

## **Instructions for Form I-526, Immigrant Petition by Alien Entrepreneur**

**OMB No: 1615-0026**

**EB-5 NPRM**

12/20/2016

**NOTE: The filing fee is \$3,675. Refer to "What Is the Fee?" on Page 2.**

### **What Is the Purpose of Form I-526?**

This form is used by an entrepreneur to petition U.S. Citizenship and Immigration Services (USCIS) for status as an immigrant to the United States under section 203(b)(5) of the Immigration and Nationality Act, as amended. That section of the law pertains to immigrant visas for an investor in a new commercial enterprise.

### **Who May File Form I-526?**

You may file this petition for yourself if you have established a new commercial enterprise:

1. In which you will engage in a managerial or policy-making capacity;
2. In which you have invested or are actively in the process of investing the amount required for the area in which the enterprise is located;
3. Which will benefit the U.S. economy; and
4. Which will create full-time employment in the United States for at least 10 U.S. citizens, permanent residents, or other immigrants authorized to be employed, other than yourself, your spouse, your sons or daughters, or any nonimmigrant aliens.

The establishment of a new commercial enterprise may include:

1. Creation of a new business;
2. Purchase of an existing business with simultaneous or subsequent restructuring or reorganization resulting in a new commercial enterprise; or
3. Expansion of an existing business through investment of the amount required, so that a substantial change (at least 40 percent) in either the net worth, number of employees, or both, results.

The amount of investment required in a particular area is set by **regulation**. **You may obtain additional information from our website at [www.uscis.gov](http://www.uscis.gov), or a U.S. Embassy or U.S. Consulate abroad.**

## General Instructions

Each petition must be accompanied by the appropriate filing fee.

**Translations.** Any document containing a foreign language submitted to USCIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

**Copies.** Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy may be submitted. Original documents submitted when not required will remain a part of the record, even if the submission was not required.

## How to Fill Out Form I-526

1. Type or print legibly in black ink.
2. If you need extra space to complete any item, attach a separate sheet; type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet of paper; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and date and sign each sheet.
3. Answer all questions fully and accurately. If an item is not applicable or the answer is "none," leave the space blank.
4. **Page 1, Part 1. Information About You. If you are in the United States, provide the following information: Form I-94 Arrival-Departure Record.** If U.S. Customs and Border Protection (CBP) or USCIS issued you a Form I-94, Arrival-Departure Record, provide your I-94 admission number and date that your authorized period of stay expires or expired (as shown on the Form I-94). The I-94 admission number also is known as the Departure Number on some versions of Form I-94.

**NOTE:** If you were admitted to the United States by CBP at an airport or seaport after April 30, 2013, you may have been issued an electronic Form I-94 by CBP, instead of a paper Form I-94. You may visit the CBP [website](http://www.cbp.gov/i94) at [www.cbp.gov/i94](http://www.cbp.gov/i94) to obtain a paper version of an to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport, after April 30, 2013 with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP [website](http://www.cbp.gov/i94) without charge. If the Form I-94 cannot be obtained from the CBP [website](http://www.cbp.gov/i94), it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS **does** charge a fee for this service.

**Passport and Travel Document Numbers.** If you used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the form, even if the passport or travel document is currently expired.

## Initial Evidence Requirements

The following evidence must be filed with your petition:

1. Evidence that you have established a lawful business entity under the laws of the jurisdiction in the United States in which it is located, or, if you have made an investment in an existing business, evidence that your investment has caused a substantial (at least 40 percent) increase in the net worth of the business, the number of employees, or both.

Such evidence shall consist of copies of articles of incorporation, certificate of merger or consolidation, partnership agreement, certificate of limited partnership, joint venture agreement, business trust agreement, or other similar organizational document; a certificate evidencing authority to do business in a State or municipality, or if such is not required, a statement to that effect; or evidence that the required amount of capital was transferred to an existing business resulting in a substantial increase in the net worth or number of employees, or both.

