



U.S. Citizenship
and Immigration
Services

(b)(4)

DATE: JUL 09 2015

FILE #: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Regional Center Under the Immigrant Investor Pilot Program Pursuant to Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. No. 102-395, 106 Stat. 1874 (1992).

ON BEHALF OF APPLICANT:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Chief, Immigrant Investor Program, denied the Application for Regional Center Under the Immigrant Investor Pilot Program (Form I-924). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant filed Form I-924 seeking designation by the United States Citizenship and Immigration Services (USCIS) as a regional center for the [REDACTED], pursuant to section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. No. 102-395, 106 Stat. 1828 (1992), as amended by section 116 of Pub. L. No. 105-119, 111 Stat. 2440 (1997); section 402 of Pub. L. No. 106-396, 114 Stat. 1637 (2000); section 11037 of Pub. L. No. 107-273, 116 Stat. 1758 (2002); section 4 of Pub. L. No. 108-156, 117 Stat. 1944 (2003); and section 1 of Pub. L. No. 112-176, 126 Stat. 1325 (2012) (1993 Appropriations Act). The applicant seeks regional center designation based on a hypothetical project to fund the development, construction, and operation of a luxury spa resort and condominium at [REDACTED] within [REDACTED], Washington.¹

The chief denied the application, determining that the applicant did not submit a business plan for the regional center or provide any evidence of the regional center's administrative oversight. On appeal, the applicant submits a brief with additional documentation.

I. THE LAW

Section 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(5), as amended by Pub. L. No. 107-273, 116 Stat. 1758 (2002), provides classification to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise:

¹ The regional center proposal is not based on an actual project and does not include an exemplar Immigrant Petition by Alien Entrepreneur (Form I-526). Page 14 of *EB-5 Adjudications Policy*, PM-602-0083 (May 30, 2013), provides:

The level of verifiable detail required for a [regional center proposal] to be approved and provided deference may vary depending on the nature of the [regional center proposal]. If the [regional center proposal] projects are "hypothetical" projects, general proposals and general predictions may be sufficient to determine that the proposed regional center will more likely than not promote economic growth, improved regional productivity, job creation, and increased domestic capital investment.

The record contains a general proposal based on broad predictions concerning the kinds of commercial enterprises that will receive capital, the direct and indirect jobs that would be created as a result of such capital investments based on [REDACTED] data and multipliers, and other positive economic effects.

- (i) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and
- (ii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

Section 610(a) of the Departments of Justice and Related Agencies Appropriations Act, 1993, as amended, provides in pertinent part:

Of the visas otherwise available under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. § 1153(b)(5)), the Secretary of State, together with the Secretary of Homeland Security, shall set aside visas for a program to implement the provisions of such section. Such program shall involve a regional center in the United States, designated by the Secretary of Homeland Security on the basis of a general proposal, for the promotion of economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment. A regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result of such capital investments, and the other positive economic effects such capital investments will have.

I. ANALYSIS

A. The Regional Center's Business Plan

The regulation at 8 C.F.R. § 204.6(m)(3) requires the regional center applicant to submit a detailed proposal for the regional center rather than a general or hypothetical proposal. For instance, the proposal must clearly describe how the regional center focuses on a geographical region of the United States and how it will promote economic growth through increased export sales, improved regional productivity, job creation, and increased domestic capital investment. 8 C.F.R. § 204.6(m)(3)(i). In addition, the proposal must provide in verifiable detail how jobs will be created directly through increased exports. 8 C.F.R. § 204.6(m)(3)(ii). Furthermore, the proposal must provide a comprehensive statement regarding the amount and source of capital which has been committed to the regional center, as well as a description of the promotional efforts taken and planned by the sponsors of the regional center. 8 C.F.R. § 204.6(m)(3)(iii). Moreover, the proposal must contain a thorough prediction regarding the manner in which the regional center will have a

positive impact on the regional or national economy in general. 8 C.F.R. § 204.6(m)(3)(iv). Finally, the proposal must be supported by economically or statistically valid forecasting tools. 8 C.F.R. § 204.6(m)(3)(v).

