U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38994220

Date: DEC. 15, 2025

Appeal of Field Operations Directorate (FOD) Decision

Form I-956F, Application for Approval of an Investment in a Commercial Enterprise

In 1992, Congress established the EB-5 regional center program to promote economic growth in the United States through foreign investment in commercial enterprises associated with U.S. Citizenship and Immigration Services (USCIS) designated regional centers. *See* Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (the "Appropriations Act"), Pub. L. No. 102-395, 106 Stat. 1828, 1874 (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 repealed the Appropriations Act, and codified the substantially reformed EB-5 regional center program within Section 203(b)(5) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. § 1153(b)(5) (2022).

In June 2016, USCIS approved the Applicant for participation in the EB-5 regional center program under the now repealed Appropriations Act. The Applicant then filed a Form I-956, Application for Regional Center Designation, to demonstrate compliance with reformed program requirements following enactment of the EB-5 Reform and Integrity Act of 2022, which USCIS approved as an amendment to the designation in April 2023. In September 2022, the Applicant filed the Form I-956F application for approval of an investment in a new commercial enterprise (NCE). *See* Section 203(b)(5)(F)(i) of the Act. FOD denied the application in February 2025, concluding that the Applicant did not submit a credible and comprehensive business plan as required under Section 203(b)(5)(F)(i)(I) of the Act, or a credible economic analysis as required under Section 203(b)(5)(F)(i)(II) of the Act. *See generally* 6 *USCIS Policy Manual* G.5, https://www.uscis.gov/policy-manual/volume-6-part-g-chapter-5.

The Applicant subsequently filed a motion to reopen, providing new evidence which included changes to the project scope and the designated job-creating entity (JCE). FOD dismissed the motion, concluding that the changes to the project were not supported by an amended comprehensive business plan, economic analysis, or investment and offering documents as required under Section 203(b)(5)(F)(i) of the Act. The Applicant now submits a brief and additional evidence in support of its appeal.

The Applicant 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 dismiss the appeal.

I. LAW

Section 203(b)(5)(F)(i) of the Act, entitled "Application for approval of an investment in a commercial enterprise," provides in pertinent part:

> A regional center shall file an application with the Secretary of Homeland Security for each particular investment offering through an associated new commercial enterprise before any alien files a petition for classification under this paragraph by reason of investment in that offering. The application shall include –
>
> (I) a comprehensive business plan for a specific capital investment project;
>
> (II) a credible economic analysis regarding estimated job creation that is based upon economically and statistically valid and transparent methodologies . . . .
>
> (IV) any investment and offering documents, including subscription, investment, partnership, and operating agreements, private placement memoranda, term sheets, biographies of management, officers, directors, and any person with similar responsibilities, the description of the business plan to be provided to potential alien investors, and marketing materials used, or drafts prepared for use, in connection with the offering…

The precedent decision *Matter of Ho* held that, to be "comprehensive," a business plan "must be sufficiently detailed to permit [USCIS] to draw reasonable inferences about the job-creation potential." 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998). "Mere conclusory assertions[, however,] do not enable [USCIS] to determine whether the job-creation projections are any more reliable than hopeful speculation." *Id. Matter of Ho* explains:

> A comprehensive business plan . . . should contain, at a minimum, a description of the business, its products and/or services, and its objectives. The plan should contain a market analysis, including the names of competing businesses and their relative strengths and weaknesses, a comparison of the competition's products and pricing structures, and a description of the target market/prospective customers of the new commercial enterprise. The plan should list the required permits and licenses obtained. If applicable, it should describe the manufacturing or production process, the materials required, and the supply sources. The plan should detail any contracts executed for the supply of materials and/or the distribution of products. It should discuss the marketing strategy of the business, including pricing, advertising, and servicing. The plan should set forth the business's organizational structure and its personnel's experience. It should explain the business's staffing requirements and contain a timetable for hiring, as well as job descriptions for all positions. It should contain sales, cost, and income projections and detail the bases therefor.

Id., 22 I&N Dec. at 213. The decision concludes: "Most importantly, the business plan must be credible." *Id.*; *see generally* 6 *USCIS Policy Manual*, *supra*, at G.2(B), G.5(B)(2).

II. ANALYSIS

The Applicant seeks approval for investment in an NCE, [redacted] Per the initial business plan, economic analysis, and investment and offering documentation, [redacted] would loan up to $79.2 million pooled from up to 99 immigrant investors to contribute to the financing of oil and gas development projects located in several counties in Oklahoma.[1] In responding to FOD's request for evidence (RFE), the Applicant submitted an updated business plan dated June 26, 2023 which significantly reduced the number of proposed investors in the project to 4 in the first tranche ($3.2 million) and 15 in the second tranche ($12 million). The updated business plan also put total development costs for the first tranche at more than $6.3 million and nearly $27.5 million for the second tranche. In their decision to deny the application, FOD determined that this updated business plan was not credible because it was not supported by evidence of the source of the additional $3.1 million for the first tranche and more than $15 million for the second tranche, beyond the projected funding from the immigrant investors, needed to fully fund and complete the project as planned.

On motion, the Applicant provided new evidence and indicated that the scope of the project had been further reduced due to lack of immigrant investor interest in the project and was limited to only the 4 investors in the first tranche. In addition, the Applicant stated that the JCE, previously identified as [redacted] had been changed to [redacted], which had previously been named in documents submitted with the Applicant's RFE response. These included an operating agreement with [redacted] in which [redacted] was named as the "operator" of the project and a purchase agreement between [redacted] and [redacted] in which [redacted] received a 45% working interest in the leasehold interest of nine oil and gas wells held by [redacted] Also, as documentation of the source of capital from other sources, the Applicant submitted tables it asserted showed [redacted] well development activity and projected income from wells involved in the current project and others.

