

Minutes of October 14, 2022 EB-5 Quarterly Meeting

The following are minutes from the quarterly meetings scheduled from settlement in *Behring Regional Center LLC and IIUSA v. Mayorkas, et al.*, 3:22-cv-2487 and *EB5 Capital, et al. v. Dept. of Homeland Security, et al.*, 3:22-cv-3948.

- All regional centers approved before the enactment of the RIA and not subsequently terminated are in good standing pursuant to Settlement Agreement II A.
- Regional centers that filed a Form I-956 prior to the effective date of the settlement may seek any additional amendments permitted by said form, including amendments to the regional center name, organizational structure, ownership, administration, or geographical boundaries. These amendments will be accepted as if they were part of the original I-956 filing. Specifically, with respect to geography, USCIS will accept an amendment to the I-956 to expand the geographic scope to larger than what was originally requested if the regional center wishes to amend the I-956 for such purpose. USCIS confirms that a response to a courtesy Request for Clarification is sufficient to supplement the I-956 as of the original filing date, including to request the geographic scope that was approved prior to the RIA if a smaller area was requested in the I-956.
- USCIS has not yet decided whether it will take the position that RIA requirements, such as fund administrators and audits, apply to pre-RIA projects. USCIS will consider stakeholders' written position paper on this issue in accordance with existing channels of communication and in compliance with Section 107 of the RIA.
- USCIS will accept input on the issue of whether the I-956G filing requirement should be deferred to December 2023 based on input from Stakeholders that much of the information is duplicative with the I-956 being filed in December 2022. Input will be provided in accordance with existing channels of communication and in compliance with Section 107 of the RIA.
- USCIS has not determined what will happen to regional centers that choose not to file Form I-956. Specifically, it has not decided whether such regional centers will be terminated, whether they will have to file I-956H, whether they will have to file annual statements, or whether any of the RIA requirements apply to them. They will accept our written position paper on these issues in accordance with existing channels of communication and in compliance with Section 107 of the RIA.
- USCIS confirms that Form I-526E filings do not need to include any project-related documents.
- USCIS will look into the issue of rejection of concurrent I-485 filings by the lockbox and hopefully get any mistakes corrected. Any affected individuals are invited to send examples of such rejections.

- USCIS contractors are not presently inclined to implement a procedure to allow for return overnight courier envelopes for any EB-5 filings.
- We discussed the various I-956 forms as they related to the settlement. USCIS will consider stakeholder concerns and comments based on our official APA comment to be filed during the notice and comment period. The industry expressed its concern that USCIS is interpreting the “persons involved” statutory language too expansively in both the I-526E and I-956H.
- USCIS will address its position whether the I-956K should be filed now before the form is final.