At the initial filing of Form I-924 on January 23, 2012, the applicant submitted a document entitled '[REDACTED]', which pertained to the spa and resort project of the regional center but did not reflect a specific business plan for the regional center. The regional center is a distinct and separate organization from the proposed project, and on April 22, 2013, the Director, California Service Center, issued a request for evidence (RFE), in part, notifying the applicant that a request for regional center designation should contain at least two business plans – one for the regional center's operational plan and one for a hypothetical, actual, or exemplar business plan for a project in each of the defined target industries in the proposal. The director requested the applicant to submit an operational plan for the regional center showing the amount of funds that have been dedicated to the regional center; the source of those funds and how the amount of funds is sufficient to sustain the regional center; and the past, current, and future promotional activities for the regional center including a description of the budget and source of funds for those activities. In addition, the director informed the applicant that a regional center must have sufficient capital to operate in the manner outlined in the proposal from sources apart from the immigrant investors' required capital investment.

In response to the RFE, the applicant submitted a revised [REDACTED] dated July 11, 2013, that also pertained to the spa and resort project of the regional center but did not reflect a specific business plan for the regional center.² The chief denied Form I-924 on November 12, 2014, in part, because the applicant did not submit an operational plan for the regional center as required by the regulation at 8 C.F.R. § 204.6(m)(3). Specifically, the chief determined that the applicant: did not demonstrate how the regional center will identify, assess, and evaluate proposed investor projects, activities, and enterprises; did not establish that the regional center had sufficient capital to operate; and did not demonstrate the promotional activities for the regional center.

On appeal, the applicant submits a two-page document entitled, '[REDACTED]', the previously submitted [REDACTED] dated January 6, 2014, and asserts in the brief that "[t]he [REDACTED] being provided is exactly the same as the copy provided to USCIS in the original filing almost three years ago despite further development during that time of the details discussed therein." A review of the record does not reflect that the applicant submitted this document at either the initial filing of the petition or at any time prior to the filing of the brief for this appeal. Therefore, we will review the document for the first time on appeal to determine if it complies with the requirements of the regulation at 8 C.F.R. § 204.6(m)(3).

² The director also issued a notice of intent to deny the petition on December 12, 2013, regarding other issues. In response, the applicant submitted another revised [REDACTED], dated January 6, 2014, that only related to the spa and resort project.

Page two of the [REDACTED] states that [REDACTED], President, and [REDACTED] Vice President, will “ensure that all necessary oversight is performed” such as “identifying, assessing and evaluating proposed immigrant investor projects and enterprises.” The [REDACTED] restates the language in the chief’s decision without providing specific information such as providing details on the manner in which the proposed projects or enterprises will be identified, assessed, and evaluated by the president and vice president. The [REDACTED] offers no evidence, for example, of established protocols or procedures that will be used to evaluate proposals. The lack of specific information does not overcome the chief’s decision on this issue.

Moreover, the chief found that the applicant did not establish the amount of funds that have been dedicated to the regional center, how the regional center will be financed, and how much capital is required to sustain the regional center. The applicant asserts in the brief that the [REDACTED] indicated that the regional center is seeking \$17,000,000 in foreign investor funds to complete and operate the spa and condominium project for three years. However, the January 6, 2014, [REDACTED] relates to a hypothetical project within the regional center. The record does not contain evidence of any monies that have been allocated to operate the regional center, how the regional center will be funded, and how much financing is needed to sustain the regional center. In addition, the [REDACTED] exclusively relates to the spa and condominium project; investor funds cannot be used to finance, operate, and sustain the regional center. For all of these reasons, the applicant has not overcome the chief’s decision on these issues.

