U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 3362983

Date: JAN. 10, 2025

Appeal of Immigrant Investor Program Office Decision

Proposal for Designation as a Regional Center Pursuant to Section 610(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 103-121, 106 Stat. 1874 (1992)

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 United States 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 (the "Appropriations Act"), 1993, Pub. L. No. 102-395, 106 Stat. 1828, 1874 (Oct. 6, 1992) (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 repealed the Appropriations Act, and codified the substantially reformed EB-5 regional center program within Section 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(5) (2022). Under the legacy regional center program, USCIS could approve entities who applied to participate, contingent upon their meeting certain regulatory requirements. *See* 8 C.F.R. § 204.6(m).

USCIS designated the Appellant to participate in the legacy EB-5 regional center program in August 2008, and subsequently approved a number of requests to amend its designation. In August 2018, the Chief of the Immigrant Investor Program Office terminated the Appellant's designation on two distinct grounds, finding that it did not submit required information and it no longer served the purpose of promoting economic growth.[1] *See* 8 C.F.R. § 204.6(m)(6)(i)-(v) (2018).

On appeal, the Appellant provides additional evidence and requests reinstatement of the regional center designation. It acknowledges that it, associated new commercial enterprises (NCEs), and the sole job creation entity (JCE) – [redacted].[2] – are in bankruptcy proceedings. It, however, claims that the Chief's termination "is made prematurely," because the Chief should have

[1] The EB-5 Reform and Integrity Act of 2022 did not alter the regulatory bases upon which the Chief terminated the Appellant's regional center designation, which remain undisturbed and valid.

[2] According to a document entitled "Business Plan of [redacted]" the JCE, "through its predecessor Hybrid [redacted] was incorporated in Mississippi . . . to engage in the development, production, marketing, and financing of energy-efficient and environmentally friendly vehicles."

waited until "the final outcome of the bankruptcy proceeding[s], which . . . will allow the [JCE] to be reorganized and continue its manufacturing activities."

The Appellant 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

To obtain USCIS designation to participate in the legacy EB-5 regional center program, an entity had to provide a general proposal showing how it would concentrate pooled investments in defined economic zones, thereby promoting economic growth. 8 C.F.R. § 204.6(m)(3), (4); *see also* 8 C.F.R. § 204.6(e) (defining "regional center"). The desired economic growth could be in the form of increased export sales, improved regional productivity, job creation, or increased domestic capital investment. 8 C.F.R. § 204.6(m)(3).

Once designated, the regional center must "[p]rovide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area." 8 C.F.R. § 204.6(m)(6)(i)(B). If the regional center does not submit the required information or upon a determination that it no longer serves the purpose of promoting economic growth, USCIS will issue a notice of intent to terminate the designation. Subsequently, USCIS may issue a notice of termination if the regional center does not sufficiently rebut the grounds for termination specified. *See* 8 C.F.R. § 204.6(m)(6)(ii)-(v).

II. ANALYSIS

The Appellant is affiliated with a number of NCEs – [redacted] A-1, LLC; [redacted] A-2, LLC; [redacted] A-3, LP; and [redacted] – and one JCE, [redacted] The record, specifically, the JCE's business plan, indicates that it would use EB-5 capital the NCEs solicited from foreign nationals to "design[], build[], and operat[e] an automotive plant that builds a new line of vehicles with reduced fuel consumption and emission." Pages 6 and 7 of the business plan provide that between 2009 and 2012, the JCE would build a plant in northern Mississippi that would produce its first vehicle in 2012 and would "then climb to the full capacity of one million vehicles over five years." The business plan indicates that at full production capacity, the JCE would "create 25,000 full-time jobs in the plant."

The Chief terminated the regional center's designation to participate in the EB-5 program, in part, because it had "fail[ed] to submit the information required in paragraph (m)(6)(i)(B) of [8 C.F.R. § 204.6]." *See* 8 C.F.R. § 204.6(m)(6)(ii)(A). The relevant regulation requires the Appellant to:

> Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation,

> and increased domestic capital investment in the approved geographic area, using a form designated for this purpose.

8 C.F.R. § 204.6(m)(6)(i)(B).

In the August 2018 notice of termination, the Chief found that the Appellant "provided inaccurate or incomplete information to USCIS on its annual Form I-924A [Annual Certification of Regional Center] filings for Federal fiscal years 2016 and 2017."[3] The Chief explained that the Appellant "reported aggregated capital investment of $10,507,253 in FY [fiscal year] 2016 and $140,000,000 in FY 2017," but this information is contradicted by the Appellant's documentation indicating that it had "not received any initial investment capital from prospective EB-5 investors since FY 2015" as well as USCIS records on foreign national investors' petition filings. Upon de novo review, we find that the record supports the concerns identified by the Chief. On appeal, the Appellant does not specifically challenge or discuss this ground of termination. The Appellant has therefore waived this issue and the Chief's finding concerning this ground of termination stands. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

In addition, the Chief terminated the Appellant's regional center designation to participate in the EB-5 program upon finding that the Appellant no longer serves the purpose of promoting economic growth. *See* 8 C.F.R. § 204.6(m)(6)(i)-(v). As the above identified reason for dismissal, concerning submission of required information, is dispositive of the Appellant's appeal, we decline to reach and hereby reserve any remaining issues concerning its eligibility to continue to participate in the EB-5 program. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). We will instead reserve this issue, concerning promotion of economic growth, and any other eligibility related issues not discussed in this decision for future consideration if the need arises.

III. CONCLUSION

The Appellant failed to submit the required information. *See* 8 C.F.R. § 204.6(m)(6)(i)(B), (ii)(A). Furthermore, the Appellant failed to address this ground on appeal and thus waived the issue. Accordingly, we find the Chief properly terminated the Appellant's regional center designation.

ORDER: The appeal is dismissed.

[3] The 2016 fiscal year ran from October 2015 through September 2016, and the 2017 fiscal year ran from October 2016 through September 2017.