



Insights from the State Department:

Ten Key Takeaways on the Latest EB-5 Data and Visa Processing from the 2024 IIUSA EB-5 Industry Forum

Published: June 6, 2024

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IIUSA was honored to welcome Dr. Michael Hanley, a Data Scientist from the Immigrant Visa Control and Reporting Division at the U.S. Department of State, as the keynote speaker at the 2024 EB-5 Industry Forum in Atlanta, GA. During his presentation, Dr. Hanley shared the latest data on EB-5 visa, critical policy updates related to Set-Aside visa processing, and his predictions on future movements of EB-5 cut-off dates. IIUSA would like to extend special thanks to Dr. Hanley and the Department of State (DOS) for their continued engagement with the EB-5 industry.

Here is a recap of the ten key takeaways that we learned from Dr. Hanley's presentation at IIUSA's 2024 EB-5 Industry Forum ¹:

1. DOS expects that all Unreserved EB-5 visas to be fully used in FY2024;
2. Nearly 40,000 EB-5 applicants registered at the NVC and are awaiting an EB-5 visa;
3. Over 330 post-RIA investors registered at NVC, encompassing approved Set-Aside petitions for Rural, High Unemployment Area (HUA) and multi-categories;
4. Set-Aside EB-5 visas began to be used in FY2024 for both Rural Area and High Unemployment Area (HUA) categories;
5. EB-5 applicants are responding more promptly to submit required documents, and the scheduling of EB-5 interviews is faster in FY2024;
6. Final Action Dates will remain current for all EB-5 Set-Aside categories during the remainder of FY2024 and likely throughout FY2025;
7. The EB-5 Unreserved cut-off dates for China and India are expected to remain unchanged for the remainder of FY2024;

¹ The full slide deck of Dr. Hanley's presentation can be found here: <https://iiusa.org/2024ATLslides>

8. Set-Aside investors with dual approval from USCIS must choose only one category for EB-5 visa processing;
9. EB-5 petitions are now transmitted electronically between USCIS and NVC, significantly reducing the turnaround time for inter-agency processing; and
10. Carryover visa numbers will be utilized prior to regular EB-5 visa numbers to maximize visa availability.

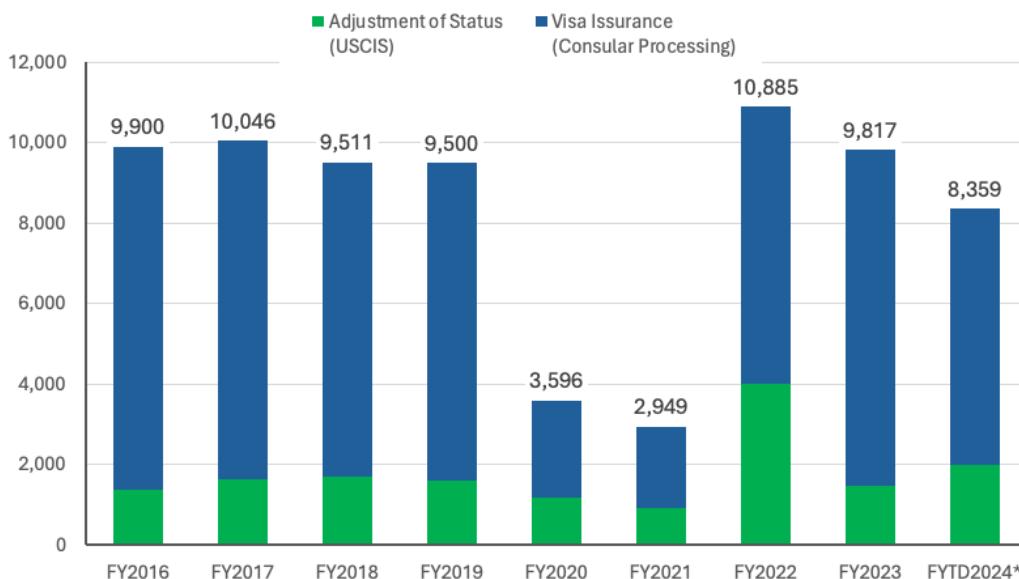
Read the sections below for detailed updates and analysis of each takeaway:

1. DOS expects that all Unreserved EB-5 visas to be fully used in FY2024.

Based on preliminary data from the DOS, 8,359 Unreserved EB-5 visas have been used in the current fiscal year, spanning from October 2023 to early May 2024 (FYTD 2024). This total includes 6,366 visas (76%) issued via consular processing and 1,993 visas (24%) used through Adjustment of Status at USCIS (refer to Figure 1).

