U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38792748

Date: SEPT. 16, 2025

Appeal of Field Operations Directorate (FOD) Decision

Form I-956, Application for Regional Center Designation

The Appellant seeks designation as a regional center to participate in the regional center program under Section 203(b)(5)(E) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. § 1153(b)(5)(E). The Act provides that the Secretary of Homeland Security has the authority to designate a regional center to participate in the program "on the basis of a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment." *See* Section 203(b)(5)(E) of the Act.

Field Operations Directorate (FOD) denied the application, concluding that the Appellant did not sufficiently show that "the [proposed] pooled investment will have a substantive economic impact on [its proposed] geographic area," as required under Section 203(b)(5)(E)(iii) of the Act. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. *See also* Section 203(b)(5)(P)(i)(I) of the Act.

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

The goal of the regional center program is to stimulate economic growth in a specified geographic area. *See* Section 203(b)(5)(E) of the Act. Designated regional centers allow alien investors to pool their, and other investors', investments in already defined investment opportunities. *See id*.

The Act provides that the Secretary of Homeland Security has the authority to designate regional centers "on the basis of a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment." Section 203(b)(5)(E) of the Act. The Act specifies that "[a] regional center shall operate within a defined, contiguous, and limited geographic area, which shall be described in the proposal and be consistent with the purpose of concentrating pooled investment within such area." Additionally, "[t]he proposal to establish a regional center shall demonstrate that the pooled investment will have a substantive economic impact on such geographic area," and shall include the following types of evidence:

(I) reasonable predictions, supported by economically and statistically valid and transparent forecasting tools, concerning the amount of investment that will be pooled, the kinds of commercial enterprises that will receive such investments, details of the jobs that will be created directly or indirectly as a result of such investments, and other positive economic effects such investments will have . . . .

Section 203(b)(5)(E)(iii) of the Act.

To establish a substantive economic impact on a proposed geographic area, a regional center applicant may submit evidence that demonstrates the linkages between proposed economic activities within the proposed area based on different types of variables, such as but not limited to:

- Regional connectivity;
- The labor pool and supply chain; and
- Interdependence between projects.

Additionally, to demonstrate the likelihood that the proposed economic activity will have a substantive economic impact on the proposed geographic area, the regional center applicant may show the impact of the activity relative to relevant economic conditions such that the size of the proposed area is limited and consistent with the scope and scale of the proposed economic activity, as the regional center applicant is required to focus on a geographic region of the United States. *See* Section 203(b)(5)(E)(iii) of the Act.

II. ANALYSIS

The Appellant seeks designation as a regional center to participate in the EB-5 program. It indicates in a July 2023 statement that its proposed geographic area encompasses 11 contiguous states: (1) Washington, (2) Oregon, (3) California, (4) Montana, (5) Idaho, (6) Wyoming, (7) Nevada, (8) Utah, (9) Colorado, (10) Arizona, and (11) New Mexico. The record includes business plans and economic analyses indicating that the Appellant's proposed pooled investment involves the following 31 proposed projects:[1]

(1) Four proposed hotel projects located in [redacted] Washington;

(2) Two proposed multifamily projects located in [redacted] Oregon;

(3) Six proposed hotel projects located in [redacted] California;

[1] In its submissions, the Appellant refers to the proposed projects as hypothetical projects.

(4) Three proposed multifamily projects located in [redacted] Montana;

(5) Two proposed multifamily projects located in [redacted] Idaho;

(6) Two proposed multifamily projects located in [redacted] Wyoming;

(7) Two proposed multifamily projects located in [redacted] Nevada;

(8) Two proposed multifamily projects located in [redacted] Utah;

(9) Three proposed hotel projects located in [redacted] Colorado;

(10) Two proposed multifamily projects located in [redacted] Arizona; and

(11) Three proposed hotel projects located in [redacted] New Mexico.

