



## IMMIGRATION UPDATE - MAY 16, 2022

*Posted on May 16, 2022 by Cyrus Mehta*

### Headlines:

[New Forms, New Program Requirements Announced for Entities Seeking Regional Center Designation Under EB-5 Immigrant Investor Program](#) – USCIS published two new forms for regional center designation under the EB-5 Immigrant Investor Program. USCIS said that all entities seeking regional center designation must submit these forms in compliance with new program requirements, which began May 14, 2022, and are effective through September 30, 2027. The agency held a related listening session and released a Q&A, and members of Congress sent a letter to the Department of Homeland Security.

[Foreign Labor Certification Updates](#) – The Department of Labor's Office of Foreign Labor Certification announced updates to public disclosure data and selected program statistics; the H-2B Foreign Labor Recruiter List; and tips and assistance for stakeholders filing applications for prevailing wage determinations.

[USCIS Corrects Eligibility Date on South Sudan TPS-Based EADs](#) – USCIS corrected "September 17, 2021" to "May 2, 2022" as the eligibility date that should be showing on South Sudan temporary protected status-based employment authorization documents (EADs) to receive an automatic 180-day EAD extension through November 1, 2022.

[New Lockbox Filing Location Updates Webpage](#) – USCIS launched a new webpage with lockbox filing location updates.

[State Dept. Updates Visa Reciprocity Schedule for Kenya](#) – On May 9, 2022, the Department of State updated the visa reciprocity schedule for Kenya for several nonimmigrant visa categories.

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### **New Forms, New Program Requirements Announced for Entities Seeking Regional Center Designation Under EB-5 Immigrant Investor Program**

U.S. Citizenship and Immigration Services (USCIS) published two new forms for regional center designation under the EB-5 Immigrant Investor Program: Form I-956, Application for Regional Center Designation, and Form I-956H, Bona Fides of Persons Involved with Regional Center Program. USCIS said that all entities seeking regional center designation must submit these forms in compliance with new program requirements, which began May 14, 2022, and are effective through September 30, 2027.

Below are highlights of related news:

- USCIS said it will **continue to adjudicate Form I-829**, Petition by Investor to Remove Conditions on Permanent Resident Status, and will **adjudicate Form I-829 petitions associated with Form I-526**, Immigrant Petition by Alien Entrepreneur, filed before March 15, 2022, under the applicable eligibility requirements in place before enactment of the EB-5 Reform and Integrity Act of 2022.
- USCIS said it also has **resumed processing of regional center-based Form I-526, Immigrant Petition by Alien Entrepreneur, filed on or before the sunset of the previous regional center program** on June 30, 2021. The agency will adjudicate all Form I-526 petitions filed before March 15, 2022, according to the applicable eligibility requirements at the time such petitions were filed (that is, the eligibility requirements in place before the enactment of the new law). USCIS will continue to process Form I-526 petitions under the "visa availability approach," "prioritizing those Form I-526 petitions for investors with an available visa or a visa that will be available soon." USCIS will continue to reject all Form I-526 petitions received on or after July 1, 2021, when the petition indicates that the petitioner's investment is associated with a regional center.
- The **filing fee for the I-956 is \$17,795**. (No, that's not a typo.) There is no filing fee for the I-956H, but a biometric services fee of \$85 per person is required. Filing and biometric service fees are final and nonrefundable, regardless of any action USCIS takes on the application, or if the applicant

withdraws the request. USCIS will reject the form if the applicant submits an incorrect fee.

- The agency **released a related Q&A and held a "Listening Session"** on April 29, 2022, that received negative reviews.
- **Four senior members of Congress sent a letter** on May 9, 2022, to the Department of Homeland Security (DHS). Among other things, the letter calls for DHS to confirm compliance with the new integrity measures required under the EB-5 Reform and Integrity Act of 2022 "without the need for a full-scale redesignation of existing regional centers." The letter recommends a "transition" to avoid administrative burdens for the agency and "unnecessary complications to designated regional centers who have remained in good standing with USCIS and complied with the rules even during the program's lapse." The letter says, "Current guidance on the USCIS website requiring new regional center designations for every existing regional center is confusing and causing great concern in the EB-5 stakeholder community. We believe that there should be stakeholder engagement and then guidance on the implementation of the program." The letter notes that an interpretation requiring new regional center designations would "result in all existing investors without approved conditional permanent residency facing denial." The letter was signed by Rep. Jerrold Nadler (D-NY) and Sens. Chuck Schumer (D-NY), John Cornyn (R-TX), and Lindsey Graham (R-SC).

#### Details:

- USCIS alert,  
<https://www.uscis.gov/newsroom/alerts/two-new-forms-published-for-regional-center-designation>
- USCIS alerts, EB-5 Immigrant Investor Program,  
<https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program>
- USCIS Q&A (EB-5 Questions and Answers, updated April 2022),  
<https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers-updated-april-2022>
- EB-5 Reform and Integrity Act of 2022 (H.R. 2471, Consolidated Appropriations Act, 2022),  
<https://www.congress.gov/bill/117th-congress/house-bill/2471/>

