U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41150574

Date: FEB. 19, 2026

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Standalone Investor

The Petitioner seeks classification as an immigrant investor pursuant to Section 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(5).[1] This fifth preference (EB-5) classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

Field Operations Directorate (FOD) denied the petition, concluding that the Petitioner did not establish the job creation requirements. Specifically, FOD determined that the proposed project's construction delays and lack of sufficient financing did not support the finding that the Petitioner had submitted a comprehensive and credible business plan. *See* 8 C.F.R. § 204.6(j)(4)(i)(B) (2021); *see also Matter of Ho*, 22 I&N Dec. 206, 212-13 (Assoc. Comm'r 1998). In addition, FOD concluded that the Petitioner had failed to establish that [redacted] the NCE, or any wholly-owned subsidiaries, would be the employer for the qualifying employees who would fill the anticipated new jobs. *See* 8 C.F.R. § 204.6(e) (defining "commercial enterprise" to include "a holding company and its wholly-owned subsidiaries"); *see generally* 6 *USCIS Policy Manual* G.2(D)(4), www.uscis.gov/policy-manual/volume-6-part-g-chapter-2 (providing that "[f]or a new commercial enterprise not located within a regional center . . . the new commercial enterprise (or its wholly-owned subsidiaries) must itself be the employer of the qualifying employees"). We dismissed the Petitioner's appeal based on the same reasons. The matter is now before us on combined motions to reopen and reconsider.

The records of U.S. Citizenship and Immigration Services (USCIS) show that the Petitioner filed a Form I-526 petition prior to the instant petition on July 22, 2016 (receipt number [redacted]). That petition, which was associated the (now terminated) [redacted] and involved the same NCE and project as in the instant petition, was approved on July 23, 2019. The Petitioner entered the United States in conditional resident status on February 10, 2026. Because USCIS has granted this status based on the same classification sought in the instant petition, the combined motions are moot and will be dismissed.

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in Section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

NOTICE: 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.