

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:**

Brian K. Hicks  
MAG Ventures One LLC Regional Center  
21 E State Street, Suite 2200  
Columbus, OH 43215

**DATE:** September 11, 2018

**Application: Form I-924**

**File Number: RCW1408051712**

**RCID: ID1408051712**

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of MAG Ventures One LLC 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

MAG Ventures One LLC 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](http://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 July 12, 2018

cc: Edward Charles Beshara  
Beshara Professional Association  
555 Winderley Place, Suite 300  
Maitland, FL 32751

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**MAG Ventures One LLC 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 September 8, 2014, USCIS designated and authorized the Regional Center's participation in the Program. On July 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 August 15, 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).

### **1. 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 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 8, 2014, 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 stated that it had taken concrete steps toward promoting economic growth.

In support of its claim, the Regional Center provided the following evidence:

1. The response letter to the Notice of Intent to Terminate from Brian K. Hicks, Managing Director, MAG Ventures One LLC Regional Center;
2. Attachment A - a copy of the Regional Center Designation Letter;
3. Attachment B - a complete list of the MidAmerican Global Ventures leadership team including titles and roles as well as a list of our Executive Committee and Advisory Board members, including associated meeting dates;
4. Attachment C – a map of the State of Ohio by Priority Investment Areas for 2018;
5. Attachment D – a map of the State of Ohio by Percent Population Change 2000 to 2017;
6. Attachment E – a map of the State of Ohio by Percentage Minority Population 2017;

7. Attachment F1 – a map of the State of Ohio by Targeted Employment Areas, Qualifying Rural Areas for April 2018;
8. Attachment F2 – a map of the State of Ohio by Targeted Employment Areas, Qualifying High Unemployment Areas for April 2018;
9. Attachment G - MAG Ventures Meeting List, Oct 1, 2016 - Sept 30, 2017;
10. Attachment H - a sample presentation used to promote the EB-5 Program and the Regional Center;
11. Attachment I - a final MAGV I sponsorship agreement provided to Mr. Lou in August 2016;
12. Attachment J - a MAGV I preliminary draft term sheet agreement presented to Cliffs Natural Resources, Inc.;
13. Attachments K-1 and K-2 - letters of support from the two largest economic development organizations in the region.

The NOIT response failed to demonstrate that the Regional Center is promoting economic growth and job creation within its designated geographic area. The letter from Mr. Hicks provides information on Regional Center Background, Structure and Region, which is irrelevant with these proceedings. In the same paragraph, the letter states:

“Importantly, MidAmerican Global Ventures owns and operates two other EB-5 Regional Centers in the State of Ohio; MAG Ventures Two LLC Regional Center (ID1408051713) and MAG Ventures Three LLC Regional Center (ID 1419851813). Both of these regional centers have active economic development projects and EB-5 investors who have filed I-526 petitions. All three regional centers do business in the State of Ohio under the brand name ‘MidAmerican Global Ventures.’”

The USCIS Policy Manual in the Volume 6, Part G, Chapter 3 – Regional Center Designation, Reporting, Amendments, and Termination,<sup>1</sup> instructs that the goal of the Regional Center Program is to stimulate economic growth in *a specified geographic area...* (emphasis added). The statute<sup>2</sup> further provides that a regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. Consequently, each regional center must provide evidence of its activity required to demonstrate continued eligibility within a designated geographic area specified in the regional center’s most recently issued approval letter, regardless of its affiliation with a network of other regional centers. The performance of other Regional Centers owned by MidAmerican Global Ventures is not considered by USCIS as relevant evidence here, as the promotion of economic growth by other MidAmerican Global Ventures regional centers would have taken place outside of the Regional Center’s approved geographic area.

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<sup>1</sup> <https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume6-PartG-Chapter3.html>

<sup>2</sup> Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. 102-395, 106 Stat. 1828, 1874 (October 6, 1992), as amended

The NOIT response has failed to demonstrate that the Regional Center has begun development of any projects since receiving its designation, suggesting that its projects have not advanced past the conceptual stage. The following paragraph of the NOIT response letter states:

“While there are 18 USCIS designated EB-5 Regional Centers with operations in Ohio, MAGVI is the only regional center that has actively promoted economic development and the EB-5 Program specifically across Northwest Ohio since first applying for its EB-5 Regional Center designation. This promotion includes meetings, calls and presentations to area developers and business owners about specific projects as well as presenting at workshops, seminars, regional conferences, and webinars promoting the EB-5 program. We have had promotional meetings with company owners as well as actively networked with local and regional business leaders.