- USCIS EB-5 Reform and Integrity Act of 2022 Listening Session, <https://www.uscis.gov/outreach/notes-from-previous-engagements/uscis-eb-5-reform-and-integrity-act-of-2022-listening-session>
- Listening Session remarks by Ur Jaddou, USCIS Director, 29, 2022, [https://www.uscis.gov/sites/default/files/document/outreach-engagement/s/EB-5\\_Reform\\_and\\_Integrity\\_Act\\_of\\_2022\\_Listening\\_Session.pdf](https://www.uscis.gov/sites/default/files/document/outreach-engagement/s/EB-5_Reform_and_Integrity_Act_of_2022_Listening_Session.pdf)
- Form I-956, Application for Regional Center Designation, <https://www.uscis.gov/i-956>
- Form I-956H, Bona Fides of Persons Involved with Regional Center Program, <https://www.uscis.gov/i-956>
- "USCIS Drops Bombshell EB-5 Q&A Hours Before One-Sided, Overwhelmingly Negative "Listening Session," Investment Migration Insider, May 3, 2022, <https://www.imidaily.com/program-updates/uscis-drops-bombshell-eb-5-qa-hours-before-one-sided-overwhelmingly-negative-listening-session/>

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## Foreign Labor Certification Updates

The Department of Labor's Office of Foreign Labor Certification (OFLC) announced updates to public disclosure data and selected program statistics; the H-2B Foreign Labor Recruiter List; and tips and assistance for stakeholders filing applications for prevailing wage determinations. Below are highlights.

**Public disclosure data and selected program statistics for Q2 of fiscal year (FY) 2022.** The OFLC released a comprehensive set of public disclosure data through the second quarter of FY 2022. The OFLC drew the data from employer applications requesting prevailing wage determinations and labor certifications for the PERM, Labor Condition Application (LCA) (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs. The files include all final determinations OFLC issued for these programs during the October 1, 2021, through March 31, 2022, reporting period of FY 2022. OFLC also released selected program statistics for Q2 of FY 2022 for the same programs.

<https://www.dol.gov/agencies/eta/foreign-labor/performance>

**H-2B Foreign Labor Recruiter List for Q2 of FY 2022.** The OFLC published an updated list of foreign labor recruiters for the H-2B program. The list contains

the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B application. The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during the October 1, 2021 through March 31, 2022. <https://www.dol.gov/agencies/eta/foreign-labor/recruiter-list> (Foreign Labor Recruiter List); <https://www.dol.gov/agencies/eta/foreign-labor/faqs/print> (FAQs)

**Tips and assistance for stakeholders filing applications for prevailing wage determinations.** The OFLC hosted a webinar on April 19, 2022, providing tips and assistance for stakeholders on the process of filing Form ETA-9141, Application for Prevailing Wage Determination, for the PERM and LCA programs. The recording and presentation materials are linked via the Prevailing Wage Information and Resources page (scroll down to Webinars). <https://www.dol.gov/agencies/eta/foreign-labor/wages>

Details:

- OFLC announcements, <https://www.dol.gov/agencies/eta/foreign-labor>

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### **USCIS Corrects Eligibility Date on South Sudan TPS-Based EADs**

U.S. Citizenship and Immigration Services (USCIS) issued a correction on May 10, 2022, to its notice on the extension and redesignation of South Sudan for temporary protected status (TPS), which was published on March 3, 2022. Under the "General Employment-Related Information for TPS Applicants and Their Employers" section of the original notice, USCIS corrected "September 17, 2021" to "May 2, 2022" as the eligibility date that should be showing on South Sudan TPS-based employment authorization documents (EADs) to receive an automatic 180-day EAD extension through November 1, 2022.

Details:

- USCIS notice/correction, 87 Fed. Reg. 28030 (May 10, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-05-10/pdf/2022-10018.pdf>

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## **New Lockbox Filing Location Updates Webpage**

U.S. Citizenship and Immigration Services (USCIS) launched a new webpage with lockbox filing location updates. For example, the webpage notes that:

- On May 2, 2022, USCIS updated the filing locations for applicants filing [Form I-821, Application for Temporary Protected Status](#), under the designation for [Ukraine](#).
- On May 9, 2022, USCIS added the filing locations for certain applicants filing [Form I-765, Application for Employment Authorization](#), under eligibility category (c)(14) (a noncitizen granted deferred action).
- On May 15, 2022, USCIS added the filing locations for applicants filing [Form I-956, Application for Regional Center Designation](#), and [Form I-956H, Bona Fides of Persons Involved with Regional Center Program](#), to request designation as a regional center.

Details:

- USCIS Lockbox Filing Location Updates, updated May 10, 2022, <https://www.uscis.gov/forms/forms-updates/lockbox-filing-location-updates>

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## **State Dept. Updates Visa Reciprocity Schedule for Kenya**

On May 9, 2022, the Department of State updated the visa reciprocity schedule for Kenya for several nonimmigrant visa categories.

Details:

- Reciprocity: What's New?, Dept. of State, <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/reciprocity-whats-new.html>
- Kenya Reciprocity Schedule, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Kenya.html>

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## **Firm in the News**

**Cyrus Mehta** was a speaker at the Federal Bar Association Annual Conference on Immigration Law in Detroit on May 14, 2022 where he spoke on Ethical Issues in Immigration Practice. Mr. Mehta participated on this panel via video.

**Mr. Mehta** was also a speaker in the Deep Dive Discussion series of the AILA Ethics Committee on May 11, 2022, where he provided in depth perspectives on the issues confronting immigration lawyers in disciplinary proceedings at both the state bar and the EOIR.

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