

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

DEC - 3 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Mr. Chairman:

Thank you for your September 27, 2010 letter regarding the EB-5 Regional Center Program administered by U.S. Citizenship and Immigration Services (USCIS). You expressed your view that, contrary to USCIS's existing interpretation, a proposed regional center business plan may encompass job creation outside the center's geographic boundaries. Upon review of the applicable EB-5 law and regulations, we agree that a regional center may rely on jobs indirectly created outside its geographic boundaries.

USCIS's interpretation derived from the geographic requirements identified in *Matter of Izummi*, 22 I&N 158 (Comm'r. 1998), and other sources. *Matter of Izummi* holds that if a new commercial enterprise is engaged directly or indirectly in lending money to job-creating businesses, those job-creating businesses must all be located within the regional center's geographic limits. Similarly, Section 610(a) of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. 102-395, as amended, 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." Likewise, USCIS's regulation at 8 CFR 204.6(m)(3)(i) requires each regional center to provide a proposal that "clearly describes how the regional center focuses on a geographic region of the United States."

Based on those sources, USCIS interprets the law to require that a regional center focus its EB-5 capital investment activities on a single, contiguous area within the defined geographic jurisdiction requested by the regional center. Nevertheless, we agree that the law does not further mandate that all indirect job creation attributable to a regional center take place within that jurisdiction. I will, therefore, ensure that USCIS policy reflects this understanding of the law.

The Honorable Patrick J. Leahy
Page 2

Thank you again for your letter. I assure you that USCIS maintains its commitment to the success of the EB-5 Regional Center Program. I look forward to our continued collaboration on important issues of mutual interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Alejandro N. Mayorkas". The signature is written in a cursive style with a large initial "A".

Alejandro N. Mayorkas
Director