



U.S. Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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Department of Community and Economic Development  
Harrisburg, PA 17120

Mr. Thomas Rosenfeld, Esq.  
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Re: Pennsylvania Department of Community and Economic Development  
Regional Center Amendment II

**BACKGROUND:**

Pursuant to Section 610 of the Appropriations Act of 1993, on April 13, 2007, the Commonwealth of Pennsylvania Department of Community and Economic Development (DCED) was initially approved and designated as a regional center to participate in the Immigrant Investor Pilot Program. The Pennsylvania DCED Regional Center's geographic focus encompassed 23 counties in western Pennsylvania: Erie, Crawford, Mercer, Venango, Lawrence, Butler, Clarion, Beaver, Armstrong, Allegheny, Indiana, Westmoreland, Washington, Greene, Fayette, Somerset, Cambria, Blair, Bedford, Warren, Forest, Jefferson and Clearfield. Within that contiguous 23-county geographic area, delineated Targeted Employment Areas (TEAs) within the Pittsburgh, Erie and Johnstown Standard Metropolitan Statistical Areas (SMSAs) and the city of Pittsburgh were also included as part of the DCED Regional Center's initial geographic area.

In a request dated July 10, 2007, the Pennsylvania DCED Regional Center, in citing the unique nature of commercial enterprise investments associated with film and television productions, sought to amend its initial regional center designation and business plan to allow commercial enterprise investments associated with the film and television production sub-sector of the tourism industry to count new direct and indirect job creation in areas outside of the Regional Center's immediate geographic area, but still within the geographic boundaries of the Commonwealth of Pennsylvania.



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A principal factor which the Pennsylvania DCED Regional Center presented regarding the film and television productions sub-sector activity, was the critical and recurring need for “on location” filming to occur outside the Regional Center’s immediate geographic area (but still within the boundaries of the Commonwealth of Pennsylvania) as well as the beneficial economic impacts on many tourism-related businesses throughout the Commonwealth---such as hotels, restaurants, retail stores, caterers, trucking and countless other commercial services and industries in the region---resulting from the recurring “on location” film and television production commercial enterprise activity. That “Amendment-1” was approved August 3, 2007.

The Pennsylvania DCED Regional Center submitted an Amendment-2 dated August 1, 2008 to extend its geographic coverage beyond its initial 23 western county area to the south and east by adding another twenty (20) counties---Fulton, Franklin, Cumberland, Adams, York, Lancaster, Chester, Delaware, Montgomery, Bucks, Berks, Lehigh, Northampton, Schuylkill, Carbon, Luzerne, Monroe, Pike, Lackawanna and Wayne in the southern and eastern parts of the commonwealth. This expansion would bring the Pennsylvania DCED Regional Center’s geographic area to a total of 43 contiguous Pennsylvania counties. Amendment-2 does not change or impact the Pennsylvania DCED Regional Center’s eight (8) previously approved target industry economic clusters or its approved IMPLAN/RIMS-II job creation methodology and indirect job creation multipliers.

**DECISION:**

Based on its review and analysis of the Pennsylvania DCED Regional Center’s Amendment-2 request, USCIS approves Amendment-2, which solely expands the geographic focus of the Regional Center to a total of forty-three (43) contiguous counties within the Commonwealth of Pennsylvania, with no changes to the previously approved eight (8) core target industry economic clusters and associated commercial activities through the Pennsylvania DCED Regional Center.

**FOCUS OF INVESTMENT ACTIVITY AND CAPITAL INVESTMENT THRESHOLD:**

In approving this Amendment-2, USCIS has updated its records of the Pennsylvania DCED Regional Center’s approval and designation for “on location” film and television productions as well as for its other previously approved investment focus with respect to the following eight (8) commercial target industry activities:

1. Tourism, Hospitality and Entertainment<sup>1</sup>
2. Technology
3. Transportation
4. Manufacturing and Trade

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<sup>1</sup>Noting that film and television “on-location” production operations may occur at various locations within the entire Commonwealth of Pennsylvania



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5. Health Services
6. Agriculture and Food Production
7. Higher Education
8. Leasehold Improvements to Commercial Office & Mixed-Use Spaces

As such, aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for investments into financing projects and developing commercial enterprises in the above cited eight (8) target industries located within the Pennsylvania DCED Regional Center's contiguous geographic area identified below:

- The following forty-three (43) counties within Pennsylvania: Fulton, Franklin, Cumberland, Adams, York, Lancaster, Chester, Delaware, Montgomery, Bucks, Berks, Lehigh, Northampton, Schuylkill, Carbon, Luzerne, Monroe, Pike, Lackawanna, Wayne, Erie, Crawford, Mercer, Venango, Lawrence, Butler, Clarion, Beaver, Armstrong, Allegheny, Indiana, Westmoreland, Washington, Greene, Fayette, Somerset, Cambria, Blair, Bedford, Warren, Forest, Jefferson and Clearfield; and
- Designated Targeted Employment Areas (TEAs) within the Pittsburgh, Pennsylvania Standard Metropolitan Statistical Area (SMSA); delineated TEAs within the city of Pittsburgh; and delineated TEAs within the Erie and Johnstown, Pennsylvania SMSAs.

In addition, aliens seeking immigrant visas through investment made into film and television commercial enterprises within the tourism industry either located in the Pennsylvania counties identified above, may count direct and indirect job creation in all other areas within the Commonwealth of Pennsylvania that have been determined to qualify as a "Targeted Employment Area" (TEA) or "Rural Area" (RA) as set forth in 8 CFR 204.6(e). All qualifying expenditures made by commercial enterprises associated with the film/television sub-sector of the tourism industry must occur in TEA's and/or RA's within the Commonwealth of Pennsylvania.

Because the Pennsylvania DCED Regional Center will encompass a range of TEAs and RAs throughout the Commonwealth, each TEA and/or RA within which qualifying amounts of an immigrant investor's capital will be made must be shown to have the appropriate certification by the Commonwealth as set forth in 8 CFR 204.6(e) relating to the particular TEA(s) or RA(s) in support of each immigrant investor's I-526 petition. The minimum capital investment threshold for any individual alien investor through the Pennsylvania DCED Regional Center into an "on location" film and television production enterprise located within a TEA or RA may not be less than \$500,000. Any investment made into such an enterprise outside of a TEA or RA may not be less than \$1,000,000.



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**EMPLOYMENT CREATION AND/OR PRESERVATION:**

Immigrant investors who file petitions for commercial enterprises located in the Pennsylvania DCED Regional Center area must fulfill all of the requirements set forth in 8 CFR 204.6, except that the petition need not show that the new commercial enterprises created ten new jobs indirectly as a result of the alien entrepreneur's investment. This determination regarding new indirect jobs has been established by way of USCIS' acceptance of the final economic analysis which is contained as part of the approved Pennsylvania DCED Regional Center proposal and its indirect job creation model and multipliers contained within its final approved regional center application package.<sup>2</sup>

However, where job creation is claimed based on a multiplier rooted in underlying new "direct jobs" (or preservation of existing direct jobs in a troubled business) in support of an immigrant investor's individual I-526 petition affiliated with the Pennsylvania DCED Regional Center, then:

- To be credited for preserving/maintaining pre-existing direct jobs for "qualified employees" through the regional center for a "troubled business" as defined at 8 CFR 204.6(e), the individual I-526 petition must be supported by probative evidence of the number of such full time<sup>3</sup> qualified employees<sup>4</sup> whose positions shall be preserved/maintained throughout the petitioner's period of conditional residency. Such evidence should include copies of quarterly state employment tax reports, Forms W-2, Forms I-9, and any other pertinent employment records sufficient to demonstrate that the number of pre-existing "direct" qualifying employees in the specified troubled business whose positions are to be preserved/maintained, and any other pertinent employment records sufficient to demonstrate the number of qualified full time employees before the investment.
- To be credited with projected creation of new direct jobs for "qualifying employees" upon filing the I-526 petition, then the petition must be supported by a comprehensive detailed business plan and supporting financial, marketing and related data and analysis providing a reasonable basis that not less than ten (10) new direct jobs for qualifying employees will result within the next two (2) years of the petitioner's expected period of conditional residence pursuant to 8 CFR 204.6(j)(4)(i)(B).
- If the investor's I-526 approval involved indirect jobs based on a multiplier solely dependent on underlying direct jobs for qualified employees, then when the investor subsequently files the I-829 petition to remove his/her conditions, in order to be credited with such direct-job based secondary indirect jobs, such an I-829 petition may need to be supported by probative evidence documenting only the underlying portion of new direct full time qualified employees whose positions have been created as a result of the alien's investment.

