

EB-5 Foreign Investor Seminar

A light gray world map is centered in the background of the slide, showing the continents of North America, South America, Europe, Africa, Asia, and Australia.

Presentation to the Workshop on Economic and Job Impacts

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Introduction

- **EB-5 Program was established in 1990 via PL101-649. Section 203(b)(5):**
 - “allows for the admission to permanent residence on a two-year conditional basis to qualified aliens who will contribute to the economic growth of the U.S. by investing in U.S. businesses and creating employment opportunities.” [Source: USCIS]
- **The new commercial enterprise may take any lawful business form, including a limited partnership:**
 - But the investment must:
 - Benefit the U.S. economy, and
 - Directly create not fewer than 10 new “qualifying employees.”
 - Under the Pilot Program, job creation can be “indirect”—an issue we will cover later.

Introduction

- **The EB-5 Program requires that the project will create no fewer than 10 full-time positions (or equivalent):**
 - “...at least 10 additional full-time positions at the commercial enterprise where the investment occurs...”
- **In a Regional Center under the Pilot Program, the new job creation need not occur entirely at the commercial enterprise where the investment is made.**
 - “...must show, through reasonable methodologies, that the business will create ten jobs indirectly...”

Introduction

- **Meeting the job creation burden of an EB-5 project or Regional Center designation application is where an experienced regional economist can help!**
 - Can use static look-up tables and matrixes such as those published by the Bureau of Economic Analysis (a topic Scot B. will cover),
 - Or an application can be developed using the results of dynamic input-output models **from the beginning of project planning through employment creation documentation for the USCIS** (which I will cover later).

Using Tools...

- **As noted earlier, there are static and dynamic approaches for measuring direct and indirect jobs.**
 - **A static approach is adequate:**
 - (1) With simple, straightforward projects.
 - **A dynamic approach is best:**
 - (1) When the project is multi-faceted,
 - (2) When the project is in a sector where there is a relatively high capital requirement per job created (Services, Ag., Hospitality, etc.)
 - (3) When there are “seasonal” jobs involved, and/or
 - (4) When you need to understand market dynamics (e.g. competitive effects) of where your jobs are coming from.

Using Tools...

- **Dynamic input-output models can help you to optimize your project.**
 - They help “optimize” in two very important respects:
 - (1) To document your project’s economic/job impact under USCIS reporting requirements.
 - Very few projects these days are “simple or straightforward.”
 - (2) To “keep you” out of trouble.
 - So that your financial model is grounded in “reality” (e.g. Your project is “phased properly” and alien investors are involved with the job generating parts of the project, etc.)
 - The job-creation requirements will not threaten the financial success of your project.

Using Tools...

- **Examples of where dynamic input-output modeling can be useful, if not vital to a project, include:**
 - Strategic project planning and concept development.
 - As part of a report to the USCIS with the required economic-jobs impact estimates once the project plan is determined.
 - Developing pro-forma economic impact-jobs impact estimates for candidate industries in Regional Center applications (e.g. LBVRC).
 - Follow-up estimates of actual job creation when the investor petitions for removal of conditions.

*...To Ensure
Success*

- **Example: Strategic Project Planning Assistance:**
 - Technical assistance in deciding which amenities-activities should be included in your project to meet the program's economic impact and job impact requirements.
 - Technical assistance with issues such as “phasing” to help meet job impact requirements (including projects under the Pilot Program).
 - As a “cross-check” to your business planning.
 - Program monitoring to keep you current.

... To Ensure Success

- **Example: Required economic and job impact analysis:**
 - Presentation of a professional, defensible methodology to help prove “**positive impact on the U.S. economy.**”
 - Presentation of a professional, defensible estimate of job impacts to meet program requirements under USCIS regulations:
 - 8 CFR 204.6 (j)(4)(i) in *general*.
 - 8 CFR 2004.6(j)(4)(ii) for *Troubled Business*.
 - 8 CFR 204.6(j)(4)(iii) for *Regional Centers* under the Immigrant Investor Pilot Program.

*...To Ensure
Success*

- **Example: Pro-forma estimates of job impact for candidate industries in “Regional Center” applications:**
 - Key for having a professional and defensible methodology to define the region for the Center, and
 - To define “the focus of investment activity.”
 - **Once approved, projects may be developed and investors may file to invest in commercial enterprises in those industries in the defined geography of the Center.**

*... To Ensure
Success*

- **Example: Follow-up estimates of direct/indirect job impacts when petitioning for “removal of conditions:”**
 - Representation by a professional regional economist with USCIS reviewers on an “as needed” basis.
 - Follow-up study to help you “prove” your job impacts as required under USCIS regulations.

Regional Centers

- **“Regional Center” comes from Section 610 PL 102-395—the Immigrant Investor Pilot Program [October 6, 1992).**
 - The Pilot Program came about through a Congressional mandate aimed at stimulating economic activity while affording eligible aliens the opportunity to become lawful U.S. residents.
 - Through the program, foreign investors were encouraged to invest funds in an economic unit known as “Regional Centers.”

Regional Center Designation

- **Regional Center [8 C.F.R. § 204.6 (e)]—means any economic unit (e.g. area) public or private, which is involved in the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.**
 - Prior law required an investment to generate “increased export sales.”
 - Amendments passed in 2000 and 2002 no longer specifically required increased export sales—though investment to “generate increased export sales” is still encouraged.
 - Presently, the Pilot Program is set to sunset in March of 2009, though legislation extending the Pilot Program will be introduced once again in the U.S. Congress.

Regional Center Designation

- **Regional Center designation can be beneficial with respect to required job generation requirements.**
 - In Regional Centers, the job creation requirement of 10 jobs can count both direct and indirect jobs.
 - Outside Regional Centers, 10 jobs per investor are needed at the subject business entity only—direct jobs—which is a much harder job creation hurdle.
- **Regional Center designation does not impact the \$1 million threshold required for investments.**
 - A \$500,000 investment is required for projects in:
 - Rural Areas (RAs).
 - Targeted Employment Areas (TEAs).
 - A Regional Center—such as a statewide Regional Center (VT and AL)—can contain both RAs and TEAs.

Regional Center Designation

- **Rural Areas are those areas outside of metro areas or part of the outer boundary of any city or town having 20,000 or less in population.**
 - Rural areas can be present within Regional Centers.
- **TEAs can be as small as census tracts (which can be in a metro area) with an unemployment level at least 150% of the national unemployment rate.**
 - TEAs are identified and designated by the Governor and/or his/her designee (or the Mayor in the District of Columbia).

Regional Center Designation

- **There is no set format for “Regional Center” applications.**
 - Basic requirements for Regional Center designation include demonstrating that the proposed program:
 - Is focused on a specific geographic region as defined.
 - Will promote growth.
 - Create 10 or more direct-indirect jobs per investor.
 - Will increase domestic capital investment.
 - Will improve the regional economy.
 - Be promoted and publicized to prospective investors.

Contact Information

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