A. U.S. Census Bureau's West Region

The Appellant argues that the proposed 11-state geographic area "is closely bound by employment and commerce, and its boundaries are consistent with the purpose of concentrating pooled investment in the area." To support its position, the Appellant notes that the proposed geographic area is part of the U.S. Census Bureau's West Region, excluding Hawaii and Alaska, and presents Chapter 2 of the U.S. Census Bureau Geographic Areas Reference Manual as supporting evidence. A September 2024 letter from [redacted] which the Appellant offers on appeal, similarly claims that the proposed 11-state geographic area is a "well-defined, contiguous, limited and defined by the U.S. Census Bureau as an economically interconnected region." As FOD explained on page 11 of the decision, however, the U.S. Census Bureau does not define Regions "based on whether these [R]egions represent connected populations or economies for the purpose of economic activity." The record supports FOD's determination.

The U.S. Census Bureau Geographic Areas Reference Manual explains that for data tabulation purposes, the Census Bureau groups areas in the United States into different types of statistical geographic entities, including 4 Regions (West, Midwest, Northeast, and South); 9 Divisions; 5,581 Census County Divisions (CCDs); 4,423 Census Designated Places (CDPs); and 268 Metropolitan

Statistical Areas (MSAs).[2] The Manual provides that the Census Bureau uses two basic principles – homogeneity principle and functional integration principle – to establish and revise statistical geographic entities. While page 29 of Chapter 2 of the Manual states that "[v]arious quantitative measures such as statistics on commuting, traffic flow, trading patterns, and communications" were used to form statistical geographic entities such as Metropolitan Areas (MAs),[3] it does not specify that the Census Bureau used the same or similar quantitative measures or factors to form Regions, including the West Region. Instead, page 22 of Chapter 2 of the Manual notes that the Census Bureau formed Regions by combining states, without specifying that it also considered economic factors within these states to form the Regions.

The September 2024 letter from [redacted] also mentions Chapter 6 of the U.S. Census Bureau Geographic Areas Reference Manual. Page 1 of Chapter 6 of the Manual explains that the U.S. Census Bureau formed Regions "to provide large units that are roughly similar in terms of historical development, population characteristics, economy, and the like" for the purposes of "summariz[ing] data for the same groups of States over a long period of time" and "provid[ing] a larger geographic framework for comparative statistical analysis." The Manual does not indicate, and the Appellant has not sufficiently shown, that the U.S. Census Bureau formed Regions, including the West Region, by considering factors such as regional connectivity, labor pool and supply chain, or other economic factors that would demonstrate that pooled investments in a particular Region will likely have a substantive economic impact on that Region. *See* Section 203(b)(5)(E)(iii) of the Act.

Based on these reasons, the record does not support the Appellant's argument that its proposed 11-state geographic area satisfies the statutory requirements solely because it is part of the Census Bureau's West Region. *See* Section 203(b)(5)(E)(iii) of the Act.

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[2] The U.S. Census Bureau provides the following definition for a metropolitan statistical area (MSA):

> A geographic entity delineated by the Office of Management and Budget for use by federal statistical agencies. Metropolitan statistical areas consist of the county or counties (or equivalent entities) associated with at least one urbanized area of at least 50,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties. Metropolitan and micropolitan statistical areas are collectively referred to as "Core Based Statistical Areas" (CBSAs).

U.S. Census Bureau, Glossary, available at https://www.census.gov/glossary/?term=Metropolitan+Statistical+Area (accessed on Sept. 15, 2025), a copy of the printout has been incorporated into the record of proceedings.

[3] The U.S. Census Bureau provides the following definition for a metropolitan area (MA):

> Formerly, a collective term established by the Office of Management and Budget to refer to metropolitan statistical areas, consolidated metropolitan statistical areas, and primary metropolitan statistical areas. This concept was retired in 2003 with the introduction of the Core Based Statistical Areas concept.

