changes in the business plan lower the total job creation prediction below ten per investor. It is the position of IIUSA that USCIS should be very reluctant to find a "material change" and should only do so when the purposes of the program would be frustrated. Changes to business operations involving EB-5 petitions should not require any additional filings when they represent the normal vicissitudes of business in reaction to changing market conditions and don't fundamentally change the type of business being invested in and the way that jobs will be	See above.	Yes	Modify Part 2. "What is the Purpose of this Form?"

	created. And even when material change may have occurred, USCIS should allow a regional center to file an exemplar petition for a previously approved project in order to give notice to USCIS of revisions to the business plan without requiring every investor to file a new individual petition and without causing "age out" of children who turned 21 after the initial I-526 was filed. Investors should be allowed to file an I-829 petition with evidence of a filed or approved I-924 to revise a business plan for the affected investors, showing that the new plan is viable and is reasonably likely to create the requisite jobs within a reasonable time using "reasonable methodologies," as is appropriate under the language in the legislation creating the regional center program and the normal regulator standard for I-829 approval.			
Form I-924 Inst.	**Part 2: Amendment to an approved Regional Center designation** Do all sections of the I-924 need to be filled out for an amendment, or only applicable sections?	The form must be completed in its entirety in order to be accepted by USCIS. However, if certain information in Part 3. of the form has not changed since the filing of the initial application or the last amendment, then the applicant may note “no change” in this section. Similarly, if the answer to the question is provided in an exhibit submitted in support of	No	

		the application, then the exhibit reference may be provided in response to the question on the form.		
Form I-924	Do all questions need to be answered on the form, or can we reference attached supporting materials (i.e. for Part 3 Question 5 could re say “see exhibit 3 attached” instead of using the box provided).	See above.	No	
Form I-924 Inst.	**Information about the Regional Center** Do all questions need to be answered on the form, or can the corresponding materials be referenced to attached supporting materials (i.e. —see exhibit 3 attached‖)?	See above.	No	
Form I-924 Inst. Page 1	Page 1 of the draft I-924 instructions would allow USCIS to readjudicate a regional center project if its original determination was "legally deficient." If the project developer, investors and everyone else involved in the project relied on USCIS’ original approval, USCIS should not be able to reverse its decision. To allow a readjudication would violate Chang v. United States, 327 F.3d 911 (9th Cir. 2003), in which the Ninth Circuit held that the immigration agency could not retroactively change its EB-5 interpretations.	Several commenters expressed concerns about the re-adjudication of various aspects of an approved regional center’s designation referenced in the form instructions. This section of the form instructions has been removed.	Yes	Delete entire section
Form I-924 Inst.	IIUSA objects to the third basis for re-adjudicating a project that has been approved through exemplar petition, that the project approval was "legally deficient." Regional Center operators and EB-5 investors should not be asked to shoulder all of the consequences if USCIS did not properly adjudicate the exemplar I-526 in the first place. It is too late to re-adjudicate once people have committed. If the Regional Center’s business plan is followed, based on	See above.	Yes	Delete entire section

	USCIS positive adjudication of the exemplar I-526, it has to be approved4. The law is too unclear and developing to allow the program to hinge on successive USCIS adjudicators agreeing or disagreeing with each other (or same adjudicator not changing his or her mind). This basis of re-adjudicating project represents another aspect of uncertainty that the EB-5 Program cannot afford. There is too much capital, economic growth, and job creation at stake to allow for that.			
Form I-924 Inst. Page 1	On page 1 under the heading "What is the purpose of this Form?" the instructions describe the "safe harbor" provision as follows: USCIS can readjudicate a prior regional center approval, including an exemplar, if the agency determines the project has experienced a "material change." AILA's primary objection is not the right of USCIS to reexamine a prior decision upon the occurrence of a "material change," but rather the agency's failure to define "material change." In the absence of a well-defined legal standard, stakeholders have no ability to reasonably assess if any change which occurs is "material," or if the change is insignificant necessitating no further action.	See above.	Yes	Delete entire section
Form I-924 Page 1	AILA agrees that a prior decision may be subject to readjudication if the record contains clear evidence of	See above.		

