

TABLE OF CHANGES – INSTRUCTIONS
Form I-526, Instructions for Immigrant Petition by Alien Entrepreneur
OMB Number: 1615-0026
08/13/2021

Reason for Revision: EMG action due to EB-5 Modernization Rule Vacatur.

Legend for Proposed Text:

- Black font = Current text
- Red font = Changes

Expires 11/30/2021

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Current Page Number and Section	Current Text	Proposed Text
Page 1, What Is the Purpose of Form I-526?	<p>[Page 1]</p> <p>What Is the Purpose of Form I-526?</p> <p>The form is used by an investor 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 (INA), as amended.</p>	<p>What Is the Purpose of Form I-526?</p> <p>The 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 (INA), as amended.</p>
Page 2-9, Specific Instructions	<p>[Page 2]</p> <p>Specific Instructions</p> <p>...</p> <p>Item Number 12. Total of All Debt Financing. Indicate the total of all debt financing for which the investor is personally and primarily liable and which is secured by assets owned by the investor provided to the NCE. Any indebtedness must be documented with evidence of the investor's ownership of the assets used to secure the indebtedness, as well as the fair market value of the investor's ownership interest in such assets.</p> <p>...</p> <p>Part 3. Information About the New Commercial Enterprise (NCE)</p> <p>...</p>	<p>[no changes]</p> <p>Item Number 12. Total of All Debt Financing. Indicate the total of all debt financing for which the entrepreneur is personally and primarily liable and which is secured by assets owned by the entrepreneur provided to the NCE. Any indebtedness must be documented with evidence of the entrepreneur's ownership of the assets used to secure the indebtedness, as well as the fair market value of the entrepreneur's ownership interest in such assets.</p> <p>[no change]</p> <p>Part 3. Information About the New Commercial Enterprise (NCE)</p> <p>[no change]</p>

	<p>Item Number 8. Troubled Business. Indicate whether you have invested or are actively in the process of investing in a troubled business and, if yes, provide an explanation of how the NCE qualifies as a troubled business. Troubled business means a business that has been in existence for at least two years, has incurred a net loss for accounting purposes (determined on the basis of generally accepted accounting principles) during the twelve- or twenty-four month period prior to the priority date on the alien investor's Form I-526, and the loss for such period is at least equal to twenty percent of the troubled business's net worth prior to such loss. For purposes of determining whether or not the troubled business has been in existence for two years, successors in interest to the troubled business will be deemed to have been in existence for the same period of time as the business they succeeded.</p> <p>...</p> <p>Item Numbers 15.a. - 17.c. Multiple Investors. If you are not the sole investor in the NCE, please list the name of any other person or entity (for example, a corporation, limited liability company, partnership, etc.) that holds a percentage of ownership of the NCE. For each party indicate the percentage of ownership, and whether or not the party, if a person obtained classification or is seeking classification, as an alien investor under INA section 203(b)(5) on the basis of his or her investment in this NCE.</p> <p>Part 4. Information About The Job-Creating Entity (JCE) (if different from the NCE)</p> <p>Item Number 1. Indicate whether the JCE is different from the NCE.</p> <p>Item Numbers 2. - 5. Name and Location of JCE. Provide the full legal name of the JCE. Also, provide the U.S. address and contact information of the JCE, and the type of entity the JCE is organized as (for example, corporation, limited liability company, partnership).</p> <p>...</p>	<p>Item Number 8. Troubled Business. Indicate whether you have invested or are actively in the process of investing in a troubled business and, if yes, provide an explanation of how the NCE qualifies as a troubled business. Troubled business means a business that has been in existence for at least two years, has incurred a net loss for accounting purposes (determined on the basis of generally accepted accounting principles) during the twelve- or twenty-four month period prior to the priority date on the alien entrepreneur's Form I-526, and the loss for such period is at least equal to twenty percent of the troubled business's net worth prior to such loss. For purposes of determining whether or not the troubled business has been in existence for two years, successors in interest to the troubled business will be deemed to have been in existence for the same period of time as the business they succeeded.</p> <p>[no change]</p> <p>Item Numbers 15.a. - 17.c. Multiple Investors. If you are not the sole investor in the NCE, please list the name of any other person or entity (for example, a corporation, limited liability company, partnership, etc.) that holds a percentage of ownership of the NCE. For each party indicate the percentage of ownership, and whether or not the party, if a person obtained classification or is seeking classification, as an alien entrepreneur under INA section 203(b)(5) on the basis of his or her investment in this NCE.</p> <p>Part 4. Information About The Job-Creating Entity (JCE) (if different from the NCE)</p> <p>Item Number 1. Indicate whether the JCE is different from the NCE.</p> <p>Item Numbers 2. - 5. Name and Location of JCE. Provide the full legal name of the job creating entity. Also, provide the U.S. address and contact information of the JCE, and the type of entity the JCE is organized as (for example, corporation, limited liability company, partnership).</p> <p>[no change]</p>
Page 9-10, What Evidence Must You Submit?	[Page 9] What Evidence Must You Submit?	[no change]

