



GENERAL QUESTIONS AND ANSWERS

I-526

1. After a Form I-526, Immigrant Petition by Alien Investor, has been approved for expedited processing, how long does it normally take for USCIS to process the petition?

We cannot provide specific processing times for Form I-526 petitions that have been approved for expedited processing. The expedited approval simply means that USCIS will take the petition out of visa availability order and expedite assignment of the petition to an officer for adjudication. Once the petition is assigned to an officer, the timeline for taking adjudicative action will vary.

2. Can you please describe some circumstances when IPO might seek evidence of jobs created at the I-526 stage, given that the regulations and USCIS Policy Manual permit I-526 petitioners to demonstrate eligibility based on prospective job creation within two years and six months after adjudication of the I-526?

I-526 petitioners can meet the job creation requirement by demonstrating that future jobs will be created within the requisite time by submitting a comprehensive business plan as required under the regulations at 8 CFR § 204.6(j)(4)(i)(B). However, under 8 CFR § 103.2(b)(1), a petitioner must be eligible at filing and throughout adjudication. If, at the time of adjudication, events described in the business plan have (or should have) already come to pass and the claimed jobs have been created, an officer may seek evidence related to those jobs for purposes of demonstrating continued eligibility (e.g., to determine whether such jobs are for “qualifying employees” or that the business plan remains comprehensive and credible). In addition, if the petitioner asserts that some or all employees have already been hired, the evidentiary requirements under 8 CFR § 204.6(j)(4)(i)(A) apply.

3. Does IPO generate updated reports identifying I-526 petitions with visas available each month once the Visa Bulletin is updated?

Yes, IPO generates updated reports each month identifying I-526 petitions with visas available or soon to be available, based on the petitioner’s country of birth or country of cross-chargeability.

4. When the Visa Bulletin indicates a movement in priority dates, are I-526 petitions moved between workflows?

Yes, IPO adjusts the workflows each month, as necessary, based on visa availability.

5. Would USCIS consider allowing I-526 petitioners to incorporate project-related documents submitted with a pending or approved I-924 (I-526 exemplar) rather than submit the same documents with their I-526s?

In 2013, USCIS released a Regional Center Document Library through USCIS ELIS (USCIS Electronic Immigration System) that allowed regional centers to upload electronic copies of documents relating to a new commercial enterprise. Investors in that enterprise could review the documents online and complete an attestation, which they would submit with their I-526 petition. USCIS, however, discontinued this library on June 15, 2015.

Due to budgetary constraints, USCIS does not plan on creating any new information technology systems in the near future to replace the Regional Center Document Library. However, USCIS recognizes that related I-526 petitions and I-924 exemplars do contain duplicative documents, and we are open to exploring ways to achieve efficiencies within our existing systems. Any method must take into account the fact that each petitioner must demonstrate by a preponderance of the evidence that they are eligible for the benefit sought and a determination of statutory eligibility shall be based only on information contained in the record of proceeding as provided under applicable regulations.

I-829

6. What steps should a petitioner take to add an eligible derivative to a Form I-829?

To request to add an eligible derivative to the petition, the petitioner should send an email to IPO at USCIS.ImmigrantInvestorProgram@uscis.dhs.gov, placing, “Request to Add Derivative to Form I-829” in the subject line.

The IPO inquiry management team will provide the requestor with a cover sheet that must be sent to the Dallas Lockbox facility for processing by the petitioner. Along with the cover sheet provided by the inquiry management team, the following must be included for each derivative that is being added to the pending Form I-829:

- A photocopy of the petitioner’s Form I-829 Receipt Notice;
- Form I-829 indicating relationship of the derivative to the petitioner:
 - If spouse, complete Part 3, Item Numbers 1.a. – 15.
 - If child, complete Part 4, Item Numbers 1.a – 10.;
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable;
- Documentation establishing the claimed relationship with the derivative being added to the pending Form I-829;
- Proof of the derivative’s identity; and
- \$85 biometric services fee, if the derivative is between 14 and 79 years of age.

You may pay the biometric services fee with a money order, personal check, cashier’s check, or by credit card using Form G-1450, Authorization for Credit Card Transactions. If you pay by check, you must make your check payable to the U.S. Department of Homeland Security. When you send

a payment, you agree to pay for a government service. Filing and biometric service fees are final and non-refundable, regardless of any action we take on your application, petition or request, or if you withdraw your request.

Please mail this cover sheet and the supplemental documentation listed above for each derivative to:

USCIS
Attn: I-829 Manual Forms Processing
2501 S. State Hwy. 121, Business Suite 400
Lewisville, TX 75067

This address accepts mail from the U.S. Postal Service and express mail services (FedEx, UPS and DHL).

7. What is the current policy of USCIS with respect to actions to be taken upon denial of an I-829 petition? Are IPO officers instructed to routinely send denied I-829 petitions to ICE to file a Notice to Appear with the Immigration Court? If so, are they advised to do so within a recommended timeframe following issuance of the decision?

If an I-829 petition is denied under 8 CFR 216.6(d)(2), conditional permanent resident (CPR) status is terminated as of the date of the denial. Following I-829 denial, USCIS policy is to issue a Notice to Appear (NTA) to aliens who are removable under section 237(a)(1)(D) of the Immigration and Nationality Act. Generally, USCIS will not issue an NTA immediately upon denial of the I-829 petition but will wait until the expiration of the initial motion period or, if a motion is filed, until the decision on the initial motion is completed. However, USCIS reserves the option to issue an NTA before or after the filing of a motion, as appropriate. Once an NTA is filed with the Immigration Court, jurisdiction vests with the Executive Office for Immigration Review. Please note that the charges included in an NTA will depend on the facts of the case, and USCIS may refer cases to ICE as appropriate.

