U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43710338

Date: AUG. 7, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

Form I-526E, Immigrant Petition by Regional Center Investor

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference (EB-5) classification makes immigrant visas available to aliens who have invested, or are in the process of investing, the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees. Aliens may invest in a project associated with a regional center in the United States, which has been designated by the Secretary of Homeland Security based on a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment. *See* section 203(b)(5)(E)(i) of the Act.

At the time of filing, the Petitioner indicated that he was in the process of investing a total of $800,000 in [redacted] LLC, an NCE associated with [redacted], LLC. Under section 204(a)(1)(H)(ii) of the Act, 8 U.S.C. § 1154(a)(1)(H)(ii), a petitioner's eligibility for classification as an immigrant investor is subject to approval of the regional center's associated application for approval of an investment filed on Form I-956F.[1] When the Petitioner filed his petition in May 2025, the regional center's Form I-956F application seeking approval of the NCE's project was pending adjudication. USCIS denied the Form I-965F application on December 12, 2025. USCIS subsequently denied this petition based solely on its denial of the regional center's associated Form I-956. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

[1] A regional center must file an application for each investment offering through an associated NCE before any alien files a petition for immigrant investor classification based on an investment in that NCE. *See* section 203(b)(5)(F)(i) of the Act. The approval of a regional center's Form I-956F application is binding for purposes of the adjudication of subsequent petitions filed by aliens seeking classification based on an investment in the same NCE, subject to the exceptions provided at section 203(b)(5)(F)(ii) of the Act.

On June 29, 2026, while the Petitioner's appeal was pending, we sustained an appeal filed by the regional center and withdrew USCIS' decision denying the associated Form I-956F application. USCIS subsequently approved that application on July 22, 2026. As the denial of the associated Form I-956F application was the sole basis for denial of the petition, USCIS' decision is withdrawn.

Because USCIS found the Petitioner to be statutorily ineligible for the requested classification based on the denial of the associated Form I-956F, it is not evident that USCIS reached a determination regarding his eligibility under the remaining requirements applicable to immigrant investors under section 203(b)(5) of the Act. Accordingly, we will remand the matter for USCIS to make that final determination in the first instance. USCIS may request any additional evidence deemed pertinent to that determination.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.