AMERICAN IMMIGRATION LAWYERS ASSOCIATION

November 5, 2026

Mr. Joseph B. Edlow
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20588-0009

Via Email: uscisdirector@uscis.dhs.gov

Re: USCIS Action Needed to Preserve Reserved Employment-Based Visa Numbers and Provide Transparency in Visa Usage

Dear Director Edlow:

We are writing on behalf of stakeholders, petitioners, and applicants to formally address mounting concerns regarding the systemic underutilization and ultimate loss of reserved visa numbers—specifically within categories such as the EB-5 set-asides created under the EB-5 Reform and Integrity Act (RIA) of 2022—and to request immediate, transparent inter-agency coordination with the Department of State (DOS).

1. Undermining Congressional Intent and the Permanent Loss of Reserved Visas

Under the RIA, Congress specifically designed reserved visa categories (rural, high unemployment, and infrastructure projects) to incentivize targeted investments and promised stability to applicants following those legislative pathways. However, bureaucratic delays, sluggish processing times, and a lack of proactive inventory management by USCIS have resulted in thousands of reserved visas going unused within their statutory validity window.

Per statute, any set-aside visas that go unused are held in the same set-aside category for one more fiscal year, but after the second fiscal year, any remaining unused numbers are released to the unreserved category during the third fiscal year. For example, DOS's FY 2024 Annual Report revealed that only 423 reserved EB-5 visa numbers were used that fiscal year (merely 5.1% of available visas). This resulted in over 2,460 reserved visa numbers from FY 2023 being forever lost to rural applicants, over 1,300 lost to high unemployment applicants, and over 200

lost to infrastructure applicants. As discussed in section 2 below, DOS's FY 2025 Annual Report has still not been published, so it is not known how many visas may have been lost that fiscal year.

In FY 2026, USCIS issued hundreds of Requests for Evidence (RFEs) for new medical examinations (Form I-693) to EB-5 investors with approved Form I-526E petitions for cases where valid medicals are already present and clearly documented on file. This practice imposed unnecessary medical expenses and caused significant stress for applicants; while consuming agency time and public resources while thousands more of reserved visa numbers faced imminent expiration. At a minimum, these circumstances demonstrate serious shortcomings of internal case management and warrant examination of how and why these cases were handled in this manner.

The limited available data shows one thing: dramatic underutilization of EB-5 reserved visa numbers Congress created in 2022. DOS confirmed that the government used no reserved EB-5 numbers in FY2024, forcing thousands of numbers to carry forward. If the government fails to use those numbers by the end of the succeeding fiscal year, the statutory carryover mechanism shifts them to the unreserved EB-5 category. Congress specifically reserved these visa numbers to encourage investment in rural, high-unemployment, and infrastructure projects, but the government's failure to timely process qualifying cases has frustrated that statutory objective.

This situation necessitates transparency to keep the EB-5 program working as intended – as a tool for USCIS economic development: Why are statutory reserved visa numbers permanently lost to the unreserved category due to internal adjudication inaction? What concrete emergency measures are USCIS implementing to accelerate reserved-petition processing before fiscal year cutoffs elapse?

2. USCIS Coordination with DOS for Transparent Data Reporting (Table V)

Public oversight of visa utilization is currently severely handicapped by data opacity. To effectively track how visa numbers are managed, wasted, or spilled over, the public and congressional oversight bodies rely heavily on DOS's Annual Visa Report Table V.

However, the utility of Table V depends entirely on real-time, accurate data sharing between USCIS (which handles domestic Adjustment of Status adjudications) and DOS (which oversees consular processing and overall numerical controls). Historically, delayed data flows and reporting lags between the two agencies have left the immigrant community in the dark regarding actual visa issuance versus loss. Furthermore, pipeline tracking data—such as analyses showing annual supply carryovers by category—underscores how critical timely cross-agency data is for stakeholders trying to prevent numbers from expiring. We urgently request that

USCIS streamline its data-sharing pipeline with DOS to ensure that the Annual Visa Report Table V—and related monthly inventory reports—are populated accurately and published without multi-year lags.

Stakeholders deserve a clear, verifiable accounting of:

- The exact volume of reserved visas utilized via adjustment of status versus those that expired or spilled over.
- Monthly processing inventory metrics for reserved categories, based on country of chargeability.
- A clear breakdown explaining why available visa numbers failed to reach qualified applicants.

Conclusion

Immigrant visa numbers are a finite and precious resource critical to individuals, families, and the U.S. economy. The current trajectory of wasted reserved numbers is unacceptable. We request a formal response outlining USCIS's remedial action plan to safeguard reserved visa inventories and its commitment to rapid, transparent data coordination with DOS for future Annual Visa Report publications.

We thank you for your prompt attention to this urgent matter. If you have any questions, please contact Sharvari (Shev) Dalal-Dheini, Senior Director of Government Relations at (202) 507-7621 or by email at SDalal-Dheini@aila.org.

Thank you for your time and consideration.

Sincerely,

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

CC: USCIS Public Engagement
USCIS Feedback