This evidence must be in the form of stock purchase agreements, investment agreements, certified financial reports, payroll records, or other similar instruments, agreements, or documents evidencing the investment and the resulting substantial change.

2. Evidence, if applicable, that your enterprise has been established in a targeted employment area. A targeted employment area is defined as a rural area or an area that has experienced high unemployment of at least 150 percent of the national average rate. A rural area is an area not within a metropolitan statistical area or not within the outer boundary of any city or town having a population of 20,000 or more.

If the targeted employment areas is rural, you must provide evidence that the new commercial enterprise is principally doing business within a civil jurisdiction not located within any metropolitan statistical area as designated by the Office of Management and Budget, nor within the outer boundary of any city or town having a population of 20,000 or more as based on the most recent decennial census of the United States.

If the targeted employment area is an area of high unemployment, you must provide either (1) evidence the metropolitan statistical area, the specific county within a metropolitan statistical area, the county in which a city or town with a population of 20,000 or more is located, or the city or town with a population of 20,000 or more in which the new commercial enterprise is principally doing business has experienced an average unemployment rate of 150 percent of the national average rate; or (2) a description of the boundaries of the geographic or political subdivision and the unemployment statistics in the area for which designation is sought as set forth in 8 CFR 204.6(i), and the method or methods by which the unemployment statistics were obtained.

3. Evidence that you have invested or are actively in the process of investing the amount required for the area in which the business is located.

Such evidence may include, but need not be limited to, copies of bank statements, evidence of assets that have been purchased for use in the enterprise, evidence of property transferred from abroad for use in the enterprise (including U.S. Customs and Border Protection commercial entry documents, bills of lading, and transit insurance policies containing ownership information and sufficient information to identify the property and to indicate the fair market value of such property), evidence of monies transferred or committed to be transferred to the new commercial enterprise in exchange for shares of stock, any loan or mortgage, promissory note, security agreement, or other evidence of borrowing that is secured by assets of the petitioner.

4. Evidence that capital is obtained through lawful means. The petition must be accompanied, as applicable, by: foreign business registration records, tax returns of any kind filed within the last 5 years in or outside the United States, evidence of other sources of capital, or certified copies of any judgment, pending governmental civil or criminal actions, or private civil actions against the petitioner from any court in or outside the United States within the past 15 years.
5. Evidence that the enterprise will create at least 10 full-time positions for U.S. citizens, permanent residents, or aliens lawfully authorized to be employed (except yourself, your spouse, sons or daughters, and any nonimmigrant aliens). Such evidence may consist of copies of relevant tax records, Form I-9s, or other similar documents, if the employees have already been hired, or a business plan showing when such employees will be hired within the next 2 years.
6. Evidence that you are or will be engaged in the enterprise, either through the exercise of day-to-day managerial control or through policy formulation. Such evidence may include a statement of your position title and a complete description of your duties, evidence that you are a corporate officer or hold a seat on the board of directors, or evidence that you are engaged in policy-making activities. You will be considered sufficiently engaged in policy making activities if you are an equity holder in the new enterprise and the organizational documents of the enterprise provide you with certain rights, powers, and duties normally granted to equity holders of the enterprise's type of entity in the jurisdiction in which the enterprise is organized.

### **What Is the Fee?**

The filing fee for Form I-526 is **\$3,675**.

Use the following guidelines when you prepare your check or money order for Form I-526:

1. The check or money order must be drawn on a bank or other financial institution located in the United States, and must be payable in U.S. currency; and
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

**NOTE:** Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, contact the nearest U.S. Embassy or U.S. Consulate for instructions on the method of payment.

### **How to Check If the Fees Are Correct**

The form fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit the USCIS [website](http://www.uscis.gov) at [www.uscis.gov](http://www.uscis.gov), select "FORMS," and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for the fee information. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

### **Where to File?**

Please see our website at [www.uscis.gov/I-526](http://www.uscis.gov/I-526) or call the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

### **Address Changes**

You must inform USCIS if you change your address. For information on filing a change of address go to the USCIS [website](http://www.uscis.gov) at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange) or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

**NOTE:** Do not submit a change of address request to USCIS Lockbox facilities because USCIS Lockbox facilities do not process change of address requests.

