



August 12, 2004

Press Release

USCIS Announces September 17, 2004, Public Meeting to Address Regional Centers and the Immigrant Investor Pilot Program

All persons interested in attending a public informational meeting on the Immigrant Investor Pilot Program and Regional Centers are invited.

DATE: September 17, 2004

TIME: 10:00 am to 4:00 pm (Eastern Standard Time)

**LOCATION: Holiday Inn
415 New Jersey Avenue NW
Washington, D.C.**

Please email your RSVP to confirm your attendance by no later than August 30, 2004, to hqopr@dhs.gov, and provide the following information (required):

Name of person attending,
Affiliation (if any),
Mailing address,
Phone number,
Email address.

Copy of the [Meeting Agenda](#)

BACKGROUND: The Immigrant Investor Pilot Program (“Pilot Program”) was created by Section 610 of Public Law 102-395 (October 6, 1992). This is different in certain ways from the basic EB-5 [Investor Program](#).

The Pilot Program began in accordance with a Congressional mandate aimed at stimulating economic activity and creating jobs for U.S. workers, while simultaneously affording eligible aliens the opportunity to become

lawful permanent residents. Through this innovative program, foreign investors are encouraged to invest funds in an economic unit known as a “Regional Center.”

A Regional Center is defined as any economic unit, public or private, engaged in the promotion of economic growth, improved regional productivity, job creation and increased domestic capital investment. Prior law required investment in a Regional Center to generate an increase in export sales. However, statutory amendments in 2000 and 2002, no longer require an increase in export sales for approval of a Regional Center, although the statutory amendments still encourage this aspect of the Pilot Program.

Presently up to 3000 immigrant visas are set aside each year for the Pilot Program. Although the Pilot Program temporarily sunset on September 30, 2003, it was reinstated and extended for five years by Congress via a law enacted in November 2003, with a new sunset date of November 2008. As of June 1, 2004, a total of 26 Regional Centers have been designated by the legacy Immigration and Naturalization Service (INS) and today, the U.S. Citizenship and Immigrations Services (USCIS).

Basic requirements for Regional Center designation: Applicants must show how their proposed program will:

- Focus on a geographic region;
- Promote economic growth through increased export sales, if applicable;
- Promote improved regional productivity;
- Create a minimum of 10 direct or indirect jobs per investor;
- Increase domestic capital investment;
- Be promoted and publicized to prospective investors;
- Have a positive impact on the regional or national economy through increased household earnings; and
- Generate a greater demand for business services, utilities maintenance and repair, and construction jobs both in and around the center.

How The Pilot Program And Regional Centers Fall Within The EB-5 Investor Requirements

The requirements for an investor under the Pilot Program are essentially the same as in the basic EB-5 investor program except that the Pilot Program allows for a less restrictive requirement for “indirect” job creation rather than “direct” job creation. The capital investment requirement for any EB-5 investor, inside or outside of a Regional Center is \$1 million. The capital investment requirement for an EB-5 investor in a Targeted Employment Area (TEA) or a Rural Area (RA) is \$500,000.

Indirect Job Creation: An important advantage to obtaining Regional Center designation is the “indirect” nature of the job creation, which is less difficult to achieve than the “direct” creation of 10 new jobs. The requirement of creating at least 10 new full-time jobs may be satisfied by showing that, as a result of the investment and the activities of the new enterprise, at least 10 jobs will be created indirectly through an employment creation multiplier effect. To show that 10 or more jobs are actually created indirectly by the business, reasonable methodologies may be used, such as multiplier tables, feasibility studies, analyses of foreign and domestic markets for the goods or services to be exported, and other economically or statistically valid forecasting tools which support the likelihood that the business will result in increased employment.

Targeted Employment Area (TEA): A TEA is a geographic area or political subdivision located within a metropolitan statistical area or within a city or town with a population in excess of 20,000 with an unemployment level at least 150% of the national unemployment rate. TEAs within a state are identified and designated by the governor (and for a TEA within the District of Columbia, designation is made by the Mayor). Typically a Regional Center seeks to encompass one or more TEAs. One example of a TEA is a Regional Center, which encompasses a large city which contains clearly delineated census tracts that have been designated as a TEA by the State based on the measured unemployment rates for the population residing within those locations.

Rural Area: A RA is a geographical area that is outside a metropolitan statistical area, or part of the outer boundary of any city or town having a population of 20,000 or less as shown by population indicators. In certain areas involving a sparsely populated state, an approved statewide Regional Center likely encompasses both TEAs and RAs.

Required Amount of Investment: Depending on the location of the commercial enterprise to be invested in, the required amount of the investment may be either \$1 million or \$500,000. If the investment is located within a TEA or RA, the required minimum threshold for investment is \$500,000. Otherwise, an alien must invest a minimum of \$1 million to qualify.

Required Commercial Enterprise: In order to qualify under the Pilot Program, an investment of the requisite amount (\$500K or \$1 million) must be made in a new commercial enterprise located within an approved Regional Center.

New Commercial Enterprise: The law and regulations require that the commercial enterprise in which the investment is made must:

1. Have been created/established after November 29, 1990; or
2. If the investment is made in a pre-1990 enterprise, the alien's investment must have created a 40% or more increase in either the enterprise's net worth or number of employees; or
3. The pre-1990 enterprise has been restructured or reorganized so that the result is a new commercial enterprise.

Although the 2002 EB-5 amendments eliminated the requirement that the alien "establish" the new commercial enterprise, the law retained the requirement that the enterprise into which the alien has invested be "new."

Risk: The regulations and precedent decisions require an alien to incur a reasonable risk for purposes of generating a return on his or her capital investment. As such there should be no guarantees, buy back arrangements, unsecured promissory notes, other agreements or arrangements that in effect merely structure or organize the investment for appearance sake only for purposes of obtaining the permanent resident status without the alien's capital being fully invested and at risk in the investment in the new commercial enterprise to create or spawn the required 10 jobs.

Engagement of the Alien Investor in the Enterprise: The regulations require that the alien investor is or will be engaged in the management of the new commercial enterprise, either through day-to-day managerial control or through participation in policy-making decisions for the commercial enterprise.

Application for Regional Center designation: There is no established application form by which to apply. The process provides that any entity, government or private organization which desires Regional Center designation by the USCIS proceed as follows:

1. Prepare a written narrative proposing a for-profit investment which addresses each of the requirements for Regional Center designation participating in the pilot program, with supporting evidence as prescribed in the regulations at 8 CFR 204.6(m).
2. Submission of the written proposal to the USCIS Associate Director for Operations.

At present there is no fee required to apply for Regional Center designation. The USCIS will then review and adjudicate the proposal and may request additional clarifying information and evidence to support representations made in the proposal. If the proposal is initially determined to fully meet each of the requirements for Regional Center designation, then such designation is issued through a letter to the applicant signed by the USCIS' Associate Director for Operations. If the proposal is initially determined to not meet all the requirements for such designation, then a request for additional evidence may be made. Based on the proposal and the supporting evidence for the proposal, a final determination to approve or deny the regional center request will be made by USCIS.

Important: The above information on Regional Center designation is provided as general information only. It is not intended to be, and may not be relied upon, to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner. Nothing herein restricts or limits USCIS' ability to administer, review, develop, or in any way change the Regional Center designation program.