According to Dr. Hanley, the U.S. Consulate Office in Guangzhou, China, is confident at continuing to operate at high capacity and efficiency. DOS anticipates that all 14,000+ Unreserved EB-5 visas available in FY2024 will be fully utilized by the end of the fiscal year. This would mark the highest level of EB-5 visa usage in the program’s history, effectively reducing the waitlist at the NVC for pre-RIA EB-5 applicants.

Figure 1: EB-5 Unreserved Visa Number Use by Fiscal Year: DOS vs. USCIS



* FYTD2024 is fiscal year to date through May 2024. Data is preliminary and subject to change.

Data Source: DOS

Prepared by: IIUSA



2. Nearly 40,000 EB-5 applicants registered at the NVC and are awaiting an EB-5 visa.

According to the latest data presented by Dr. Hanley (see Table 1 below), as of May 16, 2024, there are 39,775 applicants (including principal investors and family dependents) with approved I-526/E petitions registered at the NVC awaiting an EB-5 visa. The detailed data shared by Dr. Hanley include the number of visa applicants by foreign state of chargeability (FSC), revealing that applicants from China constitute 80% (or 31,627 applicants) of the current EB-5 visa waitlist at the NVC, with India-born applicants representing 5% (or 2,019 applicants).

Table 1: EB-5 Applicants (Investors + Family Dependents) Registered at NVC by Year of Priority Date and by FSC

As of May 16, 2024

FSC	Calendar Year of EB-5 Visa Applicant's Priority Date (Unreserved + Set Aside)										
	Total	2014 & Before	2015	2016	2017	2018	2019	2020	2021	2022	2023
China	31,627	588	8,570	14,590	6,860	604	31			182	202
India	2,019	26		25	131	750	902	4	44	105	32
ROW	6,129	276	57	169	594	1,157	3,414	5	39	319	99
Grand Total	39,775	890	8,627	14,784	7,585	2,511	4,347	9	83	606	333

Data Source: DOS

In addition, the data is also broken down by the year of applicants' priority dates, which is crucial for estimating visa wait time for pre-RIA applicants:

- China:** Over 9,150 applicants with a pre-2015 priority date are waiting at the front of the line at NVC. Most of these applicants should be able to secure their EB-5 visas in FY2024 because they are "current" by the latest EB-5 Unreserved Final Action Date (FAD) for China.² However, given that only 5,800 Unreserved EB-5 visas are available for the remainder of the current fiscal year, it's unlikely that there will be any movement on the China Unreserved FAD in FY2024. Moreover, once the China Unreserved FAD advances to 2016, future

² According to the June 2024 Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2024/visa-bulletin-for-june-2024.html>

movement could be slow, as nearly 14,600 applicants with a 2016 priority date are registered at NVC.

- **India:** More than 1,830 applicants from India with a pre-2020 priority date on NVC’s waitlist, while only 990 Unreserved EB-5 visas are available in FY2024 under the per-country cap. The data indicates that there is unlikely to see any further movements on the India Unreserved FAD in FY2024.

Furthermore, we noticed that there are 969 applicants on the NVC waitlist with a priority date of 2022 and 2023. Dr. Hanley later clarified that these applicants consist of a combination of Unreserved cases and Set-Aside applicants registered at NVC.

Lastly, it’s important to note that Table 1 only represents the EB-5 waitlist at NVC, there are additional 5,700+ EB-5 applicants with pending I-485 applications at USCIS, awaiting the adjustment of their immigration status.³ Moreover, over 11,400 petitions were still pending at USCIS and waiting for the IPO to adjudicate their cases (pre-RIA I-526, post-RIA direct I-526 and I-526E).⁴

3. Over 330 post-RIA investors registered at NVC, encompassing approved Set-Aside petitions for Rural, High Unemployment Area (HUA) and multi-categories.

