

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:

Daniel J. Healy
Civitas Michigan Regional Center, LLC
1722 Routh Street
Suite 800
Dallas, TX 75201

DATE: September 6, 2018

Application: Form I-924

File Number: RCW1428051907

RCID: ID1428051907

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Civitas Michigan 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

Civitas Michigan 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.

Sincerely,

A handwritten signature in black ink, appearing to read "SMKendall", written in a cursive style.

Sarah M. Kendall
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on March 28, 2018

cc: Susan Pilcher
Lincoln Stone
Stone Grzegorek & Gonzalez LLP
800 Wilshire Boulevard
Suite 900
Los Angeles, CA 90017

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
Civitas Michigan 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 April 22, 2015, USCIS designated and authorized the Regional Center's participation in the Program. On March 28, 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 April 30, 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 2015, 2016, and 2017 do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on April 22, 2015, 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 response to the NOIT, the Regional Center provided the following evidence:

- Memorandum in Response to Request for Evidence
- Exhibit 1- Overview of Civitas enterprise
- Exhibit 2- Documentation of developer relationships, projects, and due diligence efforts

In the NOIT Response, the Regional Center submits that it is “not a standalone entity,” but is part of Civitas Capital Group (“Civitas”), which has established a network of regional centers that have successfully utilized EB-5 investment in more than 40 projects across a range geographic areas. However, none of the projects described in the NOIT Response were sponsored by the Regional Center or located in the Regional Center’s geographic area. Additionally, the NOIT Response claims that Civitas maintains relationships with a network of top-tier developers “with national reach,” which further indicates its professionalism and ability to promote economic growth. Nothing in the record demonstrates that the Regional Center has actually contracted with or engaged with a developer for any project.

The NOIT Response suggests that a regional center designation should not be terminated for a failure to file I-526 or I-829 petitions in the absence of mismanagement or malfeasance. However, the regulations require each regional center to continue to meet the requirements of section 610(a) of the Appropriations Act. *See*, 8 C.F.R. § 204.6(m)(6)(i)(A). Further, each individual regional center must demonstrate that it

continues to promote economic growth in the approved geographic area as required by 8 C.F.R. § 204.6(m)(6)(i)(B).

The Regional Center has not submitted evidence to demonstrate that it has directly sponsored or developed any EB-5 projects. While the NOIT Response describes the effectiveness of the larger Civitas business model and cites examples where EB-5 funds have been successfully utilized, none of these projects are in the approved geographic area for this Regional Center. Thus, the Regional Center has not satisfied the requirements of section 610(a) of the Appropriations Act because it has failed promote economic growth within its approved geographic area. The economic activity of other regional centers across the country is not evidence of this Regional Center's promotion of economic growth and job creation. The Regional Center cannot rely on EB-5 projects that are outside of its approved geographical area. Further, the Regional Center cannot rely on the EB-5 projects which have been sponsored independently by its owners or another regional center.

The NOIT Response lists several developers that Civitas has successfully partnered with for EB-5 investments. The projects that were developed took place within the states of Texas, California, New Jersey, New York, Colorado, and Arizona, all of which were outside of the defined geographic area for this Regional Center. Absent any independent objective evidence in support, USCIS considers the aspirational statements about future projects contained in the NOIT Response 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 and engaging in discussions regarding possible projects is 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. The lack of verifiable evidence of progress made in sponsoring any projects since receiving its designation in 2015 casts doubt on the likelihood of the Regional Center promoting economic growth and job creation in the future.

The Regional Center has not provided any other evidence of the promotion of economic growth since its designation on April 22, 2015. Specifically, the Regional Center has not submitted evidence to demonstrate that it has promoted economic growth *in its approved geographic area* as required by 8 C.F.R. § 204.6(m)(6)(i)(B). As of the date of this Notice, USCIS has no record of any projects under the sponsorship of or development by this particular Regional Center.

In conclusion, the Regional Center has not provided sufficient evidence to show that it has, since its designation as a regional center in the EB-5 Program, promoted economic growth by means of increased export sales, improved regional productivity, job creation, or increased domestic capital investment. Further, it has not provided sufficient evidence to show that such economic growth is imminent or will occur within a reasonable time.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment in the applicable geographic area, 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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