U.S. Census Bureau, Glossary, available at https://www.census.gov/glossary/?term=Metropolitan+Area+%28MA%29 (accessed on Sept. 15, 2025), a copy of the printout has been incorporated into the record of proceedings.

B. RIMS II Multipliers[4]

Alternatively, the Appellant maintains that the evidence in the record, including business plans and economic analyses, sufficiently shows that the 31 proposed projects in the proposed 11-state geographic area "demonstrate that the pooled investment will have a substantive economic impact on [the proposed] geographic area," as required under the Act. *See* Section 203(b)(5)(E)(iii) of the Act.

As supporting evidence, the Appellant has presented, among other documents, a June 2023 EB-5 Economic Impact Analysis, authored by [redacted] Page 2 of the economic analysis explains that the "report outlines the impact of the [31 proposed] projects using 2021 RIMS II multipliers provided by the Bureau of Economic Analysis (BEA)" and that "the multipliers are based upon 2015 commuting patterns for the project areas." The economic analysis alleges that it "utilizes best practices identified through BEA guidance" and "relies on economically and statistically valid methodologies to estimate jobs that are directly or indirectly created through capital expenditures, revenues generated from increased exports, improved regional productivity, job creation, and increased domestic capital investment resulting from the program."

In its July 2023 letter, the Appellant maintains:

> In the initial sections of the [June 2023] economic report, project impacts were calculated based on conservative, localized commuting patterns. Beginning on page 222 of the report, project impacts were analyzed based on multipliers that represent inter-industry relationships for the entire Regional Center scope [i.e., the proposed 11-state geographic area].

Page 2 of [redacted] September 2024 letter, which the Appellant offers on appeal, similarly claims that "the [June 2023] economic analysis included specific details concerning the localized and regional economic impact of the proposed investments in terms of direct/indirect job creation, increased output, and increased earnings."

The Appellant has not sufficiently shown that its proposed "pooled investment will have a substantive economic impact on [the proposed 11-state] geographic area" and it has not included "reasonable predictions, supported by economically and statistically valid and transparent forecasting tools," as required under Section 203(b)(5)(E)(iii)(I) of the Act. As FOD discussed on page 7 of the decision, "the choice of geographic area [or affected area] for the RIMS II multiplier[s] must be consistent with the economic activity described by the input for the economic model to be valid," and in this case, the Appellant "did not provide this evidence."

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[4] The March 1997 Regional Multipliers, A User Handbook for the Regional Input-Output Modeling System (RIMS II), which the Appellant references in its submissions, explains that "regional input-output (I-O) multipliers, which account for interindustry relationships within regions, are useful tools for regional economic impact analysis." The handbook further states that "the Bureau of Economic Analysis (BEA) developed a method of estimating regional I-O multipliers known as RIMS (Regional Industrial Multiplier System)" and then "BEA completed an enhancement of RIMS, known as RIMS II (Regional Input-Output Modeling System)." Regional Multipliers, A User Handbook for the Regional Input-Output Modeling System (RIMS II), U.S. Dep't of Commerce, Econ. & Statistics Admin., Bureau of Econ. Analysis (Mar. 1997), available at https://apps.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf (accessed on Sept. 15, 2025), a copy of the publication has been incorporated into the record of proceedings.

1. 11-State Multipliers

As noted, the June 2023 economic analysis uses "RIMS [II] multipliers for the geographic scope of the entire requested Regional Center area [i.e., the entire proposed 11-state geographic area]," – which the economic analysis refers to as "broad multipliers" – to "determine the economic impact of the proposed projects across the entire region." Page 223 through the end of the economic analysis provide that, using the "broad multipliers" to calculate economic impact, the "Regional Center Impacts" of the 31 proposed projects will be $3,358,628,587 in output, $1,238,717,283 in earnings, and 20,617 in new jobs. Page 226 of the economic analysis, however, acknowledges that "the broader multipliers likely overstate the project impacts." Indeed, as discussed on page 6 of FOD's decision, the Appellant's reliance on "multipliers based on the entire [11-state] region was not economically or statistically valid."