	fraud or misrepresentation.			
Form I-924 Page 1	AILA strongly disagrees with the proposed USCIS policy that a prior decision may be subject to readjudication if the record contains evidence that the approval was "legally deficient." If USCIS receives a bona fide application and after review issues an approval, the Service must be legally bound to honor that approval in the absence of a finding of fraud or misrepresentation. The Service is reminded of *Chang v. United States of America*, 327 F. 3d 911 (9th Cir. 2003), where the court held that during the adjudication of Form I-829, USCIS could not review whether the initial plan submitted with Form I-526 was qualifying, but could only review whether the alien sustained that plan.	See above.	Yes	Delete entire section
Form I-924	Part 3(A) asks for the Social Security # of the Regional Center. Shouldn't this be an EIN instead?	Several commenters … USCIS has decided not to require this information collection	Yes	Delete this information collection.
Form I-924	(A): why does it ask for the Social Security # of the Regional Center? Shouldn't this be an EIN instead?			
Form I-924	I-526 petitions based on approved exemplar I-526 petitions should be eligible for premium processing. Those petitions should only be adjudicating the investors immigration aspects of the petition. This is no different than the many other immigrant and nonimmigrant visa categories that enjoy premium processing service.	One commenter stated that the Form I-526 petition should be eligible for premium processing service. This comment is not relevant to the Form I-924. Note however, that USCIS has	No	

		determined that premium processing service cannot be offered for the processing of Form I-526 petitions at this point in time due to operational constraints.		
Form I-924	Part 3(D) asks for the name of "other agent." Should this be completed for the managing principal(s)?	Yes. The purpose of the information collection in Form I-924, Part 3. D. is to collect information regarding all of the parties that will be involved in the management, oversight, and administration of the regional center, to include the managing principal(s) not already identified in Form I-924, Part 3, A., B. or C.	No	
Form I-924	(D): Name of other Agent: should this be completed for the managing principal(s)?			
Form I-924	Part 3(D)(9)(c) asks whether the Regional Center or any of its principals or agents has received or will receive fees, profits, surcharges, or other like remittances through EB-5 capital investment activities from this commercial enterprise. Does this refer to the administrative fees charged to investors on top of the capital contribution of $500,000 or $1 million, or something else?	Section 3. D. 9. c. requests information regarding whether the Regional Center or any of its principals or agents has received or will receive fees, profits, surcharges, or other like remittances through EB-5 capital investment	Yes	Modify question with bolded language.
Form I-924	(D)(9)(c): *Has or will the Regional Center or any of its principals or agents receive fees, profits, surcharges, or other like remittances through EB-5 capital investment*			

	activities from this commercial enterprise? What information is the Agency looking for here?	activities from this commercial enterprise, **beyond the minimum capital investment threshold required of the EB-5 alien entrepreneurs.**		
Form I-924	Part 5, Signature of Attorney, fails to provide space for the firm name and address of the attorney.	One commenter noted that Part 5 of the form did not provide space for the firm name and address of the attorney. The form has been modified accordingly.	Yes	Provide space for firm name and address of attorney.
Form I-924 Ins.	The filing fee is stated as $6,245 under the heading —*What is the Filing Fee?"* It is our understanding that the proposed fee is **$6,230**.	Several commenters pointed out an error in the filing fee noted in the form relative to the fee referenced in the rule. This error has been fixed.	Yes	Fix filing fee amount
Form I-924 Inst.	On page 3 under the heading "Initial Evidence Requirements," Section 2 contains a note that reads: "An alien filing a Regional Center-affiliated Form I-526 must still establish that the investment will be made in a TEA at the time of filing of the alien's Form I-526 petition, or at the time of the investment, whichever occurs first, to qualify for the reduced $500,000 capital investment threshold." AILA strongly §opposes this interpretation of determining when an "investment" has occurred for EB-5 purposes. AILA suggests that USCIS reconsider this	One commenter provided commentary relating to when TEA determinations must be made. The reference in the form instructions regarding the timing of TEA determinations has been eliminated it is not relevant to the adjudication of Form I-	No	

