

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Immigrant Investor Program
131 M Street, NE, MS 2235
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

TO:

Greystone EB-5 Southeast RC, LLC
C/O Allison Berman
152 West 57th St., 60th Floor
New York, NY 10019

DATE: April 13, 2018

Application: Form I-924

File Number: RCW1215650675

RCID: ID1215650675

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Greystone EB-5 Southeast RC, LLC (the "Regional Center") as a regional center under the Immigrant Investor Program (the "Program") pursuant to Title 8 of the Code of Federal Regulations ("8 C.F.R.") section 204.6(m)(6). The reasons for the termination are explained, below:

(SEE ATTACHED)

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS
P.O. Box 660168
Dallas, TX 75266

If using USPS Express Main/Courier:

USCIS
Attn: I-290B
2501 S. State Highway 121 Business
Suite 400
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090

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For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at www.uscis.gov.

Sincerely,



Julia L. Harrison

Acting Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on February 16, 2018

cc: Robert C. Divine
Baker Donelson Bearman Caldwell & Berkowitz, P.C.
633 Chestnut St., Suite 1900
Chattanooga, TN 37450

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
Greystone EB-5 Southeast RC, LLC

The regulation at 8 C.F.R. § 204.6(m)(6) (*Continued participation requirements for regional centers*) provides:

(i) Regional centers approved for participation in the program must:

(A) Continue to meet the requirements of section 610(a) of the Appropriations Act.

(B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and

(C) Pay the fee provided by 8 CFR 103.7(b)(1)(i)(XX).

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

(A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(iii) A notice of intent to terminate the designation of a regional center will be sent to the regional center and set forth the reasons for termination.

(iv) The regional center will be provided 30 days from receipt of the notice of intent to terminate to rebut the ground or grounds stated in the notice of intent to terminate.

(v) USCIS will notify the regional center of the final decision. If USCIS determines that the regional center's participation in the program should be terminated, USCIS will state the reasons for termination. The regional center may appeal the final termination decision in accordance with 8 CFR 103.3.

(vi) A regional center may elect to withdraw from the program and request a termination of the regional center designation. The regional center must notify USCIS of such

election in the form of a letter or as otherwise requested by USCIS. USCIS will notify the regional center of its decision regarding the withdrawal request in writing.

I. Procedural History

On August 6, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On February 16, 2018, USCIS issued a Notice of Intent to Terminate ("NOIT") to the Regional Center which afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. On March 23, 2018, USCIS received a response to the NOIT (the "NOIT Response"), which did not sufficiently address the grounds alleged in the NOIT. Accordingly, USCIS has determined that the Regional Center's participation in the Program should be terminated. Pursuant to 8 C.F.R. § 204.6(m)(6)(v) and through this Notice of Termination, USCIS hereby terminates the Regional Center's participation in the Program.

II. Reasons for Termination

USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment as required by 8 C.F.R. § 204.6(m)(6).

A. Failure to Continue to Serve the Purpose of Promoting Economic Growth

Regional centers are designated for the promotion of economic growth and must continue to meet the requirements of section 610(a) of the Appropriations Act as amended, and promote economic growth in a manner that does not conflict with requirements for classification under section 203(b)(5) of the Immigration and Nationality Act ("INA"), removal of conditions on lawful permanent residence under section 216A of the INA, and implementing regulations following their designation. According to section 610(a) of the Appropriations Act, economic growth includes increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *See also* 8 C.F.R. § 204.6(m)(6)(ii) ("USCIS will issue a notice of intent to terminate the designation of a regional center in the program if . . . USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.").

The reasons why a regional center may no longer serve the purpose of promoting economic growth are varied and "extend beyond inactivity on the part of a regional center." 75 FR 58962. For example, depending on the facts, a regional center that takes actions that undermine investors' ability to comply with EB-5 statutory and regulatory requirements such that investors cannot obtain EB-5 classification through investment in the regional center may no longer serve the purpose of promoting economic growth. *See* Section 610(a)-(b) of the Appropriations Act (stating that one purpose of a regional center is to concentrate pooled investment in defined economic zones and accomplishing such pooled investment by setting aside visas for aliens classified under INA 203(b)(5)). Likewise, a regional center that fails to

engage in proper monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the Program and its authorities.

When derogatory information arises (such as evidence of inaction, mismanagement, theft, or fraud by the regional center or related entities), USCIS weighs all relevant factors in the totality of the circumstances to determine whether the regional center is continuing to serve the purpose of promoting economic growth. Such factors may include the seriousness of the derogatory information, the degree of regional center involvement in the activities described in the derogatory information, any resulting damage or risk imposed on investors and the economy, as well as any mitigating, corrective, or restorative actions taken or forthcoming to redress the situation.

USCIS has considered all evidence in the record, including evidence provided in response to the NOIT, “for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence,” in determining whether the Regional Center’s continued participation is justified under the regulations by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). For the reasons set forth below, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

1. Lack of Regional Center Activity

As noted in the NOIT, the Regional Center’s Form I-924A filings for fiscal years 2013, 2014, 2015, 2016, and 2017 do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on August 6, 2013, the Form I-924A filings do not report any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Greystone EB-5 Southeast Regional Center.

