



U.S. Citizenship  
and Immigration  
Services

HQSCOPS 70/6.1.8

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OCT 30 2008

Re: Designation of New York City Regional Center (NYC-RC) as a Regional Center Under the Immigrant Investor Pilot Program

**BACKGROUND:**

Pursuant to Section 610 of the Appropriations Act of 1993, on June 18, 2008, New York City Regional Center, LLC submitted a proposal for the designation of New York City Regional Center which focuses exclusively within four counties in New York City. They are: Bronx, Kings, Queens and New York (Manhattan) Counties. NYC-RC will pursue a diversified portfolio of real estate investment and development that will result in direct and indirect job creation. The projects will fall into the following nine categories:

1. Hotels,
2. Restaurants,
3. Retail Stores,
4. Office Buildings,
5. Light Industrial/Warehouses,
6. Civic Buildings,
7. Apartments/Condominiums,
8. Mixed Use I (hotels, retail stores and, apartments), and
9. Mixed Use II (office buildings, retail stores, and condominiums).

The initial proposal contained the following evidence in support of its requested designation:

- A Job Creation Analysis and Econometric Model prepared by a professional economic analysis firm which specifically calculates but excludes construction jobs from the detailed prediction,
- An Economic Impact Analysis for each investment category,
- A Business Plan,
- An Operating Agreement,
- A Subscription Agreement, and
- A Marketing Plan.

**DECISION:**

Based on its review and analysis of the June 18, 2008, business plan and job creation analysis and multipliers reflecting the development of various sample projects, USCIS hereby approves the requested designation of New York City Regional Center (NYC-RC) as a Regional Center under the Immigrant Investor Pilot Program.

**FOCUS OF INVESTMENT ACTIVITY AND CAPITAL INVESTMENT THRESHOLD:**

The USCIS-approved focus of the NYC-RC business plan and job creation analysis and multipliers is to generate immigrant investor capital into the following nine commercial enterprise activities within four counties within the City of New York:

1. Hotels,
2. Restaurants,
3. Retail Stores,
4. Office Buildings,
5. Light Industrial/Warehouses,
6. Civic Buildings,
7. Apartments/Condominiums,
8. Mixed Use I (hotels, retail stores and, apartments), and
9. Mixed Use II (office buildings, retail stores, and condominiums).

As such, aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for these commercial enterprises located within the NYC-RC area comprised of the Bronx, Kings, Queens and New York (Manhattan) Counties. The geographic focus of this area contains certain areas of high unemployment, as designated by the State of New York as defined in 8 CFR 204.6(i) that qualify as Targeted Employment Areas (TEAs). Therefore, the minimum capital investment threshold for any individual immigrant investment into the commercial enterprise throughout NYC-RC shall be not less than \$500,000 if within a TEA or \$1,000,000 if outside a TEA.

**EMPLOYMENT CREATION:**

Alien entrepreneurs who file petitions for commercial enterprises located in the NYC-RC area must fulfill all of the requirements set forth in 8 CFR 204.6, except that the petition need not show that the new commercial enterprises created ten new jobs indirectly as a result of the alien entrepreneur's investment. This determination has been established by way of USCIS' acceptance of the final economic analysis that is contained as part of the approved NYC-RC proposal and its indirect job creation model and multipliers contained within the final approved NYC-RC application package.

In addition, where job creation or preservation of existing jobs is claimed based on a multiplier rooted in underlying new "direct jobs" in support of an immigrant investor's individual I-526 petition affiliated with the NYC-RC, then:

- To be credited with projected creation of new “direct” jobs for “qualifying employees” upon filing the I-526 petition, the petition must be supported by a comprehensive detailed business plan and supporting financial, marketing and related data and analysis providing a reasonable basis for projecting creation of any new direct jobs for “qualifying employees” to be achieved/realized within two years pursuant to 8 CFR 204.6(j)(4)(B).

