

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:**

Rick Rodriguez  
Central Texas Regional Center, LLC  
10010 San Pedro, Suite 105  
San Antonio, TX 78216

**DATE:** August 21, 2018

**Application: Form I-924**

**File Number: RCW1031910074**

**RCID: ID1031910074**

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Central Texas Regional Center, LLC (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

Central Texas Regional Center, LLC – 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](http://www.uscis.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "SMKendall", with a stylized, cursive script.

Sarah M. Kendall

Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions

(2) Notice of Intent to Terminate issued on June 12, 2018

cc: John Meyer  
Christian Triantaphyllis  
Foster LLP  
3 Greenway Plaza  
Suite 800  
Houston, TX 77046

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**Central Texas Regional Center, LLC**

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 9, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On June 12, 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. On July 16, 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 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 9, 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>1</sup>

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

- Letter from Christian Triantaphyllis and Catharine Yen, attorneys for Regional Center, dated July 12, 2018;
- Exhibit 1 – Equity Offering Memorandum for Riverview Village EB-5 Project; Preliminary EB-5 Economic Analysis prepared by Impact DataSource, LLC; Riverview Village EB-5 Project Development Timeline; and e-mails related to Riverview Village EB-5 Project;
- Exhibit 2 – Preliminary EB-5 Economic Analysis for Briggs Ranch EB-5 Project prepared by Impact DataSource, LLC dated September 7, 2015 and e-mails between the Regional Center and Titan Development, potential developer for the Briggs Ranch EB-5 Project;

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<sup>1</sup> USCIS Policy Manual, Volume 6, Part 6, Chapter 3.

- Exhibit 3 – Letter from Rick Rodriguez, Regional Center Principal, dated July 10, 2018 and notes summarizing Regional Center’s EB-5 related activities for period of June 2016 to July 2017; and.
- Exhibit 4 – Proposal for EB-5 business plans from Xecute EB-5 Business Solutions.

In response to the lack of Regional Center activity, Mr. Rodriguez stated in his July 10, 2018 letter that the Regional Center is continuing its “efforts and due diligence under this program in two projects previously mentioned in responses to USCIS.” The first project described in the letter, Riverview Village in New Braunfels, Texas, was expected to raise up to [REDACTED] which the letter from the attorneys noted “could include EB-5 funds.” The 2015 Equity Offering Memorandum indicated that final platting was expected to occur by May 2016 and groundbreaking on July 1, 2016. The Regional Center has not provided evidence which demonstrates that groundbreaking occurred on that date or that any construction progress has been made on this project. Mr. Rodriguez noted that this project had already been submitted to USCIS, but provided no substantive updates to the business plan or other project-related documents. Additionally, as of the date of this notice, no I-526 petitions related to this project have been filed with USCIS.

(b)(4)

The July 12, 2018 letter from Regional Center counsel referenced e-mails related to this project and stated that “[i]t is clear that the Regional Center is actively involved in negotiations to finalize the details of the Project through proper due diligence and careful considerations when choosing business partners.” However, the e-mail from September 12, 2017 only contains a list of items needed to prepare for a concept meeting. This e-mail indicates that this project has not advanced past the conceptual stage.

Additionally, Regional Center counsel indicated that the Regional Center has had recent e-mails with a potential developer for the Briggs Ranch EB-5 Project discussing a market study, viewing of the project site, and development strategy for the project. Here again, these emails demonstrate that the Briggs Ranch project remains in the initial planning and conceptual stage. Nothing in the record demonstrates that the Regional Center has actually contracted with or engaged with a developer for this project. Overall, the record lacks evidence to demonstrate that any actual progress on these projects has been made or that it is likely to occur in the future. As of the date of this notice, the Regional Center has not submitted any new evidence to show that these projects have progressed beyond the planning phases. Further, the Regional Center has not filed any amendments with USCIS for these projects.

The NOIT response included a Preliminary EB-5 Economic Analysis for both of these projects. However, the reports were prepared in 2015 and 2016 and state that the preliminary report should not be submitted to USCIS. Regional Center counsel noted the various activities that “demonstrates that the Regional Center was extremely active and committed to finding suitable EB-5 projects for its Regional Center.” However, there is no evidence that the activities described advanced any of the projects beyond the planning and conceptual stages. The Regional Center did not establish that it is more likely than not that any of these projects will create jobs and promote economic growth in the future.

Both projects were mentioned in the Regional Center’s response to a previous NOIT from July 6, 2016 as being “under consideration”, and the prior NOIT response stated “there will be I-526 petitions pending with

USCIS in the near future...” However, as of the date of this notice, no I-526 petitions have been filed with USCIS, and the Regional Center has not submitted any new evidence to show that either of these projects has progressed beyond the planning phases originally described in the Regional Center’s prior NOIT response.

The letter from Mr. Rodriguez stated that “Central Texas Regional Center’s significant investment in personnel, legal fees, time and expenditures and the pursuit of investors demonstrates our active involvement in this program.” However, spending on the Regional Center’s own marketing and promotional efforts is not sufficient evidence for demonstrating the Regional Center’s promotion of economic growth and job creation. The Regional Center did not submit any corroborating evidence showing that any concrete steps have been taken to support the construction and operations of this project, such as if permits, financing, and construction contracts have been obtained, or even applied for, or when construction would begin and be completed. The project development timeline provided has no dates and simply shows number of days for each planned activity.

Finally, the letter from Mr. Rodriguez requested that the Regional Center not be terminated due to extenuating circumstances, specifically that the previous President of the Regional Center stepping down in December 2017. The 2015 Equity Offering Memorandum lists this same individual as the Director of the Regional Center. The departure was also referenced in the letter from the attorneys.<sup>2</sup> The Regional Center did not submit any evidence showing that the projects have progressed beyond the planning phases, even before the President’s departure. The Regional Center did not provide a credible explanation for delays in the projects prior to the former President’s departure or why her departure would cause further delays. Further, as admitted by Mr. Rodriguez in his letter, the Regional Center has not found a new qualified President since December 2017 who is able to advance its projects from the conceptual phase to actual construction progress.

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 Regional Center has failed to raise any EB-5 capital or receive any interest from potential EB-5 petitioners for these projects.

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<sup>2</sup> Although not addressed in the NOIT, failure to file an amendment to a previously approved regional center is grounds for the termination of a regional center. The Form I-924 Instructions specify additional reporting requirements for regional centers in addition to the annual filing requirements in the Form I-924A. Page I of the Form I-924 Instructions states that a “regional center must notify USCIS within 30 days” of “changes of address, contact information, a change of duties among the regional center principals, changes to non-principal managing companies, contracting agents or similar changes.” The Form I-924 Instructions provide that an amendment to a previously approved regional center must be filed on a Form I-924 in order to seek “approval for any changes to the regional center’s name, ownership, or organizational structure, or any changes to the regional center’s administration that affect its oversight and reporting responsibilities, or to add or remove any of the regional center’s principals, immediately following the changed circumstances; or to change the geographic area of a regional center.” USCIS was not informed within 30 days of the December 2017 change in administration when the president and director of the Regional Center left. USCIS did not learn of the change and the suggested impact of the change until the NOIT response, which was received approximately seven months after the change.

Additionally, the lack of evidence of progress made in sponsoring any projects in the 24 months since the Regional Center's previous NOIT Response casts doubt on the likelihood of the Regional Center promoting economic growth and job creation in the future.

Based on the evidence submitted, the Regional Center failed to demonstrate that any of these 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 these projects contained in the letters 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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