In the NOIT Response, the Regional Center provided the following evidence:

- Letter from Abteen Vaziri, Director of Greystone EB-5;
- Exhibit 1 – Accounting Ledger of All Economic Analysis and TEA Designation Checks that Greystone EB-5 has performed on Projects in California and Nevada;
- Exhibit 2 – I-924 Exemplar Receipt Notice for Fallbrook, California, “GS EB5 Mezz I LLC”;
- Exhibit 3 – Investor I-526 Filing Summary for all Greystone projects;
- Exhibit 4 – I-924 Exemplar Project Approval for Fallbrook Project “GS EB5 Mezz LLC”;
- Exhibit 5 – I-924 Exemplar Receipt Notice for Fallbrook, California Project, “GS EB5 III LLC”;
- Exhibit 6 – Greystone Corporate Profile Q1 2018;

- Exhibit 7 – I-924 Exemplar Receipt Notice for East Harlem Project “GS EB5 II LLC”;
- Exhibit 8 – I-924 Exemplar Project Approval for East Harlem Project, “GS EB5 II LLC”;
- Exhibit 9 – I-924 Exemplar Receipt Notice for Astoria Queens Project, “GS EB5 VI LLC”;
- Exhibit 10 – I-924 Exemplar Receipt Notice for South Beach Miami Project “GS EB5 V LLC”;
- Exhibit 11 – I-924 Exemplar Receipt Notice for Seattle Project “GS EB5 IV LLC”;
- Exhibit 12 – I-924 Request for Evidence for Seattle Project “GS EB5 IV LLC”;
- Exhibit 13 – I-924 Exemplar Project Approval for Seattle Project “GS EB5 IV LLC”;
- Exhibit 14 – Representative communication regarding project development in Los Angeles and Las Vegas;
- Exhibit 15 – EB-5 Expense Summary Reflecting Expenses for EB-5 development efforts in Fallbrook, Los Angeles, and Miami; and
- Exhibit 16 – Business Plan for The Lakes of Clermont, Representative Skilled Nursing Facility Project in development in Florida.

In responding to the lack of Regional Center activity, Greystone EB-5 mentions four exemplar projects that have used third-party regional center sponsorship, claiming that Greystone EB-5’s support of such projects is evidence of Greystone’s promotion of economic activity. However, none of these projects were located within Greystone EB-5 Southeast RC’s approved geographic area. The NOIT Response did not provide a credible explanation as to why the economic activity of other regional centers across the country should be considered as evidence in determining Greystone EB-5 Southeast RC’s promotion of economic growth and job creation.

The NOIT Response claims Greystone EB-5 Southeast RC has other projects “in the pipeline being prepared to bring into market” and provides a business plan for the development of a nursing facility in Clermont, Florida. However, Greystone EB-5 Southeast RC has not submitted any amendments to USCIS for these projects or provided any evidence that the development of these projects has begun, suggesting that these projects have not advanced past the conceptual stage. Therefore, the Regional Center has not established that it is more likely than not that any of these projects will create jobs and promote economic growth. The one amendment filed by Greystone EB-5 Southeast RC seeking exemplar project approval was subsequently withdrawn by the Regional Center on March 19, 2018.

The NOIT Response also provides communications and invoices regarding Greystone EB-5 network’s other project development efforts in Los Angeles and Las Vegas. However, none of these projects were to be sponsored by Greystone EB-5 Southeast RC specifically or were located within Greystone EB-5 Southeast RC’s approved geographic area. Additionally, despite providing these communications and

invoices for the development of these projects, Greystone EB-5 admits that the projects “ultimately did not result in a final exemplar project or I-526 filing.” As the NOIT stated, simply conducting due diligence and engaging in communications regarding possible projects is not sufficient for demonstrating a regional center’s ability to promote economic growth or develop viable projects in the future.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

2. Insufficient Regional Center Activity Due to Lack of Progress

As described in the NOIT, the Regional Center’s failure to adhere to its own benchmarks has resulted in considerable doubt being cast on the on the ability of its projects to result in job creation as represented.

In the NOIT Response, the Regional Center provided the following evidence:

- Letter from Abteen Vaziri, Director of Greystone EB-5;
- Exhibit 10 – I-924 Exemplar Receipt Notice for South Beach Miami Project “GS EB5 V LLC”; and
- Exhibit 15 – EB-5 Expense Summary Reflecting Expenses for EB-5 development efforts in Fallbrook, Los Angeles, and Miami.

The NOIT Response states that “under the GS EB-5 Southeast RC, LLC, Greystone EB-5 has promoted economic activity by evaluating several projects and filing an exemplar petition for a Hotel and Retail project in South Beach, Miami, Florida.” Although the Regional Center submitted an exemplar petition on December 8, 2016 (RCW1634354641), USCIS issued a Notice of Intent to Deny the project on February 16, 2018 after determining the Regional Center did not meet any of the construction milestones for the project. On March 19, 2018, Greystone EB-5 Southeast RC, LLC withdrew the I-924 Application for exemplar I-526 approval. Therefore, Greystone EB-5 Southeast RC cannot claim the economic and job creating benefits of a project they are no longer sponsoring as evidence that the Regional Center continues to promote economic growth.

As a result of the Regional Center’s failure to adhere to its own benchmarks and subsequent the withdrawal of its exemplar amendment, considerable doubt has been cast on the ability of its projects to result in job creation as represented and USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth.

III. Conclusion

For the reasons described above and set forth in the NOIT and pursuant to 8 C.F.R. 204.6(m)(6), USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth and hereby terminates the Regional Center's participation in the Program.

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

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Dallas, TX 75266

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USCIS
Attn: I-290B
2501 S. State Highway 121 Business
Suite 400
Lewisville, TX 75067

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