During the EB-5 Industry Forum, Dr. Hanley shared with the audience that over 330 approved Set-Aside I-526/E cases are registered at NVC for visa processing. After the conference concluded, DOS provided IIUSA with further clarification on the data and more detailed statistics regarding the approved Set-Aside cases at NVC by visa classes (see Table 2 below).

The latest data reveal that there are 334 Set-Aside cases registered at NVC (as of May 16, 2024). These include 64 Rural Area cases, 52 High Unemployment Area (HUA) cases, and 192 cases approved for multiple EB-5 visa categories (i.e., Rural and Unreserved, or HUA and Unreserved). The data also confirm that USCIS has been granting approvals for post-RIA I-526/E cases in both Rural Area and HUA categories, with 19% of approved I-526/E cases for Rural and 16% for HUA. Additionally, 57% of the Set-Aside cases registered at NVC were approved for multiple visa categories (see the “XX” column in Table 2). Investors whose I-526/E cases were approved for

³ See “Pending Applications for Employment-Based Preference Categories as of February 22, 2024” on USCIS website for more details. <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>

⁴ See IIUSA I-526/E Data Dashboard for more details: <https://iiusa.org/i526data/>

multiple categories must choose only one EB-5 category for visa processing (more on this in Takeaway #8). Lastly, the data show that 26 petitioners who received their I-526/E approval for one of the Set-Aside categories have chosen to process their visa under the Unreserved category, most of whom are ROW investors.

Table 2: Approved Set-Aside I-526/E Cases Registered at NVC by EB-5 Visa Class

As of May 16, 2024

FSC	Rural	HUA	XX*	Unreserved	Total	% of Total
China	48	6	107	4	165	49%
India	9	9	26	1	45	13%
ROW	7	37	59	21	124	37%
Grand Total	64	52	192	26	334	100%
<i>% of Total</i>	19%	16%	57%	8%	100%	-

* "XX" cases were approved by USCIS for multiple categories and the principal applicants had not yet chosen one.

Data Source: DOS

In addition, the detailed data also shed light on the country of origin for post-RIA EB-5 investors who have received an approval for their I-526/E petition, showing that Chinese investors represent nearly half (49%) of the total approvals granted by USCIS, while applicants from ROW account for 37% of the approved Set-Aside I-526/E petitions. Excluding the 192 cases that were approved for multiple visa categories, Rural Area cases account for the vast majority of approved I-526/Es filed by Chinese petitioners, while HUA cases dominate the approvals among ROW applicants.

4. Set-Aside EB-5 visas began to be used in FY2024 for both Rural Area and High Unemployment Area (HUA) categories.

Dr. Hanley shared that an interview has been scheduled at the Guangzhou Consulate Office for a Rural Area EB-5 visa case, which means the first Set-Aside EB-5 visa will soon be issued through consular processing, marking a historical moment for the EB-5 industry. Additionally, according to Dr. Hanley, 17 set-aside EB-5 visa numbers have been used in FY2024 via adjustment of status at USCIS, including 13 Rural Area cases and 4 HUA cases.

