

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Immigrant Investor Program*  
131 M Street NE, MS 2235  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

**TO:**

American Opportunities Regional Center, Inc.  
Attn. Xianglan Cui  
1313 E Maple Street  
Suite 201  
Bellingham, WA 98225

**DATE:** February 15, 2019

**Application:** Form I-924

**File Number:** RCW1133450363

**RCID:** ID1133450363

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of American Opportunities Regional Center, Inc. (the "Regional Center") as a regional center under the Immigrant Investor Program (the "Program") pursuant to Title 8 of the Code of Federal Regulations ("8 C.F.R.") section 204.6(m)(6). The reasons for the termination are explained, below:

**(SEE ATTACHED)**

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS  
P.O. Box 660168  
Dallas, TX 75266

If using USPS Express Mail/Courier:

USCIS  
Attn: I-290B  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

USCIS Administrative Appeals Office  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue NW, MS 2090  
Washington, DC 20529-2090

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For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "SM Kendall", with a long horizontal flourish extending to the right.

Sarah M. Kendall  
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions  
(2) Notice of Intent to Terminate issued on July 19, 2018

cc: Joseph Barnett  
Wolfsdorf Rosenthal, LLP  
1416 2<sup>nd</sup> Street  
Santa Monica, CA 90401

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**American Opportunities Regional Center, Inc.**

The regulation at 8 C.F.R. § 204.6(m)(6) (*Continued participation requirements for regional centers*) provides:

(i) Regional centers approved for participation in the program must:

(A) Continue to meet the requirements of section 610(a) of the Appropriations Act.

(B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and

(C) Pay the fee provided by 8 CFR 103.7(b)(1)(i)(XX).

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

(A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(iii) A notice of intent to terminate the designation of a regional center will be sent to the regional center and set forth the reasons for termination.

(iv) The regional center will be provided 30 days from receipt of the notice of intent to terminate to rebut the ground or grounds stated in the notice of intent to terminate.

(v) USCIS will notify the regional center of the final decision. If USCIS determines that the regional center's participation in the program should be terminated, USCIS will state the reasons for termination. The regional center may appeal the final termination decision in accordance with 8 CFR 103.3.

(vi) A regional center may elect to withdraw from the program and request a termination of the regional center designation. The regional center must notify USCIS of such election in the form of a letter or as otherwise requested by USCIS. USCIS will notify the regional center of its decision regarding the withdrawal request in writing.

## **I. Procedural History**

On September 16, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On July 19, 2018, USCIS issued a Notice of Intent to Terminate ("NOIT") to the Regional Center which afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. The cover page of the NOIT stated that the deadline for submitting a response was August 21, 2018.<sup>1</sup> On August 23, 2018, USCIS received a response to the NOIT (the "NOIT Response"), which did not sufficiently address the grounds alleged in the NOIT. Accordingly, USCIS has determined that the Regional Center's participation in the Program should be terminated. Pursuant to 8 C.F.R. § 204.6(m)(6)(v) and through this Notice of Termination, USCIS hereby terminates the Regional Center's participation in the Program.

## **II. Reasons for Termination**

USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment as required by 8 C.F.R. § 204.6(m)(6).

### **A. Failure to Continue to Serve the Purpose of Promoting Economic Growth**

Regional centers are designated for the promotion of economic growth and must continue to meet the requirements of section 610(a) of the Appropriations Act as amended, and promote economic growth in a manner that does not conflict with requirements for classification under section 203(b)(5) of the Immigration and Nationality Act ("INA"), removal of conditions on lawful permanent residence under section 216A of the INA, and implementing regulations following their designation. According to section 610(a) of the Appropriations Act, economic growth includes increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *See also* 8 C.F.R. § 204.6(m)(6)(ii) ("USCIS will issue a notice of intent to terminate the designation of a regional center in the program if. . . USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.").

The reasons why a regional center may no longer serve the purpose of promoting economic growth are varied and "extend beyond inactivity on the part of a regional center." 75 FR 58962. For example, depending on the facts, a regional center that takes actions that undermine investors' ability to comply with EB-5 statutory and regulatory requirements such that investors cannot obtain EB-5 classification through investment in the regional center may no longer serve the purpose of promoting economic growth. *See* Section 610(a)-(b) of the Appropriations Act (stating that one purpose of a regional center is to concentrate pooled investment in defined economic zones and accomplishing such pooled investment by setting aside visas for aliens classified under INA 203(b)(5)). Likewise, a regional center that fails to engage in proper

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<sup>1</sup>The NOIT cover page also states that the "failure to respond within the time allotted may result in the termination of your designation for participation as a regional center in the Immigrant Investor Program."

monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the Program and its authorities.

When derogatory information arises (such as evidence of inaction, mismanagement, theft, or fraud by the regional center or related entities), USCIS weighs all relevant factors in the totality of the circumstances to determine whether the regional center is continuing to serve the purpose of promoting economic growth. Such factors may include the seriousness of the derogatory information, the degree of regional center involvement in the activities described in the derogatory information, any resulting damage or risk imposed on investors and the economy, as well as any mitigating, corrective, or restorative actions taken or forthcoming to redress the situation.