### **Processing Information**

#### **Acceptance**

Any petition that is not signed or accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by USCIS.

#### **Initial Processing**

Once Form I-526 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-526.

### **Request for More Information or Interview**

We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

### **Decision**

The decision on Form I-526 involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

### **Approval**

If you have established that you qualify for investor status, the petition will be approved. If you have requested that the petition be forwarded to a U.S. Embassy or consulate abroad, the petition will be sent there unless that consulate does not issue immigrant visas. If you are in the United States and state that you will apply for adjustment of status, and the evidence indicates you are not eligible for adjustment, the petition will be sent to a U.S. Embassy or consulate abroad. You will be notified in writing of the approval of the petition and where it has been sent, and the reason for sending it to a place other than the one requested, if applicable.

### **Meaning of Petition Approval**

Approval of a petition shows only that you have established that you have made a qualifying investment. It does not guarantee that the U.S. Embassy or U.S. Consulate will issue the immigrant visa. There are other requirements that must be met before a visa can be issued. The U.S. Embassy or U.S. Consulate will notify you of those requirements. Immigrant status granted based on this petition will be conditional. Two years after entry, you will have to apply for the removal of conditions based on the ongoing nature of the investment.

### **Denial**

If you have not established that you qualify for the benefit sought, the petition will be denied. You will be notified in writing of the reasons for the denial.

### **USCIS Forms and Information**

To ensure you are using the latest version of this form, visit the USCIS [website](http://www.uscis.gov) at [www.uscis.gov](http://www.uscis.gov) where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through USCIS [Internet](#)-based system, **InfoPass**. To access the system, visit USCIS [website](#). Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

## **Penalties**

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny your Form I-526 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

## **USCIS Privacy Act Statement**

**AUTHORITIES:** The information requested on this form, and the associated evidence, is collected under the Immigration and Nationality Act, section 101, et seq.

**PURPOSE:** The primary purpose for providing the requested information on this form is to determine if you have established eligibility for the immigration benefit for which you are filing. The information you provide will be used to grant or deny the benefit sought.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your form.

**ROUTINE USES:** The information you provide on this form may be shared with other Federal, state, local, and foreign government agencies and authorized organizations following approved routine uses described in the associated published system of records notices [DHS-USCIS-007-Benefits Information System and DHS-USCIS-001-Alien File, Index, and National File Tracking System of Records, which can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy)]. The information may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

## **USCIS Compliance Review and Monitoring**

By signing this form, you have stated under penalty of perjury (28 U.S.C.1746) that all information and documentation submitted with this form is true and correct. You also have authorized the release of any information from your records that USCIS may need to determine eligibility for the benefit you are seeking and consented to USCIS' verification of such information.

The Department of Homeland Security has the right to verify any information you submit to establish eligibility for the immigration benefit you are seeking at any time. Our legal right to verify this information is in 8 U.S.C. 1103, 1155, 1184, and 8 CFR parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case has been decided. Agency verification methods may include, but are not limited to: review of public records and information; contact via written correspondence, the Internet, facsimile or other electronic transmission, or telephone; unannounced physical site inspections of residences and places of employment; and interviews. Information obtained through verification will be used to assess your compliance with the laws and to determine your eligibility for the benefit sought.

Subject to the restrictions under 8 CFR part 103.2(b)(16), you will be provided an opportunity to address any adverse or derogatory information that may result from a USCIS compliance review, verification, or

site visit after a formal decision is made on your case or after the agency has initiated an adverse action that may result in revocation or termination of an approval.

**Paperwork Reduction Act**

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 1 hour and 20 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140. OMB No. 1615-0026. **Do not mail your completed I-526 application to this address.**