	policy, which is unsupported by the regulations, in favor of a fair and reasonable interpretation that recognizes that an investment has occurred as of the date of receipt of capital into an irrevocable escrow.	924 applications.		
Form I-924 Inst. **What is the purpose of the Form?**	Is it USCIS' policy that an amendment request "may" or "must" be filed if seeking a change to the regional center's "geographic area?"	The statutory framework of the Regional Center Pilot Program requires that a regional center *shall have jurisdiction over a limited geographic area, which shall be described in the proposal*. As such, an amendment must be filed if a regional has been designated with jurisdiction over a given geographic area and the regional center wishes to incorporate areas outside of its geographical designation.	No	
Form I-924 Inst.	Is it USCIS' policy that that an amendment request "may" or "must" be filed if seeking "any change" or "any material change" to the regional center's "organizational structure or administration?" Note that on page 8 of the instructions under the heading "Processing Information," USCIS writes: "Designated Regional Centers must notify USCIS within 30 days of the occurrence of any material change in the structure, operation, or administration of the Regional	One commenter questioned whether the notification to USCIS through the EB-5 Program mailbox of a change in the structure, operation, or administration of the	Yes	Designated Regional Centers must notify USCIS within 30 days of change of address, contact information, regional center

	Center. Notification can be made by sending an e-mail to the EB-5 Program mailbox."	regional center constitutes an amendment of the designation of the regional center. The reference and the note on page 8 of the instructions is intended to provide a means for USCIS to timely capture minor changes such as changes in regional center staff and contact information, etc. This section has been modified to provide clarity on this point.		principal(s), contracting agents or similar changes in the operation or administration of the Regional Center. Notification can be made by sending an e-mail to the EB-5 Program mailbox.
Form I-924 Inst.	What is the purpose or meaning of Section 2(A)(3) under the heading "What is the purpose of this Form?" This section reads "[a]ffiliated commercial enterprise investment opportunities, to include changes in the economic analysis and underlying business plan used to estimate job creation for previously approved investment opportunities." Please clarify the meaning of "affiliated commercial enterprise investment opportunities," as this appears to be a new term or concept to the EB-5 program.	One commenter expressed confusion over the use of the term "affiliated commercial enterprise investment opportunities". This phrase refers to capital investment projects offered by the regional center. This subsection has been modified to provide clarity on this point.	Yes	Capital investment projects, to include changes in the economic analysis and underlying business plan used to estimate job creation for previously approved investment opportunities
Form	Lastly, in the draft I-924 instructions, on page 4, item 4		Yes	Add "from" to

I-924 Inst	there is a verb missing from the last sentence which states, "...investment projects will from lawful sources."			the sentence.
Form I-924 Inst.	On page 4, Paragraph 4, the last sentence is incomplete and appears to be missing one or more words. The sentence reads: “Submit a plan of operation for the Regional Center which addresses how investors will be recruited and how the Regional Center will conduct its due diligence to ensure that all immigrant investor funds affiliated with its capital investment projects will (____) from lawful sources.”			
Form I-924 Inst.	**Page 4, Item 4**- A verb is left out of the last line. —Submit a plan of operation for the Regional Center which addresses how investors will be recruited and how the Regional Center will conduct its due diligence to ensure that all immigrant investor funds affiliated with its capital investment projects will [arise?] from lawful sources."			
Form I-924 Inst.	On page 4, in the “Note” section, the instructions read: “The EB-5 alien investor’s capital investment in a ‘troubled business’ must maintain the number of existing employees at no less than the pre-investment level for the period following his admission as a conditional permanent resident.” Is it USCIS policy in a “troubled business” setting, that “pre-investment level” employees refers to those employees that exist as of (a) the actual date the alien’s investment capital is placed into an irrevocable escrow; (b) the date of receipt of the I-526 petition (priority date); (c) the date the funds are released from escrow if triggered by I-526 approval; (d) the first day of conditional resident status; or (d) another date? Please clarify the instructions.	One commenter asked about when the number of employees to be maintained in “troubled business” is established. USCIS has determined that this is established at the time immediately prior to the capital investment, which is the earlier of the date upon which the capital investment was made or the filing date of the alien entrepreneur’s Form I-	No	