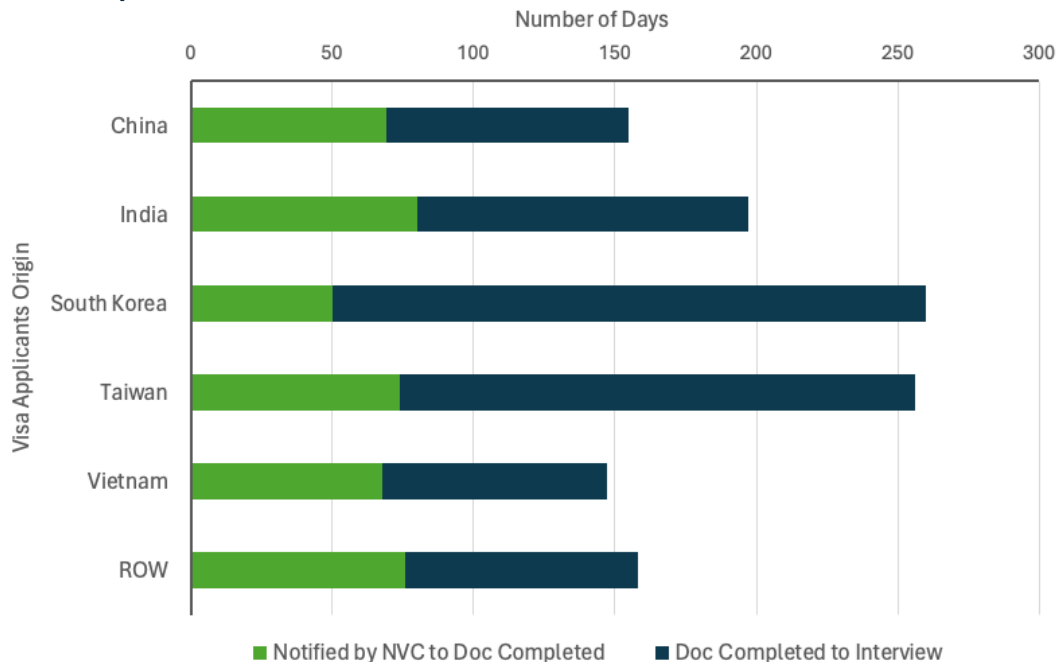
As Table 2 illustrates, over 330 Set-Aside I-526/E cases have received approval from USCIS and are registered at NVC for visa processing. As USCIS continues to accelerate the adjudication of post-RIA I-526/E cases, the usage of Set-Aside visa numbers will continue to grow in FY2024 and beyond.

5. EB-5 applicants are responding more promptly to submit required documents, and the scheduling of EB-5 interviews is faster in FY2024.

According to the data shared by Dr. Hanley, EB-5 visa applicants are submitting their required documents much more quickly once they are notified by the NVC, with a median time of 50-75 days in FY2024 compared to 100-130 days in FY2023. This shorter turnaround time is crucial not only for applicants to be able to schedule their visa interviews faster but also for the DOS to allocate accurate visa numbers and forecast visa demands in the coming months.

Additionally, it takes between 80-120 days for most documentarily completed visa applicants to conduct their visa interviews in FY2024, down from 100-150 days in FY2023. According to Dr. Hanley, the median time at this stage largely depends on the consulate office’s capacity and productivity. Overall, the latest data indicates that, on average, it takes 150-250 days (or approximately 5-8 months) from when an EB-5 case is created at the NVC to when an EB-5 visa number is finally materialized at the consulate office (i.e. interview scheduled).

Figure 2: Median Time of Visa Processing by EB-5 Applicant’s Origin: Documentarily Completed & Interview Scheduled



Data Source: DOS
Prepared by: IIUSA



6. Final Action Dates will remain current for all EB-5 Set-Aside categories during the remainder of FY2024 and likely throughout FY2025.

With more than 8,130 visa numbers available for the set-aside categories this year (5,085 visas for Rural Area, 2,542 for HUA, and 508 for Infrastructure), DOS anticipates keeping the dates current for all Set-Aside categories worldwide for the remainder of FY2024.

In FY2025, at least 6,839 EB-5 visas will be available in the set-aside categories, though Dr. Hanley estimates that actual visa availability will be higher. Although USCIS is accelerating its productivity in adjudicating Set-Aside I-526/E cases, given that, on average, it takes 5-8 months between case creation at NVC and visa issuance (see Figure 2 above), it's expected that no cut-off dates will be required for any Set-Aside categories at least in the first half of FY2025. Whether a FAD is required in the later part of FY2025 will depend on:

- How quickly USCIS adjudicates Set-Aside I-526/E cases and how many of those Set-Aside cases will be approved;
- How promptly applicants submit all required documents and schedule visa interviews when they reach the visa processing stage;
- Which visa category applicants choose for visa processing if they are approved for multiple categories.