Finally, the chief determined that the applicant did not establish any past, current, and future promotional activities for the regional center, including a description of the budget for the promotional activity and how the funds have or will be used for these activities. The applicant’s brief states that the [REDACTED] addresses the promotional activities of the spa and resort project while the [REDACTED] addresses the full budget for the marketing of the spa and resort project. According to page two of the [REDACTED], in 2007 the [REDACTED] contacted the applicant “regarding a different immigration project that was not feasible” and since then the [REDACTED] has put it “into contact with many potential investors who are interested in investing into an EB-5 project.” Further, the [REDACTED] asserts that since 2007 the applicant has “occasionally advertised (once or twice per year) in two [REDACTED] Korean weekly papers” – [REDACTED] and [REDACTED]. In addition, the [REDACTED] asserts that in 2008 the applicant “hosted a meeting which 20 people from the Korean community attended” and “[a] 40-page informational brochure was distributed to the attendants.” Moreover, the [REDACTED] states that “[t]here are currently no promotional activities going on to attract investors to this project” and regarding any future promotional efforts, the applicant “will be working closely with the above-mentioned groups to market this project to foreign nationals.”

The applicant did not submit any documentary evidence to support its assertions. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)). The applicant did not submit any evidence of communication with investors from [REDACTED] the applicant did not submit copies of the advertisements in [REDACTED] or [REDACTED] and the

applicant did not submit the 40-page informational brochure. Further, as indicated above, the [REDACTED] asserts that it has occasionally advertised since 2007 and hosted a meeting in 2008; however, according to page three of Form I-924 and the certificate of incorporation submitted by the applicant, [REDACTED] was not established until [REDACTED]. It is unclear as to how [REDACTED] could have promoted itself since 2007 when it was not established until [REDACTED]. Inconsistencies in the record must be resolved by independent, objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless competent, objective evidence is submitted pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Nonetheless, the [REDACTED] relates to the promotional activities of the spa and resort project rather than any promotional activities of the regional center. The [REDACTED] indicates that the applicant is not currently promoting the spa and resort project, and there is no mention of any current or future promotional activities for the regional center. Moreover, the [REDACTED] makes no mention of any budget for the regional center's promotional activity and how that activity will be funded. The applicant has not demonstrated the efforts taken to promote the regional center. Therefore, the applicant has not overcome the chief's decision on this issue.

Accordingly, for the reasons stated above, the applicant has not provided a sufficiently detailed statement regarding the amount and source of capital that has been committed to the regional center, as well as a description of the promotional efforts taken and planned by the regional center pursuant to the regulation at 8 C.F.R. § 204.6(m)(3).

B. Administrative Oversight

To ensure that a regional center continues to meet the requirements of section 210(a) of the Appropriations Act, as amended, the regulation at 8 C.F.R. § 204.6(m)(6) requires that the regional center provide USCIS with updated information by filing Form I-924A Supplement (Form I-924A) to demonstrate that the regional center continues to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

The chief determined that the applicant did not submit any evidence of administrative oversight to determine the regional center's ability to monitor the immigrant investment activities in a manner that would allow the regional center to be fully responsive to the yearly information collection requirements of Form I-924A. The applicant's brief states that the [REDACTED] "makes clear that the procedures have been laid out for [REDACTED] to comply with the requirements of 8 CFR [§] 204.6(m)(6)."

As indicated above, page two of the [REDACTED] indicates that the president and vice president will "ensure that all necessary oversight is performed." In addition, the [REDACTED] asserts that the president and vice president will hire bookkeepers, outside accountants, and a certified public account (CPA) to prepare income and tax documents. Further, the [REDACTED] asserts that although no firms have been retained for any of these purposes, it has been "in regular contact with many capable bookkeepers, accountants, and CPA's in and around the [REDACTED]."

The [REDACTED] does not include specific, credible information as to how the applicant will collect information to perform the administrative oversight of the regional center. There is no indication of any budgeted funds to pay for the employment of financial consultants and employees or any other overhead costs and staffing needs. Although the [REDACTED] makes general statements, it does not explain how it will monitor regional productivity, job creation, and domestic capital investment.

Accordingly, for the reasons stated above, the applicant has not established that the regional center would be able to comply with the yearly reporting requirements set forth at 8 C.F.R. § 204.6(m)(6).

II. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

ORDER: The appeal is dismissed.