In its submissions, the Appellant references multiple publications regarding RIMS II. One of such publications is the 1997 Regional Multipliers, A User Handbook for the Regional Input-Output Modeling System (RIMS II).[5] Page 7 of the handbook specifies that to effectively use the RIMS II multipliers for impact analysis, a "user must determine the region that is affected by the project or program under study." In addition, pages 11 to 18 of the handbook include four case studies to illustrate how to properly use RIMS II multipliers to estimate comprehensive economic impact. For all four case studies, the multipliers used to determine comprehensive economic impact are associated with a multicounty region, not multipliers associated with states or a multistate region.

The handbook explains in footnote 15 that "[f]or one-county regions, impacts are sometimes underestimated because RIMS II multipliers do not reflect 'feedback' effects, such as purchases made in the county by commuters from nearby counties." However, footnote 16 cautions that "[f]or multicounty region, impacts are sometimes overestimated because RIMS II multipliers reflect economic activity in industries that are unaffected by the project or program under study, but overestimation is likely to be less severe for economic areas than for States because of the strong economic links among counties in economic areas." This handbook does not support a finding that the Appellant's use of 11-state multipliers to estimate economic impact of the 31 proposed projects constitutes "reasonable predictions, supported by economically and statistically valid and transparent forecasting tools," as required under Section 203(b)(5)(E)(iii)(I) of the Act. Instead, the handbook indicates that multipliers concerning a much smaller affected region should be used to estimate comprehensive economic impact of the Appellant's proposed projects.

Other publications on RIMS II similarly do not support a finding that the 11-state multipliers that the Appellant relies on to estimate economic impact on its proposed geographic area is "economically and statistically valid." *See* Section 203(b)(5)(E)(iii)(I) of the Act. For example, page 2 of Chapter 3 of

[5] *See supra* note 4.

RIMS II, An Essential Tool for Regional Developers and Planners,[6] a 2013 BEA publication, stresses that "the choice of this [affected] region . . . is one of the most important choices that can be made because it greatly influences a study's results." The BEA publication states that "[o]ne of the biggest mistakes made when using [RIMS II] multipliers is to use a region that is much larger than the region where workers will actually spend their earnings," because this "practice often leads to inflated impact estimates." Page 3 of Chapter 3 of the BEA publication recommends that "[c]ore-based statistical areas,[7] such as the U.S. Office of Management and Budget's metropolitan statistical areas (MSAs),[8] often serve as good choices for the [affected] region because they consist of areas with close economic ties." Neither the handbook nor the 2013 BEA publication supports a finding that the portion of the Appellant's economic analysis that relied on the 11-state multipliers to estimate economic impact used "economically and statistically valid and transparent forecasting tools," as required under Section 203(b)(5)(E)(iii)(I) of the Act.

On appeal, the Appellant argues that the 11-state multipliers are appropriate because "even merely seven (7) of the proposed projects [redacted] . . . taken together would draw commuters from 78% of the entire 11-state geographic area based on full commuting patterns using Census Bureau data." RIMS II publications, however, have not stated that "the full commuting pattern" is a determinative factor when choosing the appropriate multipliers to estimate economic impact of a project or a group of projects.

Additionally, the data the Appellant has presented does not support a finding that "the full commuting pattern" should determine the appropriate RIMS II multipliers. Specifically, the June 2023 economic analysis provides the following information about the seven referenced projects:

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[6] RIMS II, An Essential Tool for Regional Developers and Planners, U.S. Dep't of Commerce, Bureau of Econ. Analysis (Dec. 2013), available at https://www.bea.gov/sites/default/files/methodologies/RIMSII_User_Guide.pdf (accessed on Sept. 15, 2025), a copy of the publication has been incorporated into the record of proceedings. The BEA publication explains that there are Type II and Type I multipliers, and that "Type II multipliers . . . account for both the interindustry and household-spending of a final-demand change," while "Type I multipliers . . . account for only the interindustry effect of a final-demand change."