		526 petition.		
Form I-924 Inst.	Under the heading, *What Is the Immigrant Invest Pilot Program and How Is It Different From the Basic "EB-5" Immigrant Investor Program?,* Section d, it states —The new commercial enterprise must create or maintain at least 10 full-time jobs for qualifying U.S. workers within two years of the alien investor's admission to the United States as a Conditional Permanent Resident (CPR).‖ USCIS has stated this in the past in policy memos. This has no basis in statute or regulation, is contrary to the recognized purpose Page **5** of **16** of the Pilot Program, and would serve to frustrate the transformational purposes of the Pilot Program as a practical matter.	One commenter had questions about a section in the form instructions entitled "What is the Immigrant Investor Pilot Program and How is it Different from the Basic "EB-5 Immigrant Investor Program?". Note that this entire section has been eliminated from the form instructions because USCIS has previously provided this information in alternate forum.	Yes	Delete entire section.
Form I-924A	In part 3, number 3 the form asks for information concerning the job creating commercial enterprise located within the geographic scope of the Regional Center that has received EB-5 investor capital. Is that for I-526 specific projects?	One commenter had a question about which job creation commercial enterprise question in Part 3. question 3. The job creating commercial enterprise for this information collection is the commercial enterprise established by the alien entrepreneurs who make capital investments into the approved regional center	No	

		capital investment projects.		
Form I-924A	Also in Part 3, item number 5 contains a note that states: "USCIS may require case specific data relating to individual EB-5 petitions and the job creation determination and further information regarding the allocation methodologies utilized by a regional center in certain instances in order to verify the aggregate data provided above (I-526/I-829 petitions approved/denied/revoked)." It is unclear what this means.	Two commenters were confused by the note in Part 3, item number 5. This note simply states that while the Form I-924A requests aggregate information regarding individual EB-5 petitions and job creation, USCIS may require case-specific data to verify the aggregate information provided therein.	No	
Form I-924A	USICS should publish data on regional centers only on a collective basis, not individually. While one might wish for more transparency, there are several potential problems with publishing regional center specific data, as these statistics could be misleading, confusing, etc.	USCIS does intend to employ the use of statistics or the publication thereof for this information obtained on the Form I-924 supplement. USCIS will publish an aggregation of the data provided each year by all designated regional centers. Attributes of the regional center affiliated capital investments, such as the geographic areas and industry categories	No	

		receiving investment capital, the volume of regional center affiliated capital invested, and the number of jobs created or maintained as a result of the capital investments will be summarized and published on the USCIS Web site for each fiscal year. However, data that specifically identifies individual regional centers, commercial enterprises, or individuals involved in the pilot program will not be published.		
Form I-924A	Finally, part 5 fails to provide space for the law firm's name and address.	One commenter noted that Part 5 of the form did not provide space for the firm name and address of the attorney. The form has been modified accordingly.	Yes	Provide space for firm name and address of attorney.
Form I-924	USCIS has a poor historical record for the prompt adjudication of new regional center proposals and amendments within the EB-5 program. AILA is pleased to see that USCIS has, over the past year, generally reduced regional center proposal adjudication times down to about five months. As a condition of supporting the new filing	One commenter expressed concerns about EB-5 case processing times. USCIS has substantially reduced EB-5 case processing times	No	

	fee, USCIS must agree to further reduce adjudication times for new regional center proposals and amendments to existing proposals.	within the last year or so, and will strive to continue to reduce case processing times.		
Form I-924	Preparing a qualified application for a new regional center designation, or an amendment to an existing designation, requires the stakeholder to formulate and present a complex proposal involving immigration law, tax and securities law, corporate and partnership law, and finance, accounting, and econometric modeling just to name a few areas. The comprehensive applications typically exceed several hundred pages in length and involve dozens of exhibit items. The creation of the new Form I-924, Application for Regional Center Under the Immigrant Investor Pilot Program, is a good first step by USCIS to provide stakeholders with direction for formulating regional center applications, but merely introducing a new form fails to provide a missing key requirement—dialog. AILA strongly urges the agency to enact policies allowing the examiner and the regional center applicant to more effectively communicate during the review process. Allowing and encouraging a constructive and efficient dialog between the parties will significantly reduce overall review times, help identify defects, resolve questions, and provide corrections and clarifications. If stakeholders are required to pay $6,230 to cover USCIS adjudication costs, USCIS must agree to support direct dialog with the applicants. The current practice explicitly prohibits direct dialog in favor of the traditional process of mailing multiple Requests for Evidence (RFEs). The traditional process for this program, which the USCIS predicts may	One commenter expressed a desire to have direct dialog with the USCIS adjudicator during the adjudicative process. USCIS respectfully believes that the current structure of the EB-5 adjudicative process is the most appropriate way to process these benefit requests.	No	

