U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37479521

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 L. No. 102-395, 106 Stat. 1828, 1874 (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 repealed the Appropriations Act, and codified the substantially reformed EB-5 regional center program within Section 203(b)(5) of the Immigration and Nationality Act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 April 2023, USCIS designated the [redacted] ("Regional Center") to participate in the EB-5 regional center program under the Act. In December 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 August 2024, concluding the record did not contain "a comprehensive business plan for a specific capital investment project," as required under Section 203(b)(5)(F)(i)(I) of the Act, or "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); *see generally* 6 *USCIS Policy Manual*, *supra*, at G.2(E). 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 December 2023, most pertinently supported by a business plan and an economic analysis dated December 2023. These documents describe the Regional Center's intention to pool $68,000,000 from immigrant investors and "make a qualifying investment in the form of a subordinate mezzanine loan in [redacted] will be

a "medical center" located at [redacted] New Jersey offering "integrated advanced radiological services," cater to "the specialized needs of female patients," provide "surgical procedures," adult day care services, and an "LGBTQ Community Rehab Center" in cooperation with its drug detoxification facility and drug and alcohol rehab facility. The business plan anticipates [redacted] will generate 418 direct jobs whilst the economic analysis dated December 2023 forecasts the generation of 1,188.3 total direct and indirect jobs.

FOD issued a notice of intent to deny (NOID) the Regional Center's application in April 2024. FOD questioned the comprehensiveness of the business plan the Regional Center submitted because it "did not provide the details needed to support the underlying assertions made about the proposed project." Chiefly, FOD noted as "extremely probative" the "absence of any open-source evidence indicating project progress." The NOID also drew "an adverse inference with respect to the likely success of the [project]" because the Regional Center principal filed a "very similar Form I-956F project in Georgia" that "was never executed and received a denial." FOD also noted a discrepancy in the stated number of investors sought for the project by the Regional Center in documents in the record. 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 NOID with an updated business plan and an addendum to its December 2023 economic analysis, both dated May 2024. The Regional Center also submitted a lease executed between the Regional Center and the NCE for the property located at [redacted] New Jersey, an audited statement to describe the Regional Center's principal's net worth, magnified fragments of scanned documents purporting to be construction permits, architectural diagrams, unsigned contracts for the provision of goods and services in furtherance of construction, photographs ostensibly demonstrating project progress, and a property appraisal.

FOD denied the application based on the absence of evidence not required by statute or any other authority. FOD concluded the business plan was not comprehensive and the economic analysis was not credible based on "the absence of any open-source evidence indicating project progress" and noted "an absence of open-source evidence of project progress is extremely probative evidence that the project has not in fact materialized." But "evidence of project progress" is not an enumerated requirement of the statute or *Matter of Ho*'s description of the characteristics of a comprehensive and credible business plan.

And, pursuant to 8 C.F.R. § 103.2(b)(16)(ii), "a determination of statutory ineligibility shall be based only on information contained in the record of proceeding." FOD's conclusions are rooted in the "absence of any open-source evidence." The statute does not require the Regional Center to submit any open-source evidence demonstrating progress of the project described in its business plan. And FODs remaining analysis of the evidence in the record, including the credibility of the economic analysis, is influenced by its conclusions based on the lack of open-source evidence of known or unknown origins.

We conclude a remand in this matter is warranted. FOD bears the responsibility of ensuring that the record is complete and contains all evidence submitted by the Petitioner and any other evidence considered by FOD in reaching the decision. *See* 8 C.F.R. § 103.2(b)(1); *cf. Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976). To ensure the complete consideration of the proceedings before us, it

is necessary that FOD's conclusions are supported by a cogent and supportable analysis of the evidence in the record. FOD's emphasis on the absence of general "open-source" evidence and "evidence of project progress" not required by the statute deprives the Regional Center of a meaningful opportunity to address FOD's conclusions.

As stated above, a *Matter of Ho* compliant 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. at 213. FOD should, on remand, evaluate if the Regional Center's business plans for the NCE (the original plus the update submitted in response to the NOID) collectively accomplish the objectives as described in *Matter of Ho*, of a comprehensive business plan demonstrating job creation projections beyond those considered aspirational. FOD can also evaluate if the remaining evidence in the record, such as the copies of the permits provided on appeal and construction contracts support or detract from the job creation projections contained in the business plans and the economic analysis reports.

On remand, FOD may also choose to assess the applicability of documents, such as certificates of need and site plans, predating the establishment of the Regional Center and formation of the NCE. Or in other words, FOD can choose to evaluate if the timeline for the Regional Center's project based on the business plan and its update present in the record of proceeding is influenced by plans and intentions stemming from a time prior to when the principals of the Regional Center elected to pursue EB-5 investment for the project. And FOD can elect to evaluate the documents present in the record predating the establishment of the Regional Center and formation of the NCE and explain how those documents could negatively impact the credibility of the business plan and economic analysis reports and eligibility under the statute and relevant precedent decisions,

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.