An alien investor’s I-829 petition to remove the conditions which was based on an I-526 petition approval that involved the creation of new direct jobs or the creation of new indirect jobs based on a multiplier tied to underlying new direct jobs needs to be properly supported by evidence of job creation. To support the full number of direct and indirect new jobs being claimed in connection with removal of conditions, the petition will need to be supported by probative evidence of the number of new direct full time (35 hours per week) jobs for qualified employees whose positions have been created as a result of the alien’s investment. Such evidence may include copies of quarterly state employment tax reports, Forms W-2, Forms I-9, and any other pertinent employment records sufficient to demonstrate the number of qualified employees whose jobs were created directly.

Each individual petition, in order to demonstrate that it is associated with the NYC-RC, in conjunction with addressing all the requirements for an individual alien entrepreneur petition, shall also contain as supporting evidence relating to this amended regional center designation, the following:

1. A copy of this letter for the NYC-RC approval and designation.
2. A copy of the approved regional center narrative proposal and business plan.
3. A copy of the job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in the regional center economic analysis which has been approved by USCIS, which reflects that investment by an individual alien investor of at least \$500,000 or \$1,000,000 into an approved project category will create full-time employment positions, either directly or indirectly, for not fewer than ten qualified employees per alien investor within the two years of conditional residence.
4. Evidence of complete investment of funds.
5. Evidence of lawful source of funds.
6. A legally executed copy of:
  - a. the Offering Memorandum,
  - b. the Subscription Agreement, and
  - c. the Limited Liability Company Operating Agreement..

**DESIGNEE'S RESPONSIBILITIES INHERENT IN CONDUCT OF THE NEW YORK CITY REGIONAL CENTER:**

The law, as reflected in the regulations at 8 CFR 204.6(m)(6), requires that an approved regional center in order to maintain the validity of its approval and designation must continue to meet the statutory requirements of the Immigrant Investor Pilot Program by serving the purpose of promoting economic growth, including increased export sales (where applicable), improved regional productivity, job creation, and increased domestic capital investment. Therefore, in order for USCIS to determine whether your regional center is in compliance with the above cited regulation, and in order to continue to operate as a USCIS approved and designated regional center, your administration, oversight, and management of your regional center shall be such as to monitor all investment activities under the sponsorship of your regional center and to maintain records, data and information on a quarterly basis in order to report to USCIS upon request the following year to date information for each Federal Fiscal Year<sup>1</sup>, commencing with the initial year as follows:

1. Provide the principal authorized official and point of contact of the regional center responsible for the normal operation, management and administration of the regional center.
2. Be prepared to explain how you are administering the regional center and how you will be actively engaged in supporting a due diligence screening of its alien investors' lawful source of capital and the alien investor's ability to fully invest the requisite amount of capital.
3. Be prepared to explain the following:
  - a. How the regional center is actively engaged in the evaluation, oversight and follow up on any proposed commercial activities that will be utilized by alien investors.
  - b. How the regional center is actively engaged in the ongoing monitoring, evaluation, oversight and follow up on any investor commercial activity affiliated through the regional center that will be utilized by alien investors in order to create direct and/or indirect jobs through qualifying EB-5 capital investments into commercial enterprises within the regional center.
4. Be prepared to provide:
  - a. the name, date of birth, petition receipt number, and alien registration number (if one has been assigned by USCIS) of each principal alien investor who has made an investment and has filed an EB-5/I-526 Petition with USCIS, specifying whether:
    - i. the petition was filed,
    - ii. is pending,

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<sup>1</sup> A Federal Fiscal Year runs for twelve consecutive months from October 1<sup>st</sup> to September 30<sup>th</sup>.

