

SUPPORTING STATEMENT
Immigrant Petition by Alien Entrepreneur
OMB Control No.: 1615-0026
COLLECTION INSTRUMENT: Form I-526

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Section 203(b)(5) of the Immigration Nationality Act, allows qualified immigrants seeking to enter the United States for the purpose of engaging in a commercial enterprise to receive an immigrant visa. To receive EB-5 status, applicants must file a Form I-526, Immigrant Petition by Alien Entrepreneur with U.S. Citizenship and Immigration Services, with the fees prescribed in 8 CFR 103.7(b), and in accordance with the form instructions.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The data collected on this form will be used by USCIS to determine the eligibility of qualified aliens to enter the United States to engage in commercial enterprises. USCIS's approval of the Form I-526 demonstrates that the alien entrepreneur is investing or has invested the required amount of capital in a qualifying commercial enterprise, some of which may be located within Regional Centers (RCs), Rural Areas (RAs) or Targeted Employment Areas (TEAs). The petition must include evidence that the aliens have made either a \$500,000 or \$1 million U.S. dollar investment of lawful capital in a new or existing commercial enterprise. The form serves the purpose of standardizing requests for the benefit, and ensuring that basic information required to determine eligibility is provided by applicants.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The Form I-526 is currently available as an electronic form that can be accessed and completed online and then printed and mailed to the USCIS.

Form I-526 can be electronically filed at url:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=b1659e415d116310VgnVCM100000082ca60aRCRD&vgnnextchannel=b1659e415d116310VgnVCM100000082ca60aRCRD>

The paper version of Form I-526 also is available online at www.uscis.gov/files/form/i-526.pdf

USCIS intends to make the Form I-526 available for filing through its internet-based account and adjudication system known as USCIS Electronic Immigration System (USCIS ELIS) within the next 6 months. The screen shots and wizard decision tree for the collection of this information in USCIS ELIS is provided with this submission to OMB for approval and posted in the docket for public comments. In addition, the Petitioner will be presented with a list of evidence that should be filed with the submission of the petition. The petitioner will be able to upload their documents as one of five acceptable file types (.bmp, .doc, .jpg, .pdf, .tif). After uploading files, the petitioner will be able to view, delete, and add additional documents as necessary. The documents will not be submitted to USCIS until the applicant completes the e-sign, submission, and payment steps for the petition. The screen shots for the evidence requirements is provided with this submission to OMB for approval and posted in the docket for public comments.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

USCIS has investigated its internal processes, files and data as well as those of other Federal agencies that may service the same population. USCIS was not able to find any other means by which the information necessary for this process could be obtained except for the use of the form submitted for approval in this emergency request. USCIS will continue to examine ways in which information may be obtained from other sources and any identified duplications can be minimized or removed.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The collection of information does not have an impact on small businesses or other small entities.

- 6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Without the use of this information collection, an alien may not apply and USCIS may not be able to determine an alien's eligibility for special immigrant status.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and

recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On November 30, 2012, USCIS published a 60-day notice in the Federal Register at 77 FR 71432. USCIS received comments from one commenter after publishing the 60-day notice.

Below is a summary of the comments on the 60-day notice and USCIS' response:

USCIS' response to American Immigration Lawyers Association (AILA).

1) Regional Center – Commenter requested the identification of Regional Centers and the ability to separate information for regional and non-regional center based petitions on the Form I-526. The Commenter also requested that Regional Centers be provided with courtesy copies of notices sent for I-526 petitions filed under the Regional Center. USCIS continues to review this proposal as we prepare revisions for the form for future public comment. USCIS has been working to incorporate changes that are directly related to this comment although the ability to do so for the current PRA submission was compromised by the time available before form expiration. USCIS is planning on presenting a revised form after the current submission is acted upon by OMB and once all questions and collection methods are aligned. For the current submissions, USCIS works with the Regional Centers and petitioners on an interim basis to meet their needs regarding this issue.

2) Correcting Questions in Part 4 – USCIS is aware of the discrepancy of the affected Part 4 Questions and the commercial enterprises set up after November 29, 1990. The information collection will be updated to better reflect the changes made to the law affecting these enterprises, and USCIS will publish the revisions for public consideration after OMB's consideration of the current submission. Currently, enterprises affected by this change in law are not adversely affected by the current set-up of the form and USCIS ensures that all respondents are properly handled by adjudicating cases based on the eligibility requirements as set forth in the applicable statutory and regulatory provisions.