[7] The U.S. Census Bureau provides the following definition for Core Based Statistical Areas (CBSAs):

> Refer collectively to metropolitan statistical areas and micropolitan statistical areas. CBSAs consist of the county or counties (or equivalent entities) associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties.

U.S. Census Bureau, Glossary, available at https://www.census.gov/glossary/?term=Core+Based+Statistical+Areas+%28CBSAs%29 (accessed on Sept. 15, 2025), a copy of the printout has been incorporated into the record of proceedings.

[8] *See supra* note 2.

	Proposed Project Location (Project County)	Workforce Drawing Area or Commuting Counties[9]	Commuting County Count
1	Washington)		3
2	Idaho)		2
3	Montana)		3
4	Colorado		8
5	California		3
6	Arizona)		1
7	New Mexico)		3
		Total Commuting County Count	23

Page 228 of the economic analysis states that the entire proposed 11-state geographic area "has 414 counties," and that "the full commuting patterns" of "the seven [project county] cover workers that reside in 321 of these [414] counties" or "78% of the [proposed 11-state geographic area]." According to information in the economic analysis, and as illustrated in the table above, however, approximately 97% of the individuals who work in the seven project counties live in 23 counties, which equates to roughly 5.6% of the counties in the requested area.[10] The remaining 3% of the workers, therefore, would be spread over the remaining 94.4% of the counties in the Appellant's proposed geographic area. Evidence that 3% of the workers living in the 298 counties[11] in the proposed 11-state geographic area is insufficient to support the Appellant's contention that the seven project counties have strong economic links with all the other counties in the proposed geographic area, or that the use of the 11-state multipliers to estimate economic impact is "economically and statistically valid," as required under Section 203(b)(5)(E)(iii)(I) of the Act.

This conclusion is further supported by a specific example that the Appellant has offered. The Appellant points to page 228 of the June 2023 economic analysis, which claims that according to Census Bureau data, "the full commute area for just AZ (including the city of includes workers residing in 420 different counties across 49 states, and all the states in the proposed [11-state] Regional Center geography." While page 188 of the economic analysis states that the proposed multifamily construction and operation project in will affect 5 industries – residential building construction; architectural, engineering, and related services; merchant wholesalers-durable goods; management, scientific, and technical consulting services; and lessors of real estate – the Appellant has not provided information on the industries associated with the workers [who] "resid[e] in 420 different counties across 49 states." In other words, the Appellant has not shown if the workers associated with the industries of its proposed project in also "resid[e] in 420 different counties across 49 states." As explained on page 12 of FOD's decision, the Appellant "indicated that some workers in all industries commute from several states away, but

[9] In its submissions, the Appellant uses the term "Workforce Drawing Area" to refer to the commuting counties in which 97% of the individuals who work in the Project County reside.

[10] $23 \div 414 \times 100\% = 5.6\%$

[11] 321 Counties – 23 Counties = 298 Counties.

. . . did not provide evidence that this behavior was consistent with the economic activities described in its proposal, namely the construction and operation of hotels and [multifamily] buildings." As such, the Appellant has not sufficiently demonstrated that the full commuting pattern of workers in unspecified industries is relevant in this case.