- iii. was approved,
    - iv. denied, or
    - v. withdrawn by the petitioner, together with the date(s) of such event.
  - b. The total number of visas represented in each case for the principal alien investor identified in 4.a. above, plus his/her dependents (spouse and children) for whom immigrant status is sought or has been granted.
  - c. The country of nationality of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - d. The U.S. city and state of residence (or intended residence) of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - e. For each alien investor listed in item 4.a., above, identify the following:
    - i. the date(s) of investment in the commercial enterprise;
    - ii. the amount(s) of investment in the commercial enterprise; and
    - iii. the date(s), nature, and amount(s) of any payment/remuneration/profit/return on investment made to the alien investor by the commercial enterprise and/or regional center from when the investment was initiated to the present.
5. Be prepared to identify/list each of the target industry categories of business activity within the geographic boundaries of your regional center that have:
  - a. received alien investors' capital, and in what aggregate amounts;
  - b. received non-EB-5 domestic capital that has been combined and invested together, specifying the separate aggregate amounts of the domestic investment capital;
  - c. of the total investor capital (alien and domestic) identified above in 5.a and 5.b, identify and list the following:
    - i. The name and address of each "direct" job creating commercial enterprise.
    - ii. The industry category for each indirect job creating investment activity.
6. Be prepared to provide:
  - a. The total aggregate number of approved EB-5 alien investor I-526 petitions per each Federal Fiscal Year to date made through your regional center.
  - b. The total aggregate number of approved EB-5 alien investor I-829 petitions per each Federal Fiscal Year to date through your regional center.
7. The total aggregate sum of EB-5 alien capital invested through your regional center for

each Federal Fiscal Year to date since your approval and designation.

8. The combined total aggregate of “new” direct and/or indirect jobs created by EB-5 investors through your regional center for each Federal Fiscal Year to date since your approval and designation.
9. If applicable, the total aggregate of “preserved” or saved jobs by EB-5 alien investors into troubled businesses through your regional center for each Federal Fiscal Year to date since your approval and designation.
10. If for any given Federal Fiscal Year your regional center did or does not have investors to report, then provide:
  - a. a detailed written explanation for the inactivity,
  - b. a specific plan which specifies the budget, timelines, milestones and critical steps to:
    - i. actively promote your regional center program,
    - ii. identify and recruit legitimate and viable alien investors, and
    - iii. implemented strategy to invest into job creating enterprises and/or investment activities within the regional center.
11. Regarding your website, if any, please be prepared to provide a hard copy which represents fully what your regional center has posted on its website, as well as providing your web address. Additionally, please provide a packet containing all of your regional center’s hard copy promotional materials such as brochures, flyers, press articles, advertisements, etc.
12. Finally, please be aware that it is incumbent on each USCIS approved and designated regional center, in order to remain in good standing, to notify the USCIS Foreign Trader, Investor & Regional Center Program within 15 business days at [USCIS.ImmigrantInvestorProgram@dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@dhs.gov) of any change of address or occurrence of any material change in:
  - the name and contact information of the responsible official and/or Point of Contact (POC) for the RC,
  - the management and administration of the RC,
  - the RC structure,
  - the RC mailing address, website address, email address, phone and fax number,
  - the scope of the RC operations and focus,
  - the RC business plan,
  - any new, reduced or expanded delegation of authority, MOU, agreement, contract, etc. with another party to represent or act on behalf of the RC,
  - the economic focus of the RC, or

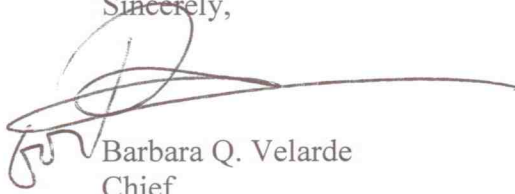
New York City Regional Center (NYC-RC)

Page 7

- any material change relating to your regional center's basis for its most recent designation and/or reaffirmation by USCIS.

If you have any questions concerning the NYC-RC approval and designation under the Immigrant Investor Pilot Program, please contact the USCIS Foreign Trader, Investor and Regional Center Program by Email at [USCIS.ImmigrantInvestorProgram@dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@dhs.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read 'BQ Velarde', with a long horizontal flourish extending to the right.

Barbara Q. Velarde  
Chief  
Service Center Operations

cc: Official File