



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

TO:

John Meyer & Christian Triantaphyllis
Foster LLP
600 Travis Street, 20th Floor
Houston, TX 77002.

DATE: July 10, 2018

Application: Form I-924

File Number: RCW1034250076

RCID: ID1034250076

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of RGV EB-5 Regional Center (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 March 7, 2018.

cc: Joseph M. Kamel
RGV EB-5 Regional Center
2807 Santa Erica
Mission, TX 78572

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
RGV EB-5 Regional Center

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 July 30, 2013, USCIS designated and authorized the Regional Center’s participation in the Program. On June 1, 2016, USCIS issued a Notice of Intent to Terminate (“2016 NOIT”) to the Regional Center for failure to continue to serve the purpose of promoting economic growth due to lack of Regional Center activity, 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 July 5, 2016, USCIS received a response to the NOIT (the “2016 NOIT Response”), and USCIS issued a Reaffirmation of Approval Notice.

On March 7, 2018, USCIS issued a Notice of Intent to Terminate (“2018 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 10, 2018, USCIS received a response to the NOIT (the “2018 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 both NOITs "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 July 30, 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.

In response to the 2018 NOIT, the Attorney Letter dated April 6, 2018 argues, "RGVRC covers geographic areas with extremely high unemployment rate and serves the goal of promoting economic growth that the EB-5 program is designed to achieve." Further, the letter argues, "RGVRC is one of the few regional centers to promote these high unemployment countries." As evidence of the Regional Center's promotion activities the 2018 NOIT response included the following documents:

- Term sheet for Hilton Garden Inn and Conference Center Project.
- Draft Project Business Plan

- Signed Engagement Agreement between Foster LLP and RGCEB5 to serve as immigration counsel for filing an I-924 Exemplar Application with USCIS.
- Term sheets (Mac Charter School Project)

The documents included in the 2018 NOIT Response for the Hilton Garden Inn and Conference Center Project in the City of Edinburg, Hidalgo County, Texas are identical to the documents submitted in the 2016 NOIT Response. In particular, the documents have not been updated since 2016 and the Term Sheet included claims, "Regional Center Origination Fee: [REDACTED] This fee includes the preparation of all of the documents required for the submittal of an exemplar application for the Hyatt Hotel Project before September 30, 2015." No evidence has been provided of progress in the two last years or of the current status of the proposed project. (b)(4)

In addition, the Term Sheet provided for the Mac Charter School Project lists "Proposed Terms for the Project Documents" and is not an executed Term Sheet between the Regional Center and the Promoter. In fact the Term Sheet fails to identify the 'Promoter' or Job creating entity for the proposed project. Moreover, similar to the Hilton Garden Inn project mentioned above the term sheet is from 2016 and states, "Regional Center Origination Fee: [REDACTED] This fee includes the preparation of all of the documents required for the submittal of an exemplar application for the Hyatt Hotel Project before September 30, 2016." (b)(4)

Based on the evidence submitted, the Regional Center has not established that either of its proposed projects has progressed past the most preliminary planning stages. Since the Regional Center has not provided evidence of any progress on either project since initially presented to USCIS in 2016 and has not adhered to its own stated timeline for filing petitions and applications related to those projects, the Regional Center has not established that it has promoted economic growth in accordance with the Program.

The Regional Center has not provided any other evidence to show that it is in the process of promoting any other EB-5 projects.

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

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