	<p>...</p> <p>2. Targeted Employment Area. Evidence, if applicable, that your enterprise has created or will create employment in a targeted employment area. A targeted employment area is defined as an area that, at the time of investment, is a rural area or is designated as an area that has experienced an average unemployment rate of at least 150 percent of the national average rate. A rural area is an area not within a metropolitan statistical area and not within the outer boundary of any city or town having a population of 20,000 or more.</p> <p>If the targeted employment area 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 any city or town having a population of 20,000 or more as based on the most recent decennial census of the United States.</p> <p>If the targeted employment area is an area of high unemployment, you must provide either:</p> <p>A. 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 outside of a metropolitan statistical area, 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</p> <p>[Page 10]</p> <p>B. A description of the boundaries and the unemployment statistics for the area for which designation is sought as set forth in 8 CFR 204.6(i), and the reliable method or methods by which the unemployment statistics were obtained.</p> <p>3. Investment. Evidence that you have invested or are actively in the process of investing the required amount of capital.</p> <p>Such evidence may include, but need not be limited to, copies of bank statements showing amounts deposited into the U.S. business accounts for the enterprise, 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</p>	<p>2. Targeted Employment Area. Evidence, if applicable, that your enterprise has created or will create employment in a targeted employment area. A targeted employment area is defined as an area which, at the time of investment, is a rural area or an area that has experienced an average unemployment rate of at least 150 percent of the national average rate. A rural area is an area not within a metropolitan statistical area and not within the outer boundary of any city or town having a population of 20,000 or more.</p> <p>[deleted]</p> <p>[Page 10]</p> <p>[deleted]</p> <p>[no change]</p> <p>Such evidence may include, but need not be limited to, copies of bank statements showing amounts deposited into the U.S. business accounts for the enterprise, evidence of assets that have been purchased for use in the enterprise, evidence of property transferred from abroad for use in the enterprise, evidence of monies transferred or committed to be</p>
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	<p>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 NCE in exchange for shares of stock that cannot be redeemed at the holder's request, or any loan or mortgage agreement, promissory note, security agreement, or other evidence of borrowing that is secured by assets owned by the petitioner (other than those of the NCE) and for which the petitioner is personally and primarily liable.</p> <p>...</p> <p>6. Position and Responsibilities in Enterprise. Evidence that you are or will be engaged in the management of the enterprise, either through the exercise of day-to-day managerial control or through policy formulation. Such evidence must 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 commercial enterprise and the organizational documents of the new commercial enterprise provide you with certain rights, powers, and duties normally granted to equity holders of the new commercial enterprise's type of entity in the jurisdiction in which the new commercial enterprise is organized.</p>	<p>transferred to the NCE in exchange for shares of stock that cannot be redeemed at the holder's request, or any loan or mortgage agreement, promissory note, security agreement, or other evidence of borrowing that is secured by assets owned by the petitioner (other than those of the NCE) and for which the petitioner is personally and primarily liable.</p> <p>[no change]</p> <p>6. Position and Responsibilities in Enterprise. Evidence that you are or will be engaged in the management of the enterprise, either through the exercise of day-to-day managerial control or through policy formulation. Such evidence must 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, if the NCE is a partnership, either limited or general, evidence that you are engaged in either direct management or policy-making activities. If the petitioner is a limited partner of a limited partnership and the limited partnership agreement provides the petitioner with certain rights, powers, and duties normally granted to limited partners under the Uniform Limited Partnership Act, the petitioner will be considered sufficiently engaged in the management of the NCE.</p>
<p>Page 13, DHS Privacy Notice</p>	<p>[Page 13]</p> <p>DHS Privacy Notice</p> <p>AUTHORITIES: The information requested on this petition, and the associated evidence, is collected under Immigration and Nationality Act (INA) sections 103 and 203(b)(5) and Title 8 of the Code of Federal Regulations parts 103 and 204.6.</p> <p>...</p> <p>ROUTINE USES: DHS may share the information you provide on this petition and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS-USCIS-001 - Alien File, Index, and</p>	<p>[Page 13]</p> <p>DHS Privacy Notice</p> <p>AUTHORITIES: The information requested on this petition, and the associated evidence, is collected under Immigration and Nationality Act (INA) sections 103 and 203(b)(5) and 8 CFR parts 103 and 204.6.</p> <p>[no change]</p> <p>ROUTINE USES: DHS may shares the information you provide on this petition and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS-USCIS-001 - Alien File, Index, and</p>

	<p>National File Tracking System of Records and DHS-USCIS-007 - Benefits Information System] and the published privacy impact assessments [DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems and DHS/USCIS/PIA-056 USCIS Electronic Immigration System], which can be found at www.dhs.gov/privacy. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.</p>	<p>National File Tracking System of Records and DHS-USCIS-007 - Benefits Information System] and the published privacy impact assessments [DHS/USCIS/PIA-003 Integrated Digitization Document Management Program and DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems], which you can find at www.dhs.gov/privacy. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.</p>
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