

Exhibit A



William P. Gresser,
President
Noreen Hogan,
Vice President
Adam Greene,
Secretary-Treasurer
Aaron L. Grau,
Executive Director

Christine Chen, Director
Eren Cicekdagi, Director
Roberto Contreras IV, Director
Lulu Gordon, Director
Daniel J. Healy, Director
Mariza McKee, Director
David Souders, Director
Cletus M. Weber, Director
Dan Wycklendt, Director

K. David Andersson, President Emeritus
Robert Kraft, President Emeritus
Stephen Yale-Loehr, President Emeritus
Robert C. Divine, Director Emeritus
Patrick F. Hogan, Director Emeritus
Henry Liebman, Director Emeritus
Tom Rosenfeld, Director Emeritus
Stephen Strnisha, Director Emeritus

VIA FIRST

March 27, 2024

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P. O. Box 648010
Lee's Summit, MO 64064-8010

RE: Freedom of Information Act Request Records Relating to the Immigrant Investor Program Office's Source of Funds from Unlawful Entities Working Group

Dear FOIA Officer:

On behalf of Invest in the USA (IIUSA), I, Ashley Sanislo Casey, as Director of Education and Professional Development, submit this request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et. seq.*

Background

Under the EB-5 Program, 8 U.S.C. § 1153(b)(5), foreign investors can obtain lawful permanent residency in the United States if they invest substantial capital in a job-creating business. Obtaining full permanent residency in the United States through the EB-5 Program involves several steps. First, the investor must file Form I-526 with USCIS's Immigrant Investor Program Office ("IPO"). See 8 C.F.R. § 204.6(a). If the I-526 petition is approved, the investor must then apply for adjustment of status with USCIS, or seek an immigrant visa from the State Department abroad. Upon a grant of adjustment of status or entry to the United States on an EB-5 visa, the investor and his or her dependents obtain lawful permanent residence on a conditional basis. Finally, within the 90-day period preceding the investor's two-year anniversary of obtaining conditional residency, the investor must file Form I-829 with the IPO to remove the conditions on the investor's permanent residency. See *generally* 8 C.F.R. § 216.6.

Under regulations governing I-526 petitions, any assets "acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital" for purposes of Section 203(b)(5) of the INA. 8 C.F.R. § 204.6(e) (definition of "capital"). As such, at the I-526 petition stage, an investor must submit certain evidence defined by USCIS regulation "[t]o show that the petitioner has invested, or is actively in the process of investing, capital obtained through lawful means." *Id.* § 204.6(j)(3). At the I-829 petition stage, USCIS may deny an I-829 petition based on the investor's source of funds only if "it becomes known to the government that the investor obtained his or her investment funds through other than legal means." 8 C.F.R. § 216.6(c)(2). EB-5 petitions are adjudicated by USCIS's Immigrant Investor Program Office.

A prior FOIA request, moreover, revealed that the IPO established a "Source of Funds from Unlawful Entities Working Group" that has drafted policies regarding the "handling of cases with sources of funds from unlawful companies, and more specifically, technology companies on our radar." **Exhibit A.** Other documents show that among these technology companies that USCIS is specifically targeting is Huawei Technology Co. Ltd. ("Huawei")—the world's largest telecommunications manufacturer—and its subsidiaries. **Exhibit B.** This is consistent with the experience of attorneys who represent

investors in EB-5 cases, who report I-829 petition denials alleging that employment income sourced from Huawei and/or its subsidiaries is not lawfully sourced income.

RECORDS SOUGHT

We hereby request all *records*¹ which were prepared, created, received, transmitted, collected and/or maintained by U.S. Citizenship and Immigration Services Immigrant Investor Program Office (“IPO”) between January 1, 2019, and the present that relate to the following:

1. The IPO’s Source of Funds from Unlawful Entities Working Group, including but not limited to any guidance involving sources of funds “from unlawful entities.”
2. IPO policies and procedures for adjudicating EB-5 petitions involving funds sourced from technology companies, including Chinese technology companies.
3. EB-5 capital sourced from foreign technology companies, including but not limited to Huawei Technologies Co., Ltd. and its subsidiaries.
4. Guidance received by the IPO from other federal agencies or executive branch offices regarding scrutiny specific to China or Chinese investors.
5. IPO policies or procedures specific to EB-5 funds sourced from Chinese corporations.

