

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



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

TO:

Anacostia Regional Center
Stanley Jackson
1800 Martin Luther King Ave. SE
Washington, DC 20020

DATE: July 18, 2017

Application: Form I-924

A-Number:

File: ID1031910104 / RCW1031910104

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Anacostia Regional Center (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 Main/Courier:

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

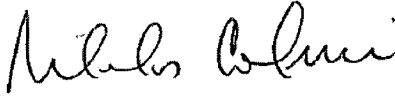
For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

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

Anacostia Regional Center – **Designation Terminated**
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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.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Colucci". The signature is fluid and cursive, with the first name "Nicholas" and last name "Colucci" clearly distinguishable.

Nicholas Colucci
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on April 26, 2016

cc: Larry Behar
Behar Law Group
888 SE Third Ave. Ste. 400
Fort Lauderdale, FL 33316

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
Anacostia Regional Center

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 June 25, 2009, USCIS designated and authorized the Regional Center's participation in the Program. On April 26, 2016, 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. On June 2, 2016, 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 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 2011, 2012, 2013, 2014, and 2015¹ do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on June 25, 2009, 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.

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

- Letter from Stanley Jackson, Principal of the Regional Center, including a document titled “USCIS Regional Center Annual Compliance Report,” dated December 9, 2015;
- Copy of a letter from Stanley Jackson to Tony Waddell, Director of Public Finance, D.C. Housing Finance Agency, dated April 22, 2016;
- Copy of a letter from Marine Combal, Deputy Director of Real Estate, St. Elizabeth’s East, to Tony Waddell, undated, including a Resolution of the Council of the District of Columbia, dated March 1, 2016;

¹ USCIS notes that as of the date of this Notice, the Regional Center has not filed a Form I-924A for fiscal year 2016. Since the NOIT was issued prior to the required filing period for the I-924A for fiscal year 2016, this is not included as a cause for termination in this Notice of Decision.

- Copies of schematic and architectural drawings for St. Elizabeth’s East project;
- Copies of project information for the St. Elizabeth’s East project, including documents titled “Phase Sources and Uses,” “Project Summary Information,” “Residential Uses of Funds,” and “St. Elizabeth Unit Mix.”

According to the USCIS Regional Center Compliance Report (the “Compliance Report”), dated December 9, 2015, the Regional Center admitted that it had not obtained any EB-5 capital investment, had not created or maintained any jobs, and that no I-526 petitions had been filed in relation to any projects sponsored by the Regional Center. For evidence of the Regional Center’s marketing efforts, the Regional Center provided only a link to and copy of its website.

In the letter from Stanley Jackson to Tony Waddell (the “AEDC letter”), dated April 22, 2016, Mr. Jackson explained that the Anacostia Economic Development Corporation² (“AEDC”) was planning to develop a rental housing project at the St. Elizabeth’s East Campus in Washington, D.C. (the “St. Elizabeth’s East project”). The AEDC letter explained that it was seeking funding for the St. Elizabeth’s East project in the form of tax credits but makes no mention of any proposed EB-5 investment to be involved. The letter from Marine Combal, supporting AEDC’s application for tax credits, also does not mention any EB-5 investment to be used in the St. Elizabeth’s East project.

In fact, none of the related project information identifies any source of funds for constructing or operating the St. Elizabeth’s East project that includes EB-5 funding of any kind. Since it does not appear that the Regional Center is even contemplating the use of EB-5 investments in the St. Elizabeth’s East project, it does not appear that the Regional Center is engaged in the promotion of economic growth in the context of the EB-5 Program.

The Regional Center did not provide any other evidence to show that it has actually promoted economic growth since its designation as a regional center under the EB-5 Program.

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.

² The Compliance Report states that the Regional Center “is affiliated” with AEDC, “a Community Development Corporation that was established to meet the overall economic needs, and to improve the quality-of-life circumstances of the District of Columbia residents, specifically those residing in the Anacostia/Far Southeast community.” As noted in the AEDC letter, Mr. Jackson is also the president and CEO of AEDC.

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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