In their decision on motion, FOD determined that because the changes in both the size of the project and the designation of the JCE stated above were not reflected in the initial business plan or the project update submitted with the Applicant's RFE response, neither of these documents were credible. FOD also concluded that those changes to the project were not supported by an updated economic analysis or investment and offering documents as required under section 203(b)(5)(F)(i) of the Act.

On appeal, the Applicant submits a statement from the manager of [redacted] as well as a supplement to the private placement memorandum initially submitted, an updated business plan showing red-lined edits from the original, and a document described as an updated economic analysis. It also asserts that the changes presented in its motion were not material changes which required the submission of

[1] The Applicant initially indicated that the project would be located in multiple Oklahoma counties which qualify as rural Targeted Employment Areas, reducing the required minimum investment to $800,000 per investor.

updated documentation, stating that "the project type, location, purpose, project timing, project investment structure, and capital sourcing all remain the same."

The Applicant is required to submit a business plan that is comprehensive and credible and an economic analysis that is credible and "based upon economically and statistically valid and transparent methodologies." Section 203(b)(5)(F)(i) of the Act. Because the existing business plan (and "project update" submitted with the RFE response) did not incorporate the further reduction in the scope of the project or the change in designation of the JCE, it included statements and figures which were inaccurate. Those inaccuracies were relevant to the project's financing structure and the disposition of the investment funds from immigrant investors. For example, in describing the financing of the project, the project update indicated that [redacted] as the operator of the project, and other investors "have and will continue to contribute capital to the JCE," which in addition to being inaccurate under the initial set of facts[2] would have [redacted] funding itself under the revised facts presented on motion. Because of this and other inaccuracies in the business plan and other required documentation that were caused by the changes introduced on motion, the Petitioner has not established that FOD's most recent decision was incorrect based upon the record at the time the decision was made. And we agree with FOD's determination that the business plan was neither comprehensive nor credible, and that the job creation numbers from the economic analysis did not reflect the new information included in the motion and thus the analysis was also not credible.

In addition, because the Applicant was put on notice via FOD's RFE and given a reasonable opportunity to provide the required initial evidence, including a comprehensive business plan, credible economic analysis, and investment offering documents, we will not consider this evidence for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

Further, even if we were to consider the new evidence, we note that it includes several discrepancies and inconsistencies which detract from the documents' credibility. It is the Applicant's burden to resolve these inconsistencies and discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.; see also Matter of O-M-O-*, 28 I&N Dec. 191, 197 (BIA 2021) ("by submitting fabricated evidence, the appellant compromised the integrity of his entire claim") (cleaned up).

Specifically, previous documentation, including the business plan and project update as well as the purchase agreement and operating agreement between [redacted] and [redacted] and [redacted]

[2] As stated in FOD's initial decision, the record does not support the Applicant's initial assertion that project funds were pooled with [redacted] as the initial JCE, since the evidence indicated that funds were pooled with the operator through the billing of [redacted] and any third-party investors by [redacted]

[redacted][3], indicated that the NCE would contribute 45% of the capital for the project, with the remaining capital coming from [redacted] (40%) and third-party investors (15%). However, while the revised business plan continues to use these same percentages to describe the working interests in the project on page 7, a mislabeled graph on page 15 indicates that EB-5 capital will comprise 60% of the project's capital, with the remaining 40% contributed by [redacted] and third parties. This 60% figure is also reflected in the revised economic analysis document in both the expenditure and revenue figures for the project as of March 31, 2025, but no explanation or additional evidence is provided for this apparent alteration to project financing.[4] Notably, both documents carry over the previous total budget figure for tranche 1 of roughly $6.3 million.[5]

In addition, the revised business plan includes other internal discrepancies regarding the identity of the project parties. While some parts of this document reflect the change in the designation of the JCE to [redacted] others continue to refer to the JCE either as a separate entity or specifically as [redacted] And the revised document continues to refer to tranche 2 in several areas, and reports job creation figures of either 48 (from the project update submitted with the RFE response) or a new figure of either 68.7 or 41.2, depending on whether total project revenue and expenditures are considered or only those arising from EB-5 investments. The totality of these discrepancies in the new documentation, particularly related to the lack of clarity regarding project financing, significantly reduces the credibility of this evidence.

For the reasons discussed above, the Applicant has not sufficiently established that either the business plan or the job creation figures in the economic analysis are credible, as required under Section 203(b)(5)(F)(i)(II) of the Act.

III. CONCLUSION

It is the Appellant's burden to demonstrate its eligibility for the approval of an investment in the NCE. *See* Section 203(b)(5)(F)(i) of the Act. As discussed, the Appellant has not submitted "a comprehensive [and credible] business plan for a specific capital investment project," as required under Section 203(b)(5)(F)(i)(I) of the Act. Additionally, the Appellant has not presented "a credible economic analysis regarding estimated job creation," as required under Section 203(b)(5)(F)(i)(II) of the Act. *See generally* 6 *USCIS Policy Manual*, *supra*, at G.5. Accordingly, the Appellant has not established its eligibility for the approval of an investment in the NCE under Section 203(b)(5)(F)(i) of the Act.

---

[3] Both documents indicate that [redacted] purchased 45% of the interests held by [redacted] in nine wells, which represented either 78% (6 wells) or 87% (3 wells) of the working interest in those wells.

[4] We note that the record is silent regarding the effect of [redacted] having a majority working interest in at least three of the wells (those for which the purchase agreement indicates [redacted] previously held an 87% working interest) and with respect to the project, whereas the project update emphasized that all project parties would have minority working interests.

[5] However, the supplement to the private placement memorandum submitted on appeal states that total project cost is roughly $7.8 million, another discrepancy which it is the Applicant's burden to resolve.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.