Dr. Hanley suggests that all EB-5 stakeholders should pay attention to the note section in the monthly Visa Bulletin. If DOS foresees a need to set a Final Action Date for any or all Set-Aside categories, a warning will be included in the notes section prior to the actual establishment of the cut-off dates.

7. The EB-5 Unreserved cut-off dates for China and India are expected to remain unchanged for the remainder of FY2024.

With sufficient visa demands registered at NVC, DOS expects that the Unreserved Final Action Dates (FAD) for China and India will remain the same for the remainder of FY2024. However, Dr. Hanley shared that there would be some advancement in October for those cut-off dates once additional visa numbers become available in the new fiscal year.

In FY2024, the Unreserved FAD for Chinese applicants has advanced 98 days from October 1 to December 15, 2015. For Indian EB-5 applicants, their Unreserved FAD has moved forward 1,340

days in FY2024, from December 15, 2018, to December 1, 2020. Additionally, the Unreserved EB-5 Dates for Filing (DFF) have advanced 366 days for China and 845 days for India in FY2024.

8. Set-Aside investors with dual approval from USCIS must choose only one category for EB-5 visa processing.

One of the most significant updates provided by Dr. Hanley during the conference was the requirement for principal investors who received approval from USCIS for multiple visa categories must choose only one category for visa processing. Table 2 (see page 5) illustrates that 192 I-526/E cases were approved for multiple visa categories by USCIS. These applicants are instructed in NVC's "Welcome Letter" to select only one visa category for their interview.

We have observed that some post-RIA I-526E petitions were approved by USCIS for both Set-Aside (i.e., Rural Area or HUA) and Unreserved categories. For these applicants, they must choose either the Rural Area/HUA or the Unreserved category for their visa interview. Depending on the applicant's nationality and the EB-5 cut-off date of the corresponding category (if any), they should select the category most beneficial for their visa processing. For instance, ROW applicants with approval for both Set-Aside and Unreserved categories may choose to process their EB-5 visa under the Unreserved category because it's unlikely there will be a cut-off date for the EB-5 Unreserved for ROW in the foreseeable future. However, for applicants from China or India, it could be more advantageous for them to select the Set-Aside category for their visa processing due to the current backlog in the Unreserved category for these two countries.

Dr. Hanley urges visa applicants to pay close attention to the monthly Visa Bulletin since there will be a warning in the notes section if there is a need to establish a Final Action Date for Set-Aside categories at least a few months before such a cut-off date is imposed. Additionally, according to Dr. Hanley, qualified applicants "may hold off on selecting (and/or changing) their category until they become documentarily complete."

9. EB-5 petitions are now transmitted electronically between USCIS and NVC, significantly reducing the turnaround time for inter-agency processing.

Dr. Hanley also shared the welcoming news that newly approved EB-5 cases by USCIS are now processed and transmitted to NVC electronically, potentially taking as few as four business days

under this upgraded system. The faster turnaround time is critical to shorten processing delays and ensure that qualified applicants are notified much faster to submit all required documentation and proceed to secure their EB-5 visas.

In the past, approved I-526 petitions were required to be mailed and shipped between USCIS and NVC, resulting in additional delays in visa processing due to shipping time and paper-based data entry. The upgraded electronic processing system will help reduce processing delays and increase accuracy and efficiency for visa number allocation and processing.

10. Carryover visa numbers will be utilized prior to regular EB-5 visa numbers to maximize visa availability.

Dr. Hanley discussed that when issuing reserved EB-5 visas, the State Department will prioritize the use of carryover visa numbers *before* starting to use the regular EB-5 numbers newly available each year from the annual limit. For example, in FY2024, a total of 8,136 visas are available for Set-Aside categories, including 4,478 carryover visas from FY2023 and 3,658 visa numbers newly allocated in FY2024. When the DOS begins issuing visas to applicants under the Set-Aside categories, they will initially utilize the 4,478 carryover visa numbers. Only if the number of carryover visas proves insufficient to meet demand will the 3,658 'regular' EB-5 visas be used. In such a scenario, DOS can allow the highest number of Set-Aside visas to be carried over to the next fiscal year, thereby maximizing visa availability.



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