Additionally, page 187 of the economic analysis provides that "Census Bureau data shows that approximately 97% of the people who work within [redacted] live in [redacted] This means approximately 3% of the people who work in [redacted] live outside of the county, in the other 419 counties discussed on page 228 of the economic analysis. Even if we were to accept that 3% of [redacted] workers live outside of [redacted], in all 11 states that the Appellant seeks to designate as its regional center geographic area, the record is insufficient to show that using 11-state multipliers, rather than [redacted] multipliers, are appropriate to estimate economic impact of the project. As noted in footnote 16 of the handbook, the appropriate affected region should have "strong economic links among [the] counties." Evidence that 3% of the workers in [redacted] live outside of the county is not sufficient to support a finding that [redacted] has strong economic links with all the other counties in the proposed 11-state geographic area, or that the use of the 11-state multipliers to estimate economic impact is "economically and statistically valid," as required under Section 203(b)(5)(E)(iii)(I) of the Act.

The record includes a September 13, 2024, statement from [redacted] professor of economics in the [redacted] The letter compares economic connections between the states within the proposed 11-state geographic area, and between those 11 states and other states outside the proposed geographic area. The letter concludes that the economic connections between the states within the proposed geographic area are stronger than those between the 11 states and other states. While this might be evidence showing a certain level of economic connections among the 11 states, the Appellant has not sufficiently established that the level is sufficiently significant to support a finding that the Appellant could rely on 11-state multipliers to estimate economic impact of the 31 proposed projects. Significantly, as noted, neither the handbook nor the 2013 BEA publication specifies that multistate multipliers, or in this case 11-state multipliers, should be used to estimate economic impacts. In fact, as discussed, these publications caution the use of multipliers associated with areas larger than MSAs, multicounty regions, because of the likelihood of impact overestimation.

Based on these reasons, the Appellant has not sufficiently shown that the portion of the economic analysis that relied on the 11-state multipliers to estimate economic impact of the 31 proposed projects used "economically and statistically valid and transparent forecasting tools," as required under Section 203(b)(5)(E)(iii)(I) of the Act. As such, that portion of the economic analysis is insufficient to show that the proposed "pooled investment will have a substantive economic impact on [the proposed 11-state proposed] geographic area," as required under Section 203(b)(5)(E)(iii) of the Act.

2. Multicounty Multipliers

While the June 2023 economic analysis also provides economic impact estimates using multicounty multipliers, the Appellant has not shown that the proposed "pooled investment will have a substantive economic impact on [the 11-state] geographic area." Section 203(b)(5)(E)(iii) of the Act. Pages 5 through 221 of the June 2023 economic analysis discuss projected economic impact – including

increased output, earnings, and jobs – of the 31 proposed projects in "31 workforce drawing areas."[12] The economic analysis explains that each proposed project is associated with a "workforce drawing area" that includes the county where the proposed project is located (project county) and the neighboring counties from which approximately 97% of individuals who work in the project county live and spend money. For example, pages 5 through 11 of the economic analysis discuss a proposed hotel project in [redacted] which is in [redacted] Washington. The economic analysis provides: "Census Bureau data shows that approximately 97% of the people who work within [redacted] live in [redacted]," and that "RIMS II guidelines suggest that people spend most of their earnings near the location of their residence, rather than the location of their employment." The economic analysis then uses industry-specific RIMS II multipliers – including the Final Demand Multipliers for Output, Earnings, and Employment (Jobs), and the Direct Effect Multipliers for Earnings and Employment (Jobs) – for [redacted] Washington, to calculate economic impact of the proposed hotel project. The corresponding June 2023 business plan for the project also relies on the multipliers associated with [redacted] and [redacted] Washington, to calculate job creation estimates. The economic analysis estimates that the project in [redacted] will result in $38,522,868 in earnings, and both the economic analysis and business plan estimate 619 new jobs. The economic analysis specifies that the new jobs will be "within the [redacted] WA [Washington] Workforce Drawing Area."

