U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8046894

Date: AUG. 3, 2020

Appeal of Immigrant Investor Program Office Decision

Form I-924, Application for Regional Center Designation Under the Immigrant Investor Program

In 1990, Congress established the EB-5 program to promote economic growth in the United States through foreign investment. Investors who comply with the program's requirements first receive conditional status, followed by the opportunity for the removal of conditions and permanent resident status. Investors may fund their own projects or invest through a U.S. Citizenship and Immigration Services (USCIS) designated regional center.

In January 2015, USCIS designated the [redacted] as a regional center to participate in the program. In June 2019, the Chief of the Immigrant Investor Program Office issued a notice of intent to terminate (NOIT) the Appellant's designation on the grounds that it had not properly filed a Form I-924A, Annual Certification of a Regional Center, for fiscal year 2018. The Chief subsequently terminated the Appellant's designation.

On appeal, the Appellant submits a letter from its managing partner and evidence of the partner's ongoing medical treatment and requests reinstatement of its designation.[1]

Where USCIS properly issues a NOIT, the regional center bears the burden of rebutting the grounds alleged in therein. 8 C.F.R. § 204.6(m)(6). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Congress enacted the EB-5 program that set aside visas for foreign national investors who invest in a new commercial enterprise associated with a USCIS designated regional center. To obtain USCIS designation to participate in the program, a regional center must provide a general proposal showing how it will concentrate pooled investments in defined economic zones, thereby promoting economic growth. *See* Section 610(a) of the Appropriations Act. The desired economic growth may be in the

[1] Although the Appellant previously filed a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, it does not do so with the instant appeal. Accordingly, we consider the appeal to be filed *pro se*.

form of increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *Id.*

Once designated, the regional center must "[p]rovide 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." 8 C.F.R. § 204.6(m)(6)(i)(B). If the regional center does not submit the required information or upon a determination that it no longer serves the purpose of promoting economic growth, USCIS will issue a notice of intent to terminate (NOIT) the designation. Subsequently, USCIS may issue a notice of termination if the regional center does not sufficiently rebut the grounds for termination specified in the NOIT. *See* 8 C.F.R. § 204.6(m)(6)(ii)-(v).

II. ANALYSIS

USCIS designated the Applicant as a regional center to participate in the EB-5 program in January 2015. In June 2019, the Chief issued a NOIT on the ground that the Appellant had not submitted the required Form I-924A for fiscal year 2018 and advising it that it had 30 days to offer evidence in opposition to this ground. The Chief subsequently terminated the Appellant's designation in [redacted] 2019. In her decision, she notes that "[a]s of the date of this notice, USCIS records indicate that the [Appellant] has not provided a response to the NOIT and has not filed a Form I-924A for fiscal year 2018."

As we noted above, the regulation at 8 C.F.R. § 204.6(m)(6)(i)(B) requires a regional center to "[p]rovide USCIS with updated information annually . . . to demonstrate that the regional center is continuing to promote economic growth . . . ." In addition, the Form I-924A instructions provide:

> This form is used by approved regional centers to certify and demonstrate their continued eligibility for the regional center designation. Each approved regional center must file Form I-924A . . . for each Federal fiscal year (October 1 through September 30) on or before December 29 of the calendar year in which the Federal fiscal year ended.

Moreover, the regulation at 8 C.F.R. § 103.2(a)(1) states that "[a] form's instructions are hereby incorporated into the regulations requiring its submission."

On appeal, the Appellant's managing partner explains that he has "been inactive for the last few months due to [his] severe illness," and provides medical documentation related to ongoing treatment. In his letter, he indicates that he provides the Appellant's Form I-924A with the instant appeal, but no such form accompanied the Form I-290B. We note that the Form I-924A instructions direct the Appellant to file its Form I-924A, along with the appropriate fee, to the USCIS California Service Center in Laguna Nigel, California. *See* https://www.uscis.gov/i-924a, (last visited July 16, 2020). Accordingly, even had the Appellant submitted its fiscal year 2018 Form I-924A directly to us, we

would not deem it properly filed. Furthermore, USCIS records do not indicate that the Appellant has filed such a form for fiscal year 2018.[2]

Accordingly, we find that the Chief properly terminated the Applicant's regional center designation for failure to submit "updated information annually," as required under 8 C.F.R. § 204.6(m)(6)(i)(B)-(C).

III. CONCLUSION

The Applicant has not submitted the required Form I-924A for fiscal year 2018. Accordingly, we find the Chief properly terminated the Applicant's regional center designation.

ORDER: The appeal is dismissed.

[2] USCIS records reflect that the Appellant properly filed a Form I-924A for fiscal years 2015, 2016, and 2017.