* * *

Please construe this as an ongoing FOIA request, so that any records that come within the possession of the agency be considered within the scope of the request until a proper and adequate search is conducted.

REQUEST FOR WAIVER OF FEES

We ask that the agency waive all fees associated with this FOIA request. Such a waiver is warranted because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k). In addition, Invest in the USA (IIUSA) will widely disseminate the requested information. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

Disclosure of the information is in the public interest. Disclosure of the requested information will contribute significantly to public understanding of government operations and activities surrounding USCIS adjudication of immigration benefits relating to employment-based fifth preference (EB-5)

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to affidavits, correspondence, directives, documents, data, videotapes, audiotapes, minutes of meetings, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, sworn statements, technical manuals, training manuals and materials, technical specifications, training materials or studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

immigrant investors. In particular, many foreign investors who have immigrated to the United States through the EB-5 Program using capital sourced from lawful employment find their status cast in doubt by USCIS's recent policies and practices on funds sourced from foreign technology companies. These policies are of immense public concern, and the disclosure of the requested records will help inform public debate about these issues. Further, release of this information will significantly advance the general public's understanding of USCIS policies and procedures regarding the adjudication of EB-5 investor petitions.

Please note further that IIUSA is a 501(c)(6) not-for-profit trade organization comprised of USCIS designated Regional Center members who manage, operate, and promote employment-creating investment into specified regional areas of the United States. As such IIUSA and its members have a vital interest in the information sought in this Freedom of Information Request.

As a trade organization we have no interest in the personal information pertaining to beneficiaries or petitioners. Rather we have a vested interest in the various issues arising in connection with Regional Center affiliated applications and petitions. The purpose of this request is to advance and maintain Regional Center industry standards and best practices.

Please feel free to contact me with any questions. Thank you for your assistance.

Please feel free to contact me with any questions at ashley.casey@iiusa.org or 202-795-9664. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ashley Casey". The signature is written in a cursive, flowing style.

Ashley Sanislo Casey
IIUSA Director of Education & Professional Development

Exhibit A

From: [IPO-Clearance](#)
Subject: For your review: SOF from Unlawful Entities (Due: 9/1)
Date: Friday, August 19, 2022 12:23:28 AM

Good afternoon Team,

The [Source of Funds from Unlawful Entities](#) draft policy is ready for your review by **COB Thursday, September 1st**.

Summary: The Source of Funds from Unlawful Entities Working Group has drafted policy regarding the handling of cases with sources of funds from unlawful companies, and more specifically, technology companies on our radar. However, this is to provide a base framework to address those and other bad actors involved in varying types of unlawful activity to include those entities highlighted in IPO and FDNS' trainings, Round Table discussions and National Security trainings.

Thank you,

The ICL Team

Exhibit B

Department of State (DOS) Consular Consolidated Database (CCD)



CCD Checks for USCIS Adjudications

Form I-526, Immigrant Petition by Alien Investor

April 25, 2021

Law Enforcement Sensitive//Unclassified

Employment: Example 6 of 13

(b)(6)

Present Employer or School Name:

Address:

City:

State/Province:

Postal Zone/Zip Code:

Country/Region:



Employment: Huawei HQ

Law Enforcement Sensitive//Unclassified

Employment: Example 7 of 13

(b)(6)

Present Work/Education/Training	
Primary Occupation:	
Present Employer or School Name:	
Address:	
City:	
State/Province:	
Postal Zone/Zip Code:	
Country/Region:	
Month Salary in Local Currency:	
Briefly Describe your Duties:	



Employment: Huawei HQ, management role

Law Enforcement Sensitive//Unclassified

Employment: Example 8 of 13

(b)(6)

Present Work/Education/Training	
Primary Occupation:	
Present Employer or School Name:	
Address:	
City:	
State/Province:	
Postal Zone/Zip Code:	
Country/Region:	



Employment: Huawei subsidiary in the United States

Law Enforcement Sensitive//Unclassified

Resources

- **Management Directive 214-001 re CCD access and checks**
- **Department of State Form DS-160 Exemplar**
- **China Defense University Tracker from Australian Strategic Policy Institute (also noted in IPO FDNS Screening training)**
- **Mapping China's Tech Giants**
- **DOJ China Initiative & Related Prosecutions**
- **<https://ccdi.state.osis.gov/docs/Training/index.htm>**

Feedback

Questions?
Comments?