As a result of these ongoing and consistent economic growth promotional events, MAGVI has evaluated numerous projects for possible EB-5 financing in the region. Several of the projects did not meet our rigorous underwriting criteria. As a result, MAGVI determined that the projects would not meet the economic growth goals of the Immigrant Investor Program and would not be suitable candidates for EB-5 investment.

MAGVI identified two projects that met our underwriting criteria and would have furthered the goals of the EB-5 regional center program. Details of these projects are listed below:

Findlay, Ohio Mixed Use Redevelopment Project (b)(4)

In December 2015, MAGVI entered detailed discussions with Mr. Sean Lou, an established local business leader who was planning an [redacted] redevelopment of an old building within the City of Findlay in Hancock County. MAGVI executives held a series of meetings with Mr. Lou, his partners and local officials. After conducting significant due diligence, MAGVI provided Mr. Lou a draft sponsorship agreement in June 2016. After lengthy negotiations, MAGVI provided a final sponsorship agreement to Mr. Lou in August 2016. See Attachment I. During the fall of 2016, Mr. Lou notified MAGVI that he was unable to secure the necessary non-EB-5 investment funding and that the project would not go forward.

Toledo, Ohio Manufacturing Project

In March 2017 the Toledo-Lucas County Port Authority contacted MAGVI to discuss a highly confidential project that state and local officials were attempting to attract to the State of Ohio. On April 12, MAGVI along with representatives from the State of Ohio, City of Toledo, Lucas County and the local Port Authority made a presentation to this company. That presentation including utilizing EB-5 funds to help attract the company's proposed hot-briquetted iron production plant to Toledo. The project would entail [redacted] in new investment, require an estimated [redacted] construction workers and create up to [redacted] permanent full-time positions with an average total compensation exceeding [redacted] annually. Soon after that initial meeting, MAGVI began in-depth, detailed discussions with company officials, later revealed as Cleveland Cliffs, a publicly traded firm that specializes in the mining and beneficiation of iron ore, on the EB-5 program. In July 2017, MAGVI presented a preliminary draft term sheet agreement to provide up to [redacted] of EB-5 financing. See Attachment J. Unfortunately, given the uncertainty of congressional reauthorization of the EB-5 Immigrant Investor Program in the summer and fall of 2017, Cliffs decided not to risk a significant portion of their project's financing on the EB-5 program, and thus determined to seek financing through other means. Company officials indicated to MAGVI executives at the time that had the EB-5 program had more certainty through earlier congressional reauthorization, the company would have used EB-5 financing in the project.”

(b)(4)

Mr. Hicks' letter demonstrates that the Regional Center has failed to develop projects past the conceptual stage. Simply actively seeking financially sound investment opportunities and being engaged in ongoing efforts to identify additional new projects is not sufficient for demonstrating the Regional Center's ability to promote economic growth in the future, in line with the program requirements. The Regional Center has not submitted any amendment to USCIS for its projects or provided any evidence that the development of any project has begun since receiving its designation. Since the projects described above have not progressed beyond the conceptual stages, they have not met the goal of the program, which is to "stimulate economic growth in a specified geographic area,"<sup>3</sup> specified in the statute as "including increased export sales, improved regional productivity, job creation, and increased domestic capital investment."<sup>4</sup>

Further, the argument in the NOIT response letter suggesting the uncertainty of congressional reauthorization of the EB-5 Immigrant Investor Program is irrelevant to the current proceedings.

Therefore, the Regional Center has not established that its past activities have promoted economic growth, in line with program requirements. .

