U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42815592

Date: JUN. 29, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

Form I-956F, Application for Approval of 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 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 L. No. 102-395, 106 Stat. 1828, 1874 (repealed 2022). In March 2022, the EB-5 Reform and Integrity Act of 2022 (RIA) repealed the Appropriations Act and codified the substantially reformed EB-5 regional center program within Section 203(b)(5) of the Immigration and Nationality Act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).

In 2016, USCIS designated the Applicant to participate as a regional center in the Immigrant Investor Program under the now repealed Appropriations Act and authorized it to offer capital investment opportunities in a geographic area that included 10 counties in Texas. In December 2022, the Applicant filed a Form I-956, Application for Regional Center Designation, to demonstrate compliance with the RIA's reformed program requirements and to request certain amendments to its pre-RIA designation, including an expansion of its geographic area to the entire State of Texas. In April 2023, the Appellant filed the Form I-956F application seeking approval of an investment in [redacted] the new commercial enterprise (NCE) which is developing a project in [redacted] Texas. *See* Section 203(b)(5)(F)(i) of the Act. USCIS approved the Form I-956 on September 24, 2024, and granted the requested geographic area expansion.

USCIS denied the Form I-956F, concluding that the Applicant "was not approved at the time of application for capital investment opportunities through the Immigrant Investor Program for [redacted] Texas, the location of the project submitted with this application." Citing 8 C.F.R. § 103.2(b)(1), USCIS emphasized that an applicant must establish eligibility for the requested benefit at the time of filing. The Applicant timely appealed the denial.[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

[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).

de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

At issue is whether the Applicant, as a previously approved regional center in good standing under the pre-RIA Appropriations Act, was permitted to file a Form I-956F seeking approval of a new NCE project outside its original geographic area, pending the adjudication of its Form I-956.

On appeal, the Applicant contends that USCIS' determination is contrary to the terms of a binding settlement agreement approved by the U.S. District Court for the Northern District of California on September 1, 2022. *See Behring Regional Center LLC, et al, v. Mayorkas, et al.*, 3:22-cv-02487-VC (N.D. Cal. Aug. 24, 2022). In addition, the Applicant emphasizes that USCIS identified no provision of the statute, as amended by the RIA, which requires an approved regional center to obtain a Form I-956 amendment approval before filing a Form I-956F. While we do not agree with the Applicant's rationale, we do find favorably for the reasons provided below.

Under Section 203(b)(5)(E)(iii) of the Act, a regional center must operate within a defined, contiguous, and limited geographic area and it must demonstrate that its pooled investments will have a substantive economic impact on that geographic area. Because the Act restricts their operations to a defined geographic area, a regional center cannot generally associate with a new commercial enterprise located outside of its approved geographic area.[2] Eligibility for a requested benefit must be established at the time of filing the benefit request. *See* 8 C.F.R. § 103.2(b)(1). Therefore, except as permitted by statute or other lawful authority, a regional center may only file a Form I-956F for an investment offering within its already approved geographic area.

Here, the Form I-956F application was filed pursuant to a judicially approved settlement agreement, and we find that the Applicant's full compliance with the terms of the settlement agreement permit approval.

Under Section II.B.2 of the *Behring* settlement agreement, regional centers that were approved under the now repealed Appropriations Act were required to file a Form I-956 by December 29, 2022, as an amendment, in order to continue to maintain their approved regional center status for purposes of sponsoring new projects and new investors under the RIA. *See Behring Regional Center LLC, et al, v. Mayorkas, et al.*, 3:22-cv-02487-VC (N.D. Cal. Aug. 24, 2022). Section II.B.2.b of the settlement agreement further provides that "the operations of Previously Approved Regional Centers, including their ability to file and receive adjudication of any other forms, shall not be limited by the lack of adjudication of the Form I-956," meaning that a previously approved regional center "need not wait for approval of Form I-956 in order to file and receive adjudications from USCIS on any other Forms." *Id.*[3]

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[2] The sole statutory exception to this requirement can be found in section 203(b)(5)(M)(ii)(I) of the Act, allowing a regional center to associate with a new commercial enterprise outside of its approved geographical boundaries in situations where the original regional center has been terminated.

[3] Consistent with the terms of the *Behring* settlement agreement, the USCIS web site advises that "[a] regional center that was previously designated and that is filing an amendment application to show the regional center's eligibility for continued designation under the new statute may file Form I-956F before we approve the amendment application . . .." *See* EB-5 Questions and Answers, Regional Centers, https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers.

Finally, at Section II.B.2.c, the settlement agreement states that "USCIS will defer to its decision in its prior designation notice when adjudicating issues addressed by Parts 3 and 4" of the Form I-956, which relate to the geographic area of the regional center and the substantive economic impact on that geographic area. *Id.* The deference mentioned in this provision "does not apply to USCIS' consideration of proposed expanded aspects of geographic area if a Previously Approved Regional Center requests a geographic area greater than that which was previously approved by USCIS." *Id.*

The record shows the Applicant timely filed the I-956 that sought to expand its geographic area prior to the December 29, 2022 deadline and that application was still pending at the time it filed the instant Form I-956F. We agree that, pursuant to the settlement agreement, the Applicant was permitted to file the Form I-956F while its Form I-956 was pending, notwithstanding the fact that the new investment offering is in a geographic area outside the scope of that previously approved by USCIS.

Accordingly, the Applicant has overcome the sole basis for denial.[4] We will withdraw USCIS' decision and sustain the appeal.

ORDER: The appeal is sustained.

[4] As noted, USCIS approved the Applicant's Form I-956, along with the requested geographic expansion, on September 24, 2024. USCIS records indicate that since that time, 12 immigrant investors filed Forms I-526E, Immigrant Petition by Regional Center Investor, based on the Form I-956F that is the subject of this appeal, some of which were denied based, in whole or in part, on the denial of this Form I-956F, and some of which remain pending. USCIS should determine the impact of this favorable decision on those investor petitions. In December 2025, the Applicant also filed a second Form I-956F (identified as [redacted]) requesting approval of the same investment offering, which USCIS approved on March 31, 2026.