8. If there is evidence of fraudulent activity with a project (e.g., misappropriation of funds, misuse of investor capital), can an I-829 petitioner still demonstrate eligibility for removal of conditions on permanent resident status?

It depends on the facts of the case. In all cases, IPO will evaluate the evidence to determine whether the I-829 petitioner has satisfied all investment, sustainment and job creation requirements under 8 CFR 216.6(c). There are times when the fraudulent activity may have a bearing on the I-829 adjudication. For example, depending on the facts of a particular case, a project determined to be fraudulent may undermine the petitioner's ability to demonstrate the job creation under 8 CFR 216.6(c)(iv).

9. Several months ago, it appears USCIS re-issued receipt notices to petitioners with pending I-829 petitions. Can USCIS explain why duplicate receipts were mailed? The duplicate notices did not appear to extend the lawful status of petitioners beyond the 18 months given in the original receipt notice. Was it the intention of USCIS to give a document to petitioners extending their CPR status for another 18 months during the COVID pandemic?

In July 2020, USCIS generated I-829 receipt notices for petitioners and derivatives who appeared to have not been issued their initial I-829 receipt notices. This action was not intended to, and did not, extend their CPR status for an additional 18 months during the COVID pandemic.

Regional Centers

10. When will IPO publish termination letters for regional centers terminated in the remainder of 2019 and in 2020?

As part of our commitment to transparency, USCIS has been posting termination notices to the [USCIS Electronic Reading Room](#). Other termination notices are currently in the queue to be reviewed by USCIS FOIA specialists before posting to the Electronic Reading Room; however, at this time we do not have a date for when they will be published.

11. Will IPO publish designation letters for regional centers?

We will consider your request, but USCIS does not currently have plans to proactively publish regional center designation letters.

12. The EB-5 authorities impose upon all RCs a duty to monitor and oversee EB-5 capital investment activities, and failure to meet these duties may result in RC termination. Will USCIS issue further guidance regarding these RC compliance duties and standards?

A regional center that fails to engage in proper monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the EB-5 authorities. Because the facts of each regional center may be different, whether a regional center is fulfilling its obligation to promote economic growth in compliance with our program is determined on a case-by-case basis. As the characteristics of regional centers differ, it is not possible to do a one-size-fits-all checklist.

13. On January 11, 2017, USCIS published the “Advance Notice of Proposed Rulemaking on Changes to EB-5 Regional Center Program (ANPRM).” What is the status of ANPRM? When will anxious stakeholders learn more about the results of the submitted comments?

USCIS does not have any updates for the public on the ANPRM published on Jan. 11, 2017. Any proposed regulatory changes to the program will be published in the Federal Register with the appropriate time for public comments. Stakeholders may also refer to the Unified Agenda of Proposed Regulatory and Deregulatory Actions, which is published in the Federal Register on a biannual basis.

14. May the current Form I-924A be used to compile and submit the Fiscal Year 2020 Annual Report, or is it anticipated that a new form will be issued?

USCIS recently published a new version of Form I-924A. You can access the most recent version of the I-924A at <https://www.uscis.gov/i-924a>. Through Jan. 4, 2021, you may submit either the 11/21/2019 version of the Form I-924A or the 7/23/2020 version of the Form I-924A that is currently on the USCIS website. Beginning Jan. 5, 2021, you will only be able to submit the new version. You can find the edition date at the bottom of the page on the form and instructions.

Please make sure to check the website to ensure you are sending the completed form and any supplemental information to the correct address.

15. How will IPO ensure that geographic areas with small populations and struggling economies can keep regional center representation and opportunity, going forward? USCIS policy for terminations will determine whether these regional centers can survive long enough to bring any EB-5 opportunity to their states. As it is, the program's existence and effectiveness are threatened by I-924 processing times up to eight years followed by requirement to have I-526 filed within three years or lose designation.

IPO makes determinations on a regional center's continuing designation based on the regulations. See 8 CFR 204.6(m)(6), which provides:

Continued participation requirements for regional centers. (i) Regional centers approved for participation in the program must:

(A) Continue to meet the requirements of section 610(a) of the Appropriations Act.

(B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and

(C) Pay the fee provided by 8 CFR 106.2.

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

(A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines that 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.

Updated annual information is provided via Form I-924A, Annual Certification of Regional Center. To determine whether a regional center is continuing to promote economic growth, IPO considers the totality of the circumstances and makes decisions on a case-by-case basis, based on the facts of each specific case.

IPO previously published [filing tips for filing the I-924A](#) on the USCIS website and included information regarding steps a regional center can take to possibly avoid receiving a Notice of Intent to Terminate (NOIT) the regional center's designation. The last page of the I-924A contains a space for additional information, and regional centers—including those in areas with small populations and struggling economies—can always submit additional evidence demonstrating the continued promotion of economic growth for USCIS' consideration.

Finally, to clarify, there is no requirement that an approved regional center must have affiliated I-526s filed within a three-year period or lose designation. However, as stated above, there is a requirement that the regional center continue to promote economic growth. Also, actual I-924 processing times currently do not have an outer range of eight years. Previously, the terminations process was included in the data that I-924 processing times were based on. For example, if the data set included a termination, the processing time would be calculated from the date of initial receipt of the initial I-924, to the date of termination. Going forward, I-924 processing times should more accurately reflect the actual processing time for a pending I-924 application.

Records

16. From time to time, it seems appropriate to update USCIS on the status of a project, often referred to as interfiling. What is IPO's internal process when you receive this type of information by mail?

Updates and other correspondence are received in our mail room. We keep the envelope or shipping label, we stamp the date we received the correspondence, and we insert the documents into their corresponding file(s). We randomly sample the work to ensure the documents were properly interfiled.