Mr. Hicks' letter also argues that its current or future activities will promote economic growth. Specifically, he describes the following projects:

(b)(4)

"MAGVI Regional Pipeline

Working closely with our Strategic Marketing Partners, MAGVI continues to market the EB-5 program in Northwest Ohio. There are currently several potential projects that we are working with our regional partners to bring to fruition. These projects include:

Marina Lofts- Mixed Used Project (Downtown Toledo)

Marina Lofts proposed project will be comprised of four [ ] story residential buildings, a Clubhouse/Restaurant building, and [ ] ft. of retail space totaling approximately [ ] square feet. The Marina Lofts project will include a total of approximately [ ] units made up of approximately [ ] 1-bedroom units, approximately [ ] 2-bedroom units and approximately [ ] townhome units. The Marina Lofts project will include approximately [ ] surface parking spaces, a [ ] sq. ft. Community Center, and a [ ] sq. ft. restaurant. The Community Center will contain a large fitness facility, social room, and tanning beds. The Marina Lofts project will also include a pool and a public park. The estimated total project cost is approximately [ ] [ ]. The Marina Lofts project is expected to commence in late 2018 and be completed by summer 2020.

Central City Laundry Service Collaboration

Northwest Ohio largest healthcare organizations have proposed a plan to partner on a centralized laundry facility to be located within a highly distressed service area in Toledo, Ohio. The plan is to invest [ ] for the construction of a [ ] sq. ft. facility to support the processing of the enormous volume of laundry identified by the partnering institutions. An eight-acre site has been identified within the Overland Industrial Park, a severely distressed census tract with a

(b)(4)

<sup>3</sup> <https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume6-PartG-Chapter3.html>

<sup>4</sup> Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. 102-395, 106 Stat. 1828, 1874 (October 6, 1992), as amended. This is also restated in the regulation, at 8 C.F.R. § 204.6(m)(6)(ii).



(b)(4)

23.5% unemployment rate (2.8X the national average) which was the former home of the Toledo Jeep Manufacturing Plant for nearly 100 years. The estimated total project cost is approximately [REDACTED]. Should the project move forward, the construction would begin in the summer of 2019, create [REDACTED] fulltime equivalent jobs and be completed by spring 2020.

Tire Distribution Center

A local distribution company and a Southeast Asian based tire manufacturer are in discussions to form a joint venture that will focus on tire distribution in the U.S. market. The plan is to construct a [REDACTED] sq. ft. facility in Northwest Ohio, which will be used as a tire distribution center for a product that already has an existing global name brand and is currently being sold in both European and Asian markets. The estimated total project cost is [REDACTED]. The project is forecasted to create [REDACTED] full-time equivalent jobs. Construction is expected to begin in the fall of 2019 and be completed by year-end 2019. Based on our preliminary review, we believe these projects are promising candidates for EB-5 financing. Moreover, our regional economic development partners continue to promote the regional center and believe MAGVI provides an essential tool in their economic toolbox to promote economic growth in the region. Please see letters of support from the two largest economic development organizations in the region contained in Attachments K-1 and K-2.”

(b)(4)

However, the evidence provided in support of the potential projects described above shows that the Regional Center has only entered into preliminary negotiations with its prospective partners. The Regional Center did not provide a *Matter of Ho*-compliant business plan<sup>5</sup> for these projects, and there is insufficient evidence demonstrating that the Regional Center would likely be able to attract investors to these projects or that these projects will begin any time in the near future. These projects appear to be aspirational, at best.

As noted above, the USCIS Policy Manual notes that “The goal of the Regional Center Program is to stimulate economic growth in a specified geographic area.” The regulation cited above (8 C.F.R. § 204.6(m)(6)(ii)) defines promotion of economic growth as “including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.” The Regional Center has not provided any evidence to show that it has promoted economic growth in accordance with the Program in its approved geographic area, or that it is likely to do so in the future. Since the regional center has failed to meet these policy and regulatory requirements, USCIS must terminate its designation.

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. Therefore, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

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<sup>5</sup> USCIS Policy Manual in the Volume 6, Part G, Chapter 3 – Regional Center Designation, Reporting, Amendments, and Termination, instructs that the “actual projects require a *Matter of Ho* compliant comprehensive business plan that provides verifiable detail on how jobs will be created.”

### **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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