Similarly, pages 215 through 221 of the June 2023 economic analysis discuss a proposed hotel project in [redacted] which is in [redacted] New Mexico. The economic analysis states that "Census Bureau data shows that approximately 97% of the people who work within [redacted] live in" six counties in New Mexico – [redacted] and four counties in Texas – [redacted] As such, the economic analysis uses industry-specific RIMS II multipliers for the referenced 10 counties to calculate economic impact of the proposed hotel project. The corresponding June 2023 business plan for the project also relies on the multipliers associated with the 10 counties in New Mexico and Texas to calculate job creation estimates. The economic analysis estimates that the project in [redacted] will result in $40,713,717 in earnings, and both the economic analysis and business plan estimate 774 new jobs. The economic analysis specifies that the new jobs will be "within the [redacted] NM [New Mexico] Workforce Drawing Area."

The economic analysis indicates that approximately 97% of the workers associated with the 31 proposed projects will live in approximately 110 counties in the proposed 11-state geographic area.[13] Page 228 of the economic analysis claims that the entire 11-state proposed geographic area "has 414 counties." This means that approximately 97% of the workers associated with the 31 proposed projects will live in approximately 26.57% of the counties in the proposed 11-state geographic area,[14] with the remaining approximately 3% living in the remaining approximately 73.43% of the counties in the proposed 11-state geographic area.[15] Even if we were to accept the Appellant's use of RIMS II

[12] The business plans in the record refer to "workforce drawing areas" as "local commute areas." *See supra* note 9.

[13] The 31 "Workforce Drawing Areas" list a total of 119 counties. However, some of the "Workforce Drawing Areas" contain overlapping counties. For example, the "Workforce Drawing Area" for the proposed project in [redacted] New Mexico, includes three counties: [redacted] and the "Workforce Drawing Area" for the proposed project in [redacted] New Mexico, includes 6 counties: [redacted] are listed in both "Workforce Drawing Areas."

[14] $110 \div 414 \times 100\% = 26.57\%$

[15] $100\% - 26.57\% = 73.43\%$

multipliers associated with "Workforce Drawing Areas" to calculate economic impact of the 31 proposed projects, at most, the Appellant has shown that the proposed "pooled investment will have a substantive economic impact on" approximately 26.57% of the counties in the proposed 11-state geographic area, not on the entire 11-state geographic area. *See* Section 203(b)(5)(E)(iii) of the Act.

On appeal, the Appellant references our 2016 non-precedent decision, *Matter of R-T-E-R-C-, LLC*, 2016 WL 4093593 (AAO Jul. 2016). In that decision, we found that the regional center appellant had submitted evidence of commuting patterns and worker spending habits that, combined, sufficiently demonstrated a statewide economic impact based on the legal standard applicable to adjudication in that case. The Appellant here maintains that our decision supports the position that there is no "requirement that pooled investments, or substantive economic impacts must cover each square foot of any requested geographic area, whether a census tract or 11 states." We disagree with the Appellant's interpretation of our non-precedential decision and its applicability in the instant matter.

First, the plain language of Section 203(b)(5)(E)(iii) of the Act contradicts the Appellant's contention that there is no requirement that substantive economic impacts must cover the totality of the requested geographic area. It states:

> A regional center shall operate within a defined, contiguous, and limited geographic area, which shall be described in the proposal and be consistent with the purpose of concentrating pooled investment within such area. The proposal to establish a regional center shall demonstrate that the pooled investment will have a substantive economic impact on such geographic area . . . .

Allowing a regional center to operate within an area where it will not have a substantive economic impact would be contrary to the statute. Section 203(b)(5)(E)(iii) of the Act sets parameters to limit the geographic area and explicitly requires an applicant seeking designation as a regional center to demonstrate that its pooled investment will have a substantive economic impact on the area.

