U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40502129

Date: FEB. 24, 2026

Appeal of Field Operations Directorate 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 L. No. 102-395, 106 Stat. 1828, 1874 (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 (RIA) repealed the Appropriations Act and codified the substantially reformed EB-5 regional center program within section 203(b)(5) of the Immigration and Nationality Act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).

USCIS designated the Applicant to participate in the EB-5 regional center program under the Act in August 2023. In March 2024, the Applicant filed Form I-956F seeking approval of an investment in [redacted] the associated new commercial enterprise (NCE). *See* Section 203(b)(5)(F)(i) of the Act.

Field Operations Directorate (FOD) denied the Form I-956F and dismissed the Applicant's subsequent combined motions to reopen and reconsider, concluding in its latest decision that the record did not contain "a comprehensive business plan" and "a credible economic analysis regarding estimated job creation," as required under sections 203(b)(5)(F)(i)(I) and (II) of the Act. The Applicant timely appealed FOD's dismissal of its combined motions, asserting that FOD's decision contains erroneous conclusions of fact and law.[1]

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 withdraw FOD's decision and remand the matter for further review and issuance of a new decision consistent with following analysis.

[1] *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).

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 –
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> (I) a comprehensive business plan for a specific capital investment project;
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> (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." 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.* The decision concludes: "Most importantly, the business plan must be credible." *Id.*; *see generally* 6 *USCIS Policy Manual* G.2(B), G.5(B)(2), https://www.uscis.gov/policy-manual.

II. ANALYSIS

The primary issue addressed in FOD's latest decision is whether the Applicant provided "a comprehensive business plan" and "a credible economic analysis regarding estimated job creation," as required under sections 203(b)(5)(F)(i)(I) and (II) of the Act.

A. Comprehensive Business Plan and Credible Economic Analysis

The Applicant filed the Form I-956F in March 2024, supported by a business plan and economic impact analysis report dated March 2024, and other project offering documents required by section 203(b)(5)(F)(i) of the Act. These documents detailed the NCE's plans to raise up to $50.4 million from 63 immigrant investors to lend to [redacted] the job creating entity (JCE), which is developing and constructing improvements to the [redacted] a 20,000-seat amphitheater in [redacted] Missouri.

According to the initial business plan, the EB-5 investor funds would be used to replace short-term temporary bridge financing used for construction of phase IIb and portions of phase III of the master project, and to finance in part construction of the balance of planned phase III improvements. The business plan stated that construction on phases IIb and III commenced in June 2022 with substantial completion expected by July 2024, and an expected project cost of $93.6 million.[2]

[2] The total cost of the master project's development, including work already completed at the [redacted] through May 2022, was estimated at $158.9 million. The March 2024 business plan and economic impact analysis report stated that EB-5 immigrant investor financing was first considered for phases IIb and III in May 2022.

After the initial filing, the Applicant provided updates to the project's costs, scope and timeline. In its October 2024 response to a notice of intent to deny (NOID), the Applicant advised that the project had a new estimated completion date of December 2024. The NOID response also informed FOD of increased project costs, noting that the project budget had been increased from $93.6 million to $135.4 million.[3] The Applicant provided a July 2024 addendum to the NCE's Private Offering Memorandum reflecting these changes. It also submitted an October 2024 addendum to the economic impact report which concluded that, based on the increased expenditures, phase III construction activities completed between September 2023 and December 2024 would create 1,307 qualifying full-time jobs. To corroborate the project's increased costs, the Applicant provided capital expenditure and change order request forms executed by the JCE, and monthly invoice packages issued by the project's general contractor during phase III of the project.

FOD denied the application in December 2024, concluding the record did not include the comprehensive business plan and credible economic analysis required by section 203(b)(5)(F)(i) of the Act. FOD observed that "the NOID response proposed a significantly higher budget for a project already completed," and emphasized that the increase in the project's budget between March 2024 and October 2024 was not supported by sufficient corroborating evidence, including an updated business plan detailing the need for this increase.

On motion, the Applicant emphasized that the [redacted] project was completed in December 2024 as anticipated at the time of the NOID response, and that phase III of the project, which had a final construction cost of $141.3 million, had created an estimated 1,397 qualifying jobs. The motion included an updated set of monthly project invoice packages issued by the project's general contractor for the period September 2023 through November 30, 2024. The Applicant also provided January 2025 updates to the NCE's business plan and economic impact analysis, stating these updates were based on the project's actual final costs.

FOD dismissed the motion, noting that the record did not "demonstrate with relevant, probative or credible evidence the need for significant ex post facto increases to the overall project costs." FOD further concluded that "the ex post facto increase in the aggregate project cost without sufficient evidence to establish the credibility of the budget increase detracts from the overall soundness of the economic methodology." Based on these conclusions, FOD determined "the revenue and expenditure input values used as a basis to demonstrate that the requisite number of jobs are created [are] not credible."

On appeal, the Applicant contends "[t]he record makes clear that the revisions to the Project's budget were not after-the-fact justifications but documented changes made before the Project was completed and disclosed to USCIS during the adjudication process." We agree. FOD's determination that the Applicant made "ex post facto increases" to the project budget and its observation that the project was completed prior to the NOID response are not supported by the record.[4] The NOID response indicated

[3] The Applicant attributed the increased budget, in part, to costs associated with increased parking capacity, parking-related security measures, additional lighting, cameras and other security related technologies, and interior and exterior finish improvements throughout the arena's facilities to enhance the guest experience.

