U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38779739

Date: DEC. 29, 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 L. No. 102-395, 106 Stat. 1828, 1874 (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 repealed the Appropriations Act, and codified the substantially reformed EB-5 regional center program within Section 203(b)(5) of the Immigration and Nationality Act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 July 2018, USCIS designated the Midwest Center for Foreign Investment, LLC ("Regional Center") to participate in the EB-5 regional center program under the Act. On February 7, 2023, the Regional Center filed Form I-956F Application for Approval of an Investment in [redacted] the new commercial enterprise (NCE). *See* Section 203(b)(5)(F)(i) of the Act. FOD denied the Regional Center's Form I-956F application in on January 24, 2025, concluding "the [Regional Center] failed to demonstrate that it is more likely than not that the business plan is comprehensive" as required under Section 203(b)(5)(F)(i)(I) of the Act, or contained a "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* G.5, https://www.uscis.gov/policy-manual/volume-6-part-g-chapter-5. The Regional Center timely appealed the denial of the Form I-956F application, asserting that it has established eligibility for approval of an investment in the NCE and submitting an appellate brief as well as additional documents in support of the appeal. *See* Section 203(b)(5)(P)(i)(II) of the Act (discussing administrative appellate review of "any determination," including a determination concerning "an application for approval of a business plan filed" under Section 203(b)(5)(F) of the Act).

The Regional Center 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.

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 . . . .

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." *See Matter of Ho*, 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 therefore.

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 Regional Center filed Form I-956F in February 2023, most pertinently supported by a business plan and an economic analysis. These documents describe the Regional Center's intention to pool $22,400,000 from immigrant investors for investment in [redacted] the new commercial enterprise (NCE). The NCE proposes to invest in a convertible loan interest in [redacted] the job-creating entity (JCE) through a Simple Agreement for Equity

("SAFE") investment. The investment proposed to "provide for the buildout and development of a Security Operations Center that will house five separate client-facing MDR [Managed Detection And Response] units, each composed of 80 employees" located at [redacted] in [redacted] Indiana.

FOD issued a request for evidence (RFE) the Regional Center's application in June 2024. FOD questioned the comprehensiveness of the business the Regional Center submitted because "the business plan failed to provide the details needed to support the underlying assertions made about the proposed project." And FOD expressed concerns with the economic impact analysis the Regional Center submitted for the same reasons it questioned the comprehensiveness of the business plan.

The Regional Center responded to the RFE with an updated business plan and economic analysis. The Regional Center also submitted several "investment and offering documents" to provide further information about the "role of the NCE and JCE" and SAFE's role in the investment.

FOD denied the application. FOD concluded the business plan was not comprehensive and the economic analysis was not credible for several reasons. FOD identified the business plan only provided "a very general description" of the "project's catalogue of products" and did not "cite any competitive advantage for its products versus [its] competitors." FOD also expressed doubt because the Regional Center did not "provide relevant and credible evidence to substantiate whether any Environmental Protection Agency permits are necessary" to being the project. FOD further concluded the project's "revenue predictions are not reasonable" because the Regional Center did not provide "*supply contracts* for the JCE" (emphasis in original). FOD stated the Regional Center did not adequately explain how SAFE investment permitted the accomplishment of the goals of the project. And FOD noted several discrepancies in the sales and costs projections contained in different sections of the business plan.

The Regional Center may identify required permits and licenses in the business plan as applicable. But neither the statute nor *Matter of Ho* require the Regional Center to identify a "competitive advantage" flowing from the investment described in the application. And there is no obligation in the statute or *Matter of Ho* to account for the presence or absence of any specific permit, such as Environmental Protection Agency permits. Moreover, FOD did not sufficiently explain why the comprehensiveness of the business plan was negatively influenced by the absence of "*supply contracts* for the JCE" (emphasis in original) in the record and how the presence or absence of the "*supply contracts*" (emphasis in original) constituted a factor in the evaluation of the reasonableness of the project's revenue projections. And whilst FOD described how the Regional Center's response to the RFE provided "an explanation of SAFE investments, how they would flow from NCE to JCE, and general terms to be offered," it did not adequately explain the basis in statute and precedent decisions requiring the Regional Center's response to "credibly explain why [SAFE] functions to accomplish the stated goals of the project." Or in other words the statute and relevant precedent decisions do not require a Regional Center to demonstrate the appropriateness of the investment method but rather demonstrate if the funds flowing through the investment method are or will be invested in the JCE to create jobs as required by statute.

We are remanding this matter for further review and for FOD to provide an accurate and sufficient explanation of the grounds of denial. FOD should clearly explain the specific reasons for denial and

clearly explicate its rationale in congruence with the requirements of the statute and relevant precedent decisions as required by 8 C.F.R. § 103.3(a)(1)(i). On remand, FOD should re-evaluate the evidence initially submitted, as well as the Petitioner's claims on appeal.

III. CONCLUSION

We conclude that a remand is appropriate here for FOD to fully consider the evidence on record and additional issues addressed in this decision. If a request for evidence or a notice of intent to deny is to be issued, FOD should allow the Regional Center an opportunity to submit a response and additional evidence in support of the application. *See* 8 C.F.R. § 103.2(b)(8). We express no opinion regarding the ultimate disposition of this application.

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