<sup>2</sup> However, indirect job creation multipliers based on either "final demand" or "direct-effect" of the approved job creation methodology would need to evidence and reference the specific region(s) within the Commonwealth of Pennsylvania in which the spending occurred.

<sup>3</sup> A full time position is one which is permanent in nature and requires not less than 35 hours per week.

<sup>4</sup> As defined at 8 CFR 204.6(e).



**INDIVIDUAL EB-5 INVESTOR AFFILIATION WITH THE REGIONAL CENTER:**

Each individual petition, in order to demonstrate that it is associated with the Pennsylvania DCED Regional Center, in conjunction with addressing all the requirements for an individual immigrant investor petition, shall also contain as supporting evidence relating to this regional center approval and designation, the following:

- (1) A copy of this letter of the Amendment-2 approval and re-designation.
- (2) A copy of the updated USCIS approved regional center narrative proposal and business plan.
- (3) A copy of the job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in the Pennsylvania DCED Regional Center economic analysis, which has been approved by USCIS, which reflects that investment by an individual alien investor of at least \$500,000 in a targeted industry or into a new film/television enterprise within the areas of the amended Pennsylvania DCED Regional Center (or \$1,000,000 into a commercial activity located in a Non-Rural or Non-Targeted Employment Area) will generate full-time employment positions, either directly or indirectly, for not fewer than ten (10) persons.<sup>5</sup>
- (4) A legally executed copy of:
  - a. the Confidential Information Memorandum (CIM)
  - b. the Escrow Agreement
  - c. the escrow instructions
  - d. the Limited Partnership Agreement
  - e. any CIM Amendment; and
  - f. color coded maps clearly delineating the Pennsylvania DCED Regional Center's updated geographic boundaries

The amended designation by the USCIS of the Pennsylvania DCED Regional Center does not reflect any determination on the merits of individual petitions filed by investors under the Immigrant Investor Pilot Program. All petitions for immigrant investors who invest within the Pennsylvania DCED Regional Center will be adjudicated by the USCIS on a case-by-case basis, and each petition must be fully documented.

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<sup>5</sup> Moreover, indirect job creation multipliers based on either "final demand" or "direct-effect" of the approved job creation methodology would need to evidence and reference the specific region(s) within the Commonwealth of Pennsylvania in which the spending occurred.



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From the date of this letter until September 30, 2008, any new individual investor petition(s) through the Pennsylvania DCED Regional Center must be submitted to the Texas Service Center. Effective October 1, 2008, any new individual investor petitions through the Pennsylvania DCED Regional Center must be submitted to the California Service Center.

**DESIGNEE'S RESPONSIBILITIES INHERENT IN CONDUCT OF THE DCED REGIONAL CENTER:**

The law, as reflected in the regulations at 8 CFR 204.6(m)(6), requires that an approved regional center in order to maintain the validity of its approval and designation must continue to meet the statutory requirements of the Immigrant Investor Pilot Program by serving the purpose of promoting economic growth, including increased export sales (where applicable), improved regional productivity, job creation, and increased domestic capital investment. Therefore, in order for USCIS to determine whether your regional center is in compliance with the above cited regulation, and in order to continue to operate as a USCIS approved and designated regional center, your administration, oversight, and management of your regional center shall be such as to monitor all investment activities under the sponsorship of your regional center and to maintain records, data and information on a quarterly basis in order to report to USCIS upon request information for each Federal Fiscal Year<sup>6</sup>, commencing with your initial year as follows:

1. Provide the principal authorized official and point of contact of the regional center responsible for the normal operation, management and administration of the regional center.
2. Be prepared to explain how you are administering the regional center and how you will be actively engaged in supporting a due diligence screening of its alien investors' lawful source of capital and the alien investor's ability to fully invest the requisite amount of capital.
3. Be prepared to explain the following:
  - a. How the regional center is actively engaged in the evaluation, oversight and follow up on any proposed commercial activities that will be utilized by alien investors.
  - b. How the regional center is actively engaged in the ongoing monitoring, evaluation, oversight and follow up on any investor commercial activity affiliated through the regional center that will be utilized by alien investors in order to create direct and/or indirect jobs through qualifying EB-5 capital investments into commercial enterprises within the regional center.
4. Be prepared to provide:

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<sup>6</sup> A Federal Fiscal Year runs for twelve consecutive months from October 1<sup>st</sup> to September 30<sup>th</sup>.