	result in as little as 100 applications per year, is exceptionally inefficient, results in unnecessary processing delays and wastes the resources of all parties.			
Form I-924	IIUSA believes the proposed I-924 fee for regional center designation (and amendment, including exemplar petitions for project review and amendments thereto) should also support a —pre-filing cooperative consultation‖ between USCIS, the regional center, and any developer involved. These filings can involve complex and substantial investments under fairly urgent market conditions in relation to complex rules for which USCIS interpretation is not well settled, and under these circumstances it makes sense to allow the filing parties to discuss the matter cooperatively with USCIS officers and/or counsel in order to obtain initial reaction to plans and drafts. Open discussion would allow the filing parties to quickly make changes to documents and arrangements in advance of formal filing in a way that cannot happen quickly in a process of written submissions, request for submissions, and formal responses. Of course USCIS can make a record of the pre-filing consultation discussions in order to protect the parties from any appearance of impropriety. This kind of process is allowed by other federal agencies when substantial investments and planning are involved and when the developer's unawareness or misunderstanding of the regulator's position on what the project would become could be very costly and could undermine the purposes of the government program by scaring away parties who would fear being shut down after making significant efforts without any government interaction and guidance. Pre-filing consultation can be an option and could even carry a	One commenter expressed a desire to have a pre-adjudication consultation with a USCIS adjudicator prior to the actual adjudicative process. USCIS respectfully believes that the current structure of the EB-5 adjudicative process is the most appropriate way to process these benefit requests.	No	

	separate fee commensurate with the government time expected.			
8 CFR 204.6 (m)(6)	USCIS proposes to amend §204.6(m)(6) with the stated goal of creating regional center accountability as follows: 1. *Data Collection*: Requires that all regional centers collect and report annual data to USCIS using Form I-924A; 2. *Designation Termination*: Establishes the authority of USCIS to terminate a regional center's designation under the pilot program if the regional center "no longer serves the purpose" of the program. Recognizing that AILA strongly supports the establishment of new rules creating regional center accountability, the proposed amendment to 8 CFR §204.6(m)(6) has several important defects as follows:	USCIS notes that the regulation at 8 CFR 204.6(m)(6) already provides a means to terminate a regional center if the regional center "no longer serves the purpose" of the program. The proposed amended language requires the submission of data by each regional center regarding the regional center's EB-5 related activities.	No	
Form I-924A	Over the past three years, USCIS has twice asked regional centers to collect and report comprehensive data regarding their operations, including statistics about individual investment projects, investors, and job creation/preservation activities. AILA urges USCIS to conclude its review of that data, and to publish its findings. Moreover, AILA applauds USCIS for its plans to publish summarized regional center data and select aggregate statistics about each regional center's annual activities. Such public reporting creates transparency and accountability, shows which regional centers are actively engaged in investment/job creation activities and their affiliated visa processing statistics, and reveals which	USCIS has reviewed the previously requested data, and is concerned that the data provided is not sufficiently comparative or accurate to provide in a report. This is precisely why USCIS has developed the Form I-924A supplement. The data captured in the supplement form will be	No	

	regional centers are inactive. The absence of public statistics about regional center activities creates the potential for misrepresentation, shelters regional centers that are inactive, and creates general program confusion. AILA also urges USCIS to realize its pledge to promptly publish the aggregate information about each regional center's annual activity, such as the answers to questions #1, 4, and 5 on Form I-924.	published in a timely manner.		
Form I-924A	As described above, AILA strongly supports USCIS' efforts to create public accountability and transparency for all designated regional centers. For this reason, AILA also supports the establishment of formal procedures by which USCIS has the legal authority to review, sanction and terminate a regional center in appropriate circumstances. The proposed rule seeks to amend 8 CFR §204.6(m)(6) to provide USCIS with specific authority to terminate a regional center's designation under the pilot program if the regional center "***no longer serves the purpose of promoting economic growth***, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment." AILA believes the proposed language is problematically vague because the proposed rule fails to put a regional center on notice of the practices that are either prohibited or required in order for the regional center to continue to "serve the purpose of promoting economic growth." In lieu of the vague "no longer serves the purpose" language proposed by USCIS, AILA recommends that the agency adopt a more objective and empirical rule to ensure ongoing regional center compliance. For example, USCIS should adopt a rule that termination proceedings will be	USCIS notes that the regulation at 8 CFR 204.6(m)(6) already provides a means to terminate a regional center if the regional center "no longer serves the purpose" of the program. USCIS believes that the potential reasons for the termination of a regional center extend beyond inactivity on the part of a regional center. This regulatory text mirrors the statutory text establishing the pilot program. This regulation currently provides for a process of notice and rebuttal. The amended regulatory language	No	

