



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

**TO:**

Nevada Development Fund LLC  
Frank Yang  
701 Owhanee Ct  
Fremont, CA 944539

**DATE:** July 12, 2018

**Application: Form I-924**

**File Number: RCW1236250926**

**RCID: ID1236250926**

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Nevada Development Fund 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

Nevada Development Fund LLC - **Designation Terminated**

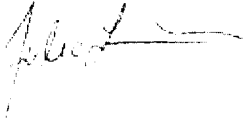
ID1236250926

RCW1236250926

Page 2

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](http://www.uscis.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Julia L. Harrison", with a long horizontal flourish extending to the right.

Julia L. Harrison

Acting Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions

(2) Notice of Intent to Terminate issued on March 14, 2018

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**Nevada Development Fund 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 September 17, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On March 14, 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 April 24, 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. 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.

Although the Regional Center submitted an exemplar petition on November 16, 2015 (RCW1532053439) for an Oakley, California assisted-living facility, the evidence in the record was insufficient for USCIS to determine that the project had advanced past the conceptual stage. Specifically, the record did not contain any evidence that the appropriate permits and licenses had been obtained in order to begin work on the project. In addition, the lack of permits and contracts was further undermined by the project development timeline on page 8 of the business plan, which did not contain actual dates, projected milestones for implementation of project goals, or the ultimate completion of the project. USCIS issued a Notice of Intent to Deny the amendment on March 12, 2018.

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

- Letter from Frank Yang, principal of the Nevada Development Fund, LLC;
- Exhibit 1 -- Proposed Financial Plan;
- Exhibit 2 -- Economic Analysis Addendum, dated April 10, 2018;
- Exhibit 3 -- The Golden Manor Project Market Analysis, dated April 12, 2018;

- Exhibit 4 – Application Instructions for a Facility License from the California Department of Social Services;
- Exhibit 5 – Resume of Regional Center Principal, Frank C. Yang;
- Exhibit 6 – Appraisal for Adjacent Land Sale: dated November 20, 2015;
- Exhibit 7 – Contractor Estimate, dated March 29, 2018;
- Exhibit 8 – Contractor Resume;
- Exhibit 9 - Emails between the City of Oakley and Frank C. Yang, dated August 2015; and
- Meeting Minutes of the Regular Joint Meeting of the Oakley City Council, dated August 11, 2015.

In response to the lack of progress of the Golden Manor project, a letter from Mr. Yang, principal of the Nevada Development Fund, LLC Regional Center, states that “[y]ear 1 means City Planning and the building permits are being obtained. Current estimate year is 2020 to 2021.” However, the record lacks any corroborating evidence to support this two year window to commence construction on the project, such as evidence that any steps have been taken to acquire construction or zoning permits. The Regional Center did not provide evidence that was credible and had probative value related to the purported construction bid. The bid lacks dates for when construction is set to begin, simply stating that the approximate start date is “to be determined.” Additionally, the bid states “[t]he contract price is not valid if not accepted and contract signed within 3 months.” The record lacks any evidence that the bid was accepted or any evidence that a subsequent construction contract has been secured.

The Regional Center also provides email communication with the City of Oakley that purportedly shows the city’s support for the project, with a request for the Regional Center to submit a formal application to the Oakley City Council. However, this communication is from August 2015, and the record does not contain any evidence that a formal application has been approved or even submitted. Additionally, while the Regional Center acknowledges that the Golden Manor Assisted Living Facility will need to obtain a facility license from the California Department of Social Services, the Regional Center’s NOIT Response only provides the application instructions to obtain such license. The record does provide any evidence that a facility license has been applied for or obtained.

Finally, the record also lacks any evidence demonstrating secure commitments from non-EB-5 investors. Mr. Yang’s letter states:

“The first major source of fund [sic] is from FNMA construction loan for senior housing [REDACTED]

[REDACTED] (b)(4)

However, simply providing links to the banks' senior housing financing webpages is not sufficient evidence to demonstrate that the Regional Center has obtained non-EB-5 financing or that it is more likely than not that it will obtain such financing in the future. The record lacks any other evidence to corroborate that the above sources are likely to be available to finance the Golden Manor project.

Based on the evidence submitted, the business plan lacks credibility because the applicant did not submit sufficient evidence to establish that the project has secured or will secure the permits and financing necessary to begin construction on the project. Because the Regional Center failed to demonstrate that this project has advanced past the preliminary planning phase such that it is more likely than not to result in job creation and economic growth, USCIS denied the amendment on July 5, 2018.

As a result of the Regional Center's failure to adhere to its own benchmarks, 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.

## ***2. 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 September 17, 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 Regional Center.

As stated above, the Regional Center's NOIT Response lacks verifiable evidence that any progress has taken place on the Golden Manor project since 2015 and fails to demonstrate that any progress on the project is more likely than not to occur in the future. Thus, USCIS denied the Regional Center's project amendment on July 5, 2018. Additionally, the Regional Center's filings do not indicate that it has conducted activity that serves the purposes of the Program since its designation in 2013. Lack of evidence of progress made in sponsoring any viable projects since receiving its initial designation casts doubt on the likelihood of the Regional Center promoting economic growth and job creation 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.

### **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.

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

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](http://www.uscis.gov).