[4] The record indicates that the [redacted] venue hosted live performances in the summer of 2024 while construction was ongoing. However, the initial business plan did not contemplate that construction would be fully completed prior to the opening of the summer concert season.

that the project timeline had been extended to December 2024 and explained the additional construction-related activities that had been undertaken. The record also contains capital expenditure and change order requests and comprehensive invoices the general contractor issued to the JCE to corroborate the increased costs for work that was still ongoing through December 2024.

The Applicant has established, by a preponderance of the evidence, that the project was completed in December 2024 and that the NCE and JCE did not make post-completion changes to the budget. The Applicant met its burden to provide "a comprehensive business plan" and "a credible economic analysis regarding estimated job creation," as required under section 203(b)(5)(F)(i)(I) and (II) of the Act. As this was the sole issue addressed in FOD's June 2025 decision, that decision is withdrawn.

B. Bridge Financing

Although the Applicant overcame the primary basis for denial, we will remand this matter to FOD for further consideration of whether the bridge financing arrangement described in the record complies with USCIS policy guidance and meets the statutory requirement to show a clear nexus between the EB-5 capital investment and the NCE's creation of jobs. *See* section 203(b)(5)(A)(i)-(ii) of the Act.

The *USCIS Policy Manual* provides the following guidance regarding bridge financing:

> A developer of an NCE, either directly or through a separate job-creating entity, may use interim, temporary, or bridge financing, in the form of either debt or equity, prior to receipt of immigrant investor capital. If the project started based on the interim or bridge financing prior to receiving immigrant investor capital and subsequently replaces that financing with immigrant investor capital, the new commercial enterprise may still receive credit for the job creation under the regulations.
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> Generally, the replacement of temporary or bridge financing with immigrant investor capital should have been contemplated prior to acquiring the original temporary financing. However, even if the immigrant investor financing was not contemplated prior to acquiring the temporary financing, as long as the financing to be replaced was contemplated as short-term financing that would be subsequently replaced by more permanent long-term financing, the infusion of immigrant investor financing could still result in the creation of, and credit for, new jobs.

See generally, 6 *USCIS Policy Manual, supra* at G.2(D)(1).

As noted, the NCE's March 2024 business plan indicated it would lend up to $50.4 million in EB-5 investor funds to the JCE in the form of an EB-5 Construction Loan. The record includes a loan term sheet executed by the JCE and [redacted] in November 2023.[5] The business plan and offering documents state the EB-5 Construction Loan would replace "short-term temporary bridge financing[.]"

[redacted] appears to be an affiliate of the NCE, which was not named in the loan term sheet. The record does not include a copy of the EB-5 Construction Loan agreement, which, according to the First Addendum to the Confidential Private Offering Memorandum, was executed by the JCE and NCE on May 31, 2024.

The record includes evidence that the JCE requested four EB-5 loan draws totaling $20 million from the NCE's escrow account between August 2024 and October 2024 to reimburse phase III project expenditures made between September 2023 and March 2024. FOD acknowledged these loan draws in its December 2024 decision, observing the record showed "a sufficient nexus between this $20 million and job creation." Relying on this statement, the Applicant emphasized on motion, and asserts on appeal, that the $20 million in EB-5 funds advanced to the JCE "were used to reimburse bridge financing in a manner that USCIS has found compliant."

However, FOD's December 2024 decision included a separate discussion of bridge financing that contradicted its conclusion that the record showed the required nexus between the EB-5 capital loaned to the JCE and job creation. Specifically, the decision referred to an October 2024 letter from the treasurer of the JCE's sole member, who stated that "[b]ased on our understanding of the timeline required for [the NCE] to raise capital to raise EB-5 funds, temporary bridge financing was arranged until the EB-5 funds were made available." FOD emphasized that "the source and terms of this temporary bridge financing remain unknown, based on the overall record," and noted that "without understanding how the Sponsor utilized bridge financing, USCIS cannot determine whether the replacement of these funds with EB-5 capital accredits immigrant investors with jobs created by this financing."

We agree and note that these deficiencies remain in the record and were not addressed in the FOD's subsequent decision dismissing the Applicant's motion. Based on the guidance provided in the *USCIS Policy Manual*, unsupported assertions that "temporary bridge financing was arranged" by the JCE or that the JCE obtained "short-term bridge capital from internal company sources" may be insufficient to support the Applicant's claim that the EB-5 capital loaned to the JCE replaced interim, short-term or bridge financing and can therefore be used to credit EB-5 investors with job creation.

The Applicant emphasized in the NOID response that the loan term sheet executed in November 2023 "provides a mechanism to identify the portion of the [JCE's] equity contributed only as temporary financing," and "clearly outlines the use of EB-5 capital, including to reimburse the Sponsor for capital spent to cover ongoing project costs above and beyond its minimum equity requirement." On remand, FOD should evaluate the terms of the loan term sheet to determine if the referenced "mechanism" is sufficiently explained and, if so, whether this and other evidence in the record complies with the *USCIS Policy Manual*'s guidance regarding the use of EB-5 bridge financing.

III. CONCLUSION

The Applicant has overcome FOD's determination that the record does not contain a comprehensive business plan and a credible economic analysis regarding estimated job creation. However, we conclude that a remand is appropriate for FOD to further consider the evidence on record and the additional issue addressed in this decision.

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