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- a. the name, date of birth, petition receipt number, and alien registration number (if one has been assigned by USCIS) of each principal alien investor who has made an investment and has filed an EB-5/I-526 Petition with USCIS, specifying whether:
    - i. the petition was filed,
    - ii. is pending,
    - iii. was approved,
    - iv. denied, or
    - v. withdrawn by the petitioner, together with the date(s) of such event.
  - b. The total number of visas represented in each case for the principal alien investor identified in 4.a. above, plus his/her dependents (spouse and children) for whom immigrant status is sought or has been granted.
  - c. The country of nationality of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - d. The U.S. city and state of residence (or intended residence) of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - e. For each alien investor listed in item 4.a., above, identify the following:
    - i. the date(s) of investment in the commercial enterprise;
    - ii. the amount(s) of investment in the commercial enterprise; and
    - iii. the date(s), nature, and amount(s) of any payment/remuneration/profit/return on investment made to the alien investor by the commercial enterprise and/or regional center from when the investment was initiated to the present.
5. Be prepared to identify/list each of the target industry categories of business activity within the geographic boundaries of your regional center that have:
- a. received alien investors' capital, and in what aggregate amounts;
  - b. received non-EB-5 domestic capital that has been combined and invested together, specifying the separate aggregate amounts of the domestic investment capital;
  - c. of the total investor capital (alien and domestic) identified above in 5.a and 5.b, identify and list the following:
    - i. The name and address of each "direct" job creating commercial enterprise.
    - ii. The industry category for each indirect job creating investment activity.
6. Be prepared to provide:



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- a. The total aggregate number of approved EB-5 alien investor I-526 petitions per each Federal Fiscal Year to date made through your regional center.
  - b. The total aggregate number of approved EB-5 alien investor I-829 petitions per each Federal Fiscal Year to date through your regional center.
7. The total aggregate sum of EB-5 alien capital invested through your regional center for each Federal Fiscal Year to date since your approval and designation.
8. The combined total aggregate of “new” direct and/or indirect jobs created by EB-5 investors through your regional center for each Federal Fiscal Year to date since your approval and designation.
9. If applicable, the total aggregate of “preserved” or saved jobs by EB-5 alien investors into troubled businesses through your regional center for each Federal Fiscal Year to date since your approval and designation.
10. If for any given Federal Fiscal Year your regional center did or does not have investors to report, then provide:
  - a. a detailed written explanation for the inactivity,
  - b. a specific plan which specifies the budget, timelines, milestones and critical steps to:
    - i. actively promote your regional center program,
    - ii. identify and recruit legitimate and viable alien investors, and
    - iii. a strategy to invest into job creating enterprises and/or investment activities within the regional center.
11. Regarding your website, if any, please be prepared to provide a hard copy which represents fully what your regional center has posted on its website, as well as providing your web address. Additionally, please provide a packet containing all of your regional center’s hard copy promotional materials such as brochures, flyers, press articles, advertisements, etc.
12. Finally, please be aware that it is incumbent on each USCIS approved and designated regional center, in order to remain in good standing, to notify the USCIS Foreign Trader, Investor & Regional Center Program within 15 business days at USCIS.ImmigrantInvestorProgram@dhs.gov of any change of address or occurrence of any material change in:
  - the name and contact information of the responsible official and/or Point of Contact



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- (POC) for the RC,
- the management and administration of the RC,
  - the RC structure,
  - the RC mailing address, website address, email address, phone and fax number,
  - the scope of the RC operations and focus,
  - the RC business plan,
  - any new, reduced or expanded delegation of authority, MOU, agreement, contract, etc. with another party to represent or act on behalf of the RC,
  - the economic focus of the RC, or
  - any material change relating to your regional center's basis for its most recent designation and/or reaffirmation by USCIS.

If you have any questions concerning the DCED-RC approval and designation under the Immigrant Investor Pilot Program, please contact the USCIS Foreign Trader, Investor and Regional Center Program by Email at [USCIS.ImmigrantInvestorProgram@dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@dhs.gov).

Sincerely,

Barbara Q. Velarde  
Chief  
Service Center Operations

cc: Official File