Additionally, the Appellant has not shown that the 2016 decision is binding authority in this case. This decision was not published as a precedent and therefore does not bind U.S. Citizenship and Immigration Services officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Furthermore, *Matter of R-T-E-R-C-, LLC*, can be differentiated from the instant case, as it interprets an EB-5 statute that has been repealed and substantially modified by new provisions added to the Act. *See id.*

Significantly, when the non-precedent decision was issued in 2016, a regional center seeking designation was required to meet a different standard to participate in the EB-5 program. Under the now-repealed statute governing the program at the time, a regional center was designated on the basis of a general proposal to promote economic growth with jurisdiction over a limited geographic area, consistent with the purpose of concentrating pooled investment in defined economic zones. Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. 102-395 (October 6, 1992) (as amended). *See also* 8 C.F.R. § 204.6(m)(3). As noted in *Matter of R-T-E-R-C-, LLC*, determinations of "promoting economic growth" in a "limited geographic area" under the former statute "[did] not require any particular form of evidentiary showing . . . ." *Matter of R-T-E-R-C-, LLC*, 2016 WL 4093593 at *2. The current statute uses superficially similar but distinct terminology, indicating that Congress intentionally

changed the standards for designation from the former statute by, among other things, adding the requirement that a proposal for regional center designation demonstrates the pooled investment will have a substantive economic impact on the geographic area rather than merely just promoting economic growth. Section 203(b)(5)(E)(iii) of the Act.

Congress also added more specificity regarding the evidentiary showing to demonstrate economic impacts by requiring reasonable predictions, supported by economically and statistically valid and transparent forecasting tools, concerning the amount of investment that will be pooled, the kinds of commercial enterprises receiving such investment, the jobs that will be created as a result of such investments and other positive economic effects. Section 203(b)(5)(E)(iii)(I) of the Act (*cf.* 8 C.F.R. § 204.6(m)(3) governing designation standards under the former statute requiring, among other things, detailed predictions regarding the manner in which the regional center will have a positive impact on the regional or national economy in general and, separately, that the designation proposal be generally supported by economically or statistically valid forecasting tools). The revised statutory requirements indicate Congress's intent to require a more specific evidentiary showing of the substantive economic impact on the defined, contiguous, and limited area in which the regional center will operate versus the more general showing permitted under the former statute. Thus, while we found the commuting and spending evidence in *Matter of R-T-E-R-C-, LLC*, sufficient to demonstrate promotion of economic growth in the requested area based on the general proposal submitted under the former statute, we did not assess whether that record showed a substantive economic impact or was based on reasonable predictions, supported by economically and statistically valid and transparent forecasting tools, concerning the economic effects the proposed investments would have, a requirement that the Appellant must now satisfy. *See* Section 203(b)(5)(E)(iii) of the Act. As described above, the Appellant has not shown its predictions regarding the economic impact based on commuting and spending evidence are reasonable and supported by economically and statistically valid and transparent forecasting tools such that the pooled investments would have a substantive economic impact on the proposed 11-state geographic area.

Moreover, even if the Appellant need not establish substantive economic impact on "each square foot" of the proposed geographic area, it has not sufficiently demonstrated that evidence of economic impact on approximately 26.57% of the counties in the proposed geographic area satisfies the statutory requirements. *See* Section 203(b)(5)(E)(iii) of the Act. As such, the Appellant has not sufficiently established that the proposed "pooled investment [involving 31 proposed projects] will have a substantive economic impact on [the proposed 11-state] geographic area," as required under Section 203(b)(5)(E)(iii) of the Act.

III. CONCLUSION

Based on the reasons we have discussed above, the Appellant has not established eligibility to be designated as a regional program to participate in the EB-5 program. Specifically, it has not presented "reasonable predictions, supported by economically and statistically valid and transparent forecasting

tools," confirming that its proposed "pooled investment will have a substantive economic impact on [the proposed 11-state] geographic area."[16] *See* Section 203(b)(5)(E)(iii) of the Act.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). 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.

[16] FOD's decision raised other issues, including if the proposed 11-state geographic area constitutes a "limited" geographic area, and if the Appellant's proposed pool investment and 31 proposed projects are credible or viable. We will not address these or other eligibility issues in this decision. Instead, we will reserve any eligibility issues not discussed in this decision for future consideration if the need arises. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).