

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 new commercial enterprise to receive an immigrant visa. To seek immigrant status, an alien must first file Form I-526, Immigrant Petition by Alien Investor with U.S. Citizenship and Immigration Services (USCIS), according to the form instructions and with the fees prescribed in 8 CFR 103.7(b).

- 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.**

USCIS will use the data collected on this form to determine the petitioner's eligibility for an immigrant visa. USCIS's approval of the Form I-526 demonstrates that the alien investor has invested or is actively in the process of investing the required amount of capital in a new commercial enterprise, and will benefit the U.S. economy and create full-time employment for not fewer than 10 qualifying employees. The petition must include evidence that the petitioner has made either a \$1,350,000 or \$1.8 million U.S. dollar investment of lawful capital in a new commercial enterprise. The form serves the purpose of standardizing requests for the benefit, and ensures that petitioners provide basic information required to determine eligibility.

Form I-526 is being revised to conform to the EB-5 Immigrant Investor Program Modernization final rule. Specifically, the form will now refer to investors, rather than entrepreneurs, and the evidentiary requirements for targeted employment areas, investment, and positions and responsibilities in the enterprise will match the regulatory text.

- 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 a paper form that can be accessed from the USCIS website www.uscis.gov keyword search “Form I-526,” completed online, and then printed and mailed to USCIS.

- 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 serve 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 this form. USCIS will continue to examine ways in which information may be obtained from other sources so 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 September 11, 2020 USCIS published Collection and Use of Biometrics by U.S. Citizenship and Immigration Services (RIN 1615-AC14) Notice of Proposed Rulemaking in the Federal Register at 85 FR 56338.

- 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:

- DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, September 18, 2017, 82 FR 43556;
- DHS/USCIS-007 Benefits Information System, October 19, 2016 81 FR 72069; and
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records, July 31, 2018, 83 FR 36950

The privacy impact assessment associated with this information collection:

- DHS/USCIS/PIA-016a Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems;
- DHS/USCIS/PIA-003(b) Integrated Digitization Document Management Program; and
- Forthcoming EB-5 PIA

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	Total Number of Responses	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)	15,799	1	15,799	1.83	28,912	34.84	\$ 1,007,300
Individuals or Households	Biometrics	15,799	1	15,799	3.67	57,982	34.84	\$ 2,020,104
Total				31,598		86,895		\$ 3,027,404

* The above Average Hourly Wage Rate is the May 2016 Bureau of Labor Statistics average wage for All Occupations of \$23.86 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$34.84. The selection of "All Occupations" was chosen because respondents to this collection could be expected from any occupation.

- 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 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.**

For form preparation, legal services, translators, and document search and generation, USCIS estimates the average cost of this information collection may vary widely, from \$200 to \$2,000 per respondent. Using the midpoint of the range of such expenses, USCIS estimates that respondents would face a cost of \$1,100 for these activities. All respondents for this collection may incur this cost. USCIS estimates the total estimated cost is number of respondents (15,799) times the average cost per respondent (\$1,100) totaling \$17,378,900.

There is a \$3,675 fee charge associated with this information collection and an \$85 biometrics fee.

- 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.**

The Total Cost to Government is \$59,404,240. 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 (15,799) multiplied by the fees (\$3,675 form fee + \$85 biometrics 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.

- 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				28,912	28,912	0
Biometrics	0	57,982	57,982			
Total(s)	0	57,982	57,982	28,912	28,912	0

There has been an increase in the total annual burden hours previously reported for this information collection due to the changes proposed in the Biometrics NPRM.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New) [new minus current]	Difference
I-526				\$17,378,900	\$17,378,900	0
Total(s)				\$17,378,900	\$17,378,900	0

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.