

# Executive Summary

## *A Discussion about the EB-5 Immigrant Investor Program Teleconference*

Public Engagement Division | CSPED | USCIS | DHS

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### Overview

On February 26, 2014, U.S. Citizenship and Immigration Services (USCIS) hosted a stakeholder engagement teleconference featuring staff from the Immigrant Investor Program Office (IPO) to discuss the EB-5 Immigrant Investor Program. During the engagement, subject matter experts from IPO outlined Program goals, reviewed points for clarification in the May 30, 2013 EB-5 Policy Memorandum, and provided detailed responses to a number of key questions that were submitted in advance. Over 700 participants joined the call to hear the updates and to participate in an open Question and Answer session. General information provided during the call is outlined below.

### Vision and Goals

The new IPO Chief provided an overview of the EB-5 Program's vision and goals. These included:

- Marked steps to improve the oversight, efficiency, and integrity of the Program.
- Ongoing enhancements that demonstrate USCIS's commitment to meet the oversight and management needs of the expanding Program.
- Continued commitment to building the Program's foundation through quality assurance, predictability, customer service, and transparency.

### Recent Enhancements

#### **EB-5 Program Office Realignment**

On December 3, 2012, former USCIS Director Alejandro Mayorkas publicly announced the realignment of the EB-5 Program. This realignment was a direct reflection of the agency's continued focus on, and prioritization of, the Program's integrity and potential to create jobs for U.S. workers. The public's use of the EB-5 Program has continued to grow in size and complexity. After consulting with agency leadership, including the Service Center Operations Directorate and the Fraud Detection and National Security Directorate (FDNS), USCIS decided to realign EB-5 Program responsibilities so that they are handled by a program office devoted exclusively to EB-5 adjudications.

During the engagement on February 26, 2014, IPO outlined staffing changes resulting from the realignment and emphasized the importance of these changes to uphold the integrity in the immigration system and to increase interagency dialogue, coordination, and protocols. The program office devoted exclusively to EB-5 adjudications is located in Washington, D.C., and is staffed with professional economists as well as adjudications officers who have a range of business and legal backgrounds and expertise. Staffing strides have already been made. Five years ago, there were nine officers working on EB-5 cases; currently there is a team of 53 dedicated officers serving the EB-5 community. Additionally, IPO works closely with other USCIS offices, including the Office of the Chief Counsel and FDNS.

IPO concluded remarks on this topic by thanking the California Service Center for their hard work handling this complex Program before the realignment and emphasized that realignment will facilitate and enhance interagency collaboration and Program integrity.

#### **Guidance**

Over the past 14 months, USCIS has provided additional guidance to enhance the foundational understanding of various EB-5 eligibility criteria and the agency's official policy interpretation of those criteria. Recent policy and guidance releases include: the operational [memorandum issued on tenant-occupancy](#) in December 2012 and the [EB-5 policy memorandum](#) issued in May 2013. These documents were designed to clarify certain eligibility requirements and explain the application of those requirements at the time of adjudication. IPO took the opportunity to discuss both documents and clarify points and concerns raised by stakeholders. Some points included: filing tips, increased quality assurance in adjudications, and processing times.

## **Document Library**

In 2013, USCIS released a Document Library through USCIS ELIS (USCIS Electronic Immigration System) that allows regional centers to provide existing investors in new commercial enterprises with electronic copies of documents relating to their investment. Documents may include: organizational, transactional and offering documents. These documents can be used by Form I-526 Immigrant Petition by Alien Entrepreneur petitioners to electronically supplement their Form I-526 petitions. The use of USCIS ELIS not only reduces paperwork, but ultimately increases efficiency within the program.

During the teleconference, IPO provided stakeholders with a quick status update regarding customer use of the USCIS ELIS Document Library. USCIS has already received Form I-526 petitions in USCIS ELIS and is in the process of reviewing these filings and issuing requests for evidence, as necessary. IPO hopes to start adjudicating some petitions upon filing in USCIS ELIS, in an effort to test the system and increase confidence in USCIS ELIS across the stakeholder community.

In the near future, the Office of Transformation Coordination will host a webinar to describe the Document Library's features. Please visit the [USCIS Subscription Service](#) page to join the USCIS subscription service to receive updates on future events.

## **Future Enhancements**

### **Regulatory Changes**

USCIS is beginning work on revising EB-5 regulations. Regulatory revision has been identified as an important step for the future of the EB-5 Program, and is an agency priority as a result of the recommendations from the Office of Inspector General's audit report, which was released in December 2013. IPO plans to take a comprehensive approach, and will use the regulatory revision process to strengthen the overall Program, especially its efficiency, and to address eligibility and procedural filing Program requirements. IPO announced plans to use future engagements as an opportunity to seek stakeholder feedback regarding EB-5 regulatory changes.

### **Policy Manual**

IPO announced that USCIS is in the process of developing the EB-5 policy manual which is designed to consolidate existing EB-5 policy memoranda and the Adjudicator's Field Manual (AFM) into one comprehensive policy guidance document. More information on this effort will be provided in the near future. Please register for these updates in the [USCIS Subscription Service](#).

### **Processing Times**

In order to administer the Program efficiently and fairly, EB-5 policies must be applied consistently in a timely adjudication of each application or petition. IPO is continuing to build a staffing model to ensure that USCIS maintains a high level of quality during the adjudicative review process and is able to work through the existing backlog, reduce processing times, and also establish standard adjudication processing times but without sacrificing the quality or integrity of the review process.

### **Increased Transparency**

IPO expressed continued interest in collaborating with EB-5 stakeholders to determine how, by working together, we can continue to enhance the EB-5 Program. IPO is committed to improving and maintaining transparency in processes and policies for adjudication and pledged to seek data to share with stakeholders that will assist them in making critical decisions with more confidence. IPO announced plans to update the EB-5 website on a monthly basis to reflect accurate processing times, possibly beginning as early as March 31, 2014.

## **Stakeholder Questions**

Over 200 questions were submitted by stakeholders in advance of this engagement. While the IPO was unable to address each one specifically because of the large number of submissions, questions with the broadest applicability for the listening audience were summarized, and responses were provided during the engagement. The topics included:

- Regional center sales
- Qualifications for new commercial enterprises
- Targeted Employment Area (TEA) letters
- Job creation evidence
- EB-5 Program and public works projects
- Hypothetical versus actual projects
- Guest expenditures
- Geographic area of a regional center
- Bridge financing

In addition to responding to the questions that were submitted before the engagement, USCIS invited stakeholders to ask questions of the IPO representatives during the teleconference.

## Next Steps

IPO emphasized customer service strategy as a tool to increase transparency. IPO aims to be more accessible, respond quickly to inquiries, and provide more information through increased website updates. IPO also looks forward to holding regular public engagements with stakeholders on the EB-5 Program. These engagements will provide an opportunity for USCIS to share information on the EB-5 Program and address stakeholders' related topics of interest.

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