3) Adding a Dependents Section – USCIS has considered this action and plans to make necessary additions to the next proposed information collection submitted after the current submission is acted upon by OMB. Currently, respondents submit this information in subsequent stages of the immigrations process (i.e. with a Form I-485 Adjustment of Status Application with USCIS or through an immigrant visa application to Department of State), but collecting this information with the Form I-526 will make it

easier to adjudicate issues that may arise during the subsequent stages of the immigration process.

USCIS has been considering modifications to the form I-526 to better meet the needs of the respondents including both the above issues and other proposed changes listed in AILA's comment, but the timing of the PRA submission was necessitated by the form expiration date rather than the conclusion timing of updates. USCIS was able to incorporate the addition of the electronic filing option for the I-526 to assist our customers, and will continue to improve the form in the near future with the next PRA submission.

On May 29, 2013, USCIS published a 30-day notice in the Federal Register at 78 FR 32261. USCIS received comments from two commenters on the 30-day notice.

Below is a summary of the comments on the 30-day notice and USCIS' response:

One commenter objected to the existence of immigration benefits for alien entrepreneurs. USCIS has determined that the comment is beyond the scope of the notice and the associated information collection.

USCIS acknowledges receipt of comments from the second commenter: USCIS received a set of comments from The American Immigration Lawyers Association (AILA). These comments are a resubmission of comments submitted previously in connection with the 60-day notice published Federal Register at 77 FR 71432. USCIS acknowledged and responded to the comments in the supporting statement that was submitted with Form I-526 revision package to OMB. USCIS' response is provided in the above summary of the comments on the 60-day notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

USCIS does not provide payments or gifts to respondents related to this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

There is no assurance of confidentiality. The system of record notice associated with this information collection is United States Citizenship and Immigration Services Benefits Information System, which was published in the Federal Register on September 29, 2008 at 73 FR 56596. The privacy impact assessment associated with this information collection is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum. The information is also covered in the associated published system of record notices [DHS-USCIS-015 - Electronic Information System-2 Account and Case Management System of Records, and is also covered by the

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's form whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**
 - **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
 - **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
 - **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or households	Immigrant Petition by Alien Entrepreneur/ I-526 (Paper form)	807	1	1 hour 20 minutes (1.33 hours)	1,073	*\$30.44	\$32,671
	Petition by Alien Entrepreneur/ I-526 (USCIS ELIS Filing) ¹	7,263	1	1 hour 15 minutes (1.25)	9,078	*\$30.44	267,357
Total		8,070			10,151		\$300,028

* The above Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics](#) average wage for "All Occupations" of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44.

The above estimated time burden for filing in USCIS ELIS includes 1 hour for supporting documentation gathering and submission via the paper process, and 15 minutes for the completion of the programmatic questions of the I-526.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time**

¹USCIS ELIS submission of Form I-526 for full electronic submission is planned during the approval period for this revision as of July 2013.

period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

There are no capital or start-up costs associated with this information collection. There is a \$1,500 fee charge associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Annualized Cost Analysis:

Printing Cost	\$	800
Collecting and Processing Cost	\$	12,104,200
Total Cost to Government		\$ 12,105,000

The estimated cost of the program to USCIS, which is recovered by the collection of fees, is calculated by using the estimated number of respondents (8,070) multiplied (x) by the \$1,500 fee (which includes the suggested average hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for stocking, distributing and processing of this form). USCIS will provide a more detailed breakdown of the government costs for this program in its subsequent information collection request which will be submitted to OMB and subject to notice and comment.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Data collection Activity/ Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
I-526 (Website “Paper” Form)				4,678	1,073	(3,605)
I-526 (USCIS ELIS Electronic Questions)				0	9,078	9,078
Total(s)				4,678	10,151	5,473

There has been an increase of 5,473 in the burden hours previously reported for this information collection. There is a corresponding increase of 4,328 in the number of respondents which is due to an agency adjustment of the estimated number of respondents. USCIS has incorporated the ability to file Form I-526 electronically within USCIS ELIS. This decreases the time burden on the electronic filers; however the agency’s estimate of the number of respondents increased resulting in an increase in the total annual burden. See the attached Table of Changes for the revisions to the information collection instrument.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

USCIS will display the expiration date for OMB approval of this information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

USCIS does not request an exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved with this collection.