USCIS has considered all evidence in the record including evidence provided in response to the NOIT “for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence,” in determining whether the Regional Center’s continued participation is justified under the regulations by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). For the reasons set forth below, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

### ***1. Lack of Regional Center Activity***

As noted in the NOIT, the Regional Center’s Form I-924A filings for fiscal years 2013, 2014, 2015, 2016, and 2017 do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on September 16, 2013, the Form I-924A filings do not report any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center. The Regional Center’s filings do not otherwise indicate that it has conducted activity that serves the purposes of the Program, including the “purpose of concentrating pooled investment” as required by section 610(a) of the Appropriations Act.<sup>2</sup>

In the NOIT Response, the Regional Center provided the following evidence:

- Letter dated August 17, 2018 from Joseph Barnett, attorney representing Regional Center;
- Exhibit 1 – Business Plan;
- Exhibit 2 – Private Placement Memorandum of the NCE dated May 29, 2017;
- Exhibit 3 – Property Appraisal dated February 15, 2017;
- Exhibit 4 – Development Schedule from 2019 to 2021;

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<sup>2</sup> USCIS Policy Manual, Volume 6, Part 6, Chapter 3.

- Exhibit 5 – Special Warranty Deed dated May 7, 2015;
- Exhibit 6 – Architectural and Civil Engineering Contracts and Preliminary Drawings;
- Exhibit 7 – Financial Term Sheet dated March 7, 2017;
- Exhibit 8 – EB-5 Services Agreement with NES Financial Corp. dated March 13, 2017;
- Exhibit 9 – Targeted Employment Area Designation Letter dated June 26, 2018;
- Exhibit 10 – Marketing Material for NCE;
- Exhibit 11 – Evidence of Immigrant Investor Investment into NCE and Filing of Form I-526;
- Exhibit 12 – Licensing Agreement dated April 2014;
- Exhibit 13 – Marketing Brochure for Regional Center Project that was cancelled;
- Exhibit 14 – Correspondence by Regional Center with Prospective Licensees;
- Exhibit 15 – Letter from Regional Center dated August 15, 2018;
- Exhibit 16 – List of Expenses as of April 30, 2018;

In response to the lack of Regional Center activity, the Regional Center provided a business plan and other project-related documents for a student housing development in Des Moines, Washington. The NOIT response included a special warranty deed for the anticipated project location. However, the deed was executed in 2015. This project and a very similar prior project have been mentioned in the Regional Center's Form I-924A filings since fiscal year 2016. The current project details off-campus student housing, while the prior project was for on-campus student housing. The letter from the Regional Center included in the NOIT Response provided details on the unsuccessful prior project.

The Regional Center provided evidence of the investment by one immigrant investor who had filed a Form I-526. A Form I-526 was filed with USCIS on August 20, 2018. The investor has close business ties to the Regional Center through his partial ownership stake in the Regional Center. However, on January 17, 2019, the petitioner requested withdrawal of his I-526 petition. Therefore, the Regional Center has no approved or pending I-526 petitions related to any project sponsored by the Regional Center.

This project was expected to raise [REDACTED] in EB-5 funds, with the Private Placement Memorandum stating that the offering period was set to end on December 31, 2017 and could be extended to no later than December 31, 2018. In the fiscal year 2017 I-924A filing, the Regional Center stated that it expected [REDACTED] investors to file in fiscal year 2018. However, as of the date of this notice, no I-526 petitions have been filed with USCIS besides the aforementioned withdrawn petition.

(b)(4)

(b)(4)

The financial term sheet does not represent a firm commitment for financing. The Regional Center did not submit any corroborating evidence showing that any concrete steps have been taken to support the construction and operations of the development, such as if permits have been obtained or applied for or if financing has been obtained. Overall, the record lacks evidence to demonstrate that any actual progress on this project beyond the preliminary planning and conceptual phases has been made or that it is likely to occur in the future. Further, the Regional Center has not filed any amendments with USCIS for this project. These issues cast doubt on the Regional Center's ability to identify and sponsor viable projects in the furtherance of job creation and economic growth within its respective geographic area.

The NOIT Response also included details on previous unsuccessful attempts to license the Regional Center's designation with developers in the geographic area. However, no projects were ultimately sponsored by the Regional Center.

Based on the evidence submitted, the Regional Center failed to demonstrate that any of its projects have advanced past the preliminary planning phases such that it is more likely than not to result in job creation and economic growth. Absent any independent objective evidence in support, USCIS considers the aspirational statements about this project contained in the letter to be of limited probative value as evidence of the Regional Center's future ability to serve the purpose of promoting economic growth.

Simply conducting due diligence on possible projects or entering into negotiations for a project are not sufficient evidence for demonstrating the Regional Center's ability to develop viable projects. The Regional Center's filings indicate that it has not conducted activity that serves the purposes of the Program, and the lack of verifiable evidence of progress made in sponsoring any projects since receiving its designation in 2013, casts doubt on the likelihood of the Regional Center promoting economic growth and job creation in the future.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

### **III. Conclusion**

For the reasons described above and set forth in the NOIT and pursuant to 8 C.F.R. 204.6(m)(6), USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth and hereby terminates the Regional Center's participation in the Program.

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

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USCIS  
P.O. Box 660168  
Dallas, TX 75266

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USCIS  
Attn: I-290B  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

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