	commenced if a regional center does not file a single I-526 petition within a fiscal year. The rebuttable presumption then requires the regional center to provide USCIS with credible evidence of significant and ongoing activities consistent with the regional center's original business plan. Tracking earlier comments above in the "Data Collection" response, reports of termination proceedings brought by USCIS against a regional center should be available to the public in the annual disclosure report compiled by USCIS regarding all regional centers. AILA urges USCIS to enumerate and discuss the factors it will consider when evaluating whether to sanction or terminate a regional center.	leaves this process intact. Regional centers have and will be provided with ample opportunity to overcome the reasons for termination of the regional center under this process. USCIS is exploring the possibility of publishing regional center adjudicative decisions in a FOIA reading room. This is one possible means by which information regarding termination proceedings may be shared. USCIS will also consider making this information available in the annual disclosure report.		
Form I-924A	This Form I-924 provides a unique opportunity to provide Congress with the information it needs to oversee a successful EB-5 Program and should be used as such. With that in mind, IIUSA believes Congress would want to know if Regional Centers are being owned by one or more foreign nationals or foreign entities. Form I-924 is the ideal means of USCIS collecting and providing that data to Congress accordingly. USCIS should consider whether	Nothing in the current statutory framework of the Pilot Program precludes a foreign national from filing an application for the regional center designation on a regional	No	

	Regional Center ownership by foreign nationals or entities is appropriate or healthy for the Program and whether it should be allowed and quickly make any rules on this issue	center entity's behalf. USCIS does not plan to capture this information collection absent a directive from Congress.		
Form I-924A	IIUSA understands that the use of NAICS codes helps USCIS recreate the job creation predictions using the Regional Center's economic model, thereby improving oversight and data collection abilities. The Association reminds USCIS that applications for Regional Center designation can be based on —general predictions.‖ Therefore, only two or three digit NAICS codes ought to be required for Regional Centers themselves. Complete five or six digit NAICS codes can be used for individual investment projects under the jurisdiction of the Regional Center. IIUSA urges USCIS to make that distinction clear on Form I-924.	USCIS believes the collection of only two or three digits of the industry NAICS code would not provide sufficient specificity regarding the actual industries targeted by the regional center's EB-5 capital investments. USCIS plans to require the full NIACS code(s) on the Form I-924A in order to provide sufficient detail in the annual report.	No	
Form I-924A	IIUSA reiterates its general support for USCIS efforts to standardize the collection of information from Regional Centers so it can better monitor their activities and provide aggregated statistics about the EB-5 Program as a whole. USCIS has collected such information in the past, but it has never been published. IIUSA urges that this aggregated information be published as soon as possible by USCIS. These statistics are imperative to understanding the overall economic impact of the EB-5 Program and to help solidify the EB-5 Program as an important tool of economic growth	USCIS has reviewed the previously requested data, and is concerned that the data provided is not sufficiently comparative or accurate to provide in a report. This is precisely why USCIS has developed the Form I-9245A	No	

	and job creation during a time of national economic fragility.	supplement. The data captured in the supplement form will be published in a timely manner.		
Form I-924A	IIUSA would be interested in clarification on the following points: **Part 3, #5:** *Note: USCIS may require case-specific data relating to individual EB-5 petitions and the job creation determination and further information regarding the allocation methodologies utilized by a regional center in certain instances in order to verify the aggregate data provided above (I-526/I-829 petitions approved/denied/revoked).* What does this mean?	Two commenters were confused by the note in Part 3, item number 5. This note simply states that while the Form I-924A requests aggregate information regarding individual EB-5 petitions and job creation, USCIS may require case-specific data to verify the aggregate information provided therein.	No	