

## USCIS EB-5 Training Materials 2008 to 2011

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### *What do we have?*

In response to Freedom of Information Act (FOIA) requests, USCIS has released hundreds of pages of materials used to train Immigration Service Officers (ISO) for adjudicating EB-5 cases. These materials can be found in PDF documents published in 2011 and 2012 by IIUSA (<https://iiusa.backpackit.com/pages/2218436-uscis-eb-5-archives>) and AILA.

**Table 1: EB-5 Training Materials Obtained via FOIA**

Document Name	<i>AILA InfoNet Doc. No. 11041432 (2008 USCIS EB-5 Training Materials I, II)</i>	<i>IIUSA DOC0012012 (FOIA – 2010 USCIS EB-5 training materials)*</i>	<i>IIUSA DOC0042012 (USCIS EB5 Training Materials – Oct 2012)</i>
<b>Date Published</b>	04/2011	02/2012	10/2012
<b>Published by</b>	AILA and IIUSA	IIUSA	IIUSA
<b>Date of Training</b>	2008	2010	2010 2011
<b>Number of Pages</b>	486	776	1077

\*Fifteen pages redacted from the 2010 materials from USCIS are available in a separate document released by the Department of Labor and published by IIUSA: *2010 IIUSA DOC0022012 (FOIA – 2010 DOL EB-5 Training Materials)*

Dates printed on the cover pages of some presentations suggest that the materials released by USCIS in 2011 and 2012 were used in training sessions that occurred in 2008, 2010, and 2011. Generally, each year’s training material duplicates the previous years’ material while incorporating a few revisions and additions. (Anecdotal evidence from people involved in the training suggests that the materials released via FOIA are only a subset of the materials actually used.)

The training materials span a period of transition for the EB-5 program. Between 2008 and 2011, EB-5 visa usage nearly tripled and the number of approved regional centers went from around 27 to over 170. EB-5 petition filings were still divided between Texas and California in 2008, and consolidated at the California Service Center (CSC) in January 2009. The CSC initially had one team of service officers dedicated to EB-5 adjudications; by the end of 2011, it had four full teams. New hires in 2011 included economists, who were involved in the December 2011 EB-5 training.<sup>1</sup> Other significant events during this period include confirmation of Alejandro Mayorkas as Director of USCIS (08/2009), the 12/2009 Neufeld Memo, introduction of the I-924 Form for Regional Center applications (11/2010), reauthorizations of the Regional Center program (2009 and 2012), and quarterly USCIS EB-5 Stakeholder Engagements.

The content of the training materials can be divided into two main categories: training presentations and supporting documents.

<sup>1</sup> Staffing and training update provided in the January 23, 2012 EB-5 Stakeholder Meeting

*Training presentations* are in slide show format and created specifically for ISO training. The typical presentation poses a topic relevant to EB-5 adjudications (e.g. capital investment, TEAs), gives a review of statutory and/or regulatory background on that topic, comments on how to interpret and apply the given standards, and provides a few examples or exercises.

*Supporting documents* include copies of immigration and tax forms, copies of memos, copies of federal cases and AAO decisions, and sections quoted from Statute, Regulations, and the Adjudicator's Field Manual.

**Table 2: Summary of EB-5 Training Material Content 2008 to 2011**

<b><i>Training Presentations</i></b>	
<i>as of 2008</i>	<i>added in 2010 and 2011</i>
In-Depth Capital Investment Issues	EB-5 Immigrant Investment Program Overview
Basic Form I-526 Adjudication	AAO: Functions and Responsibilities
In-Depth Lawful Source of Capital	Burden and Standard of Proof
Federal EB-5 Cases	Active Involvement in a New Commercial Enterprise
AAO Precedents	Targeted Employment Areas
Establishing a New Commercial Enterprise	Regional Center Program Training
Understanding Tax Returns	Economic Analysis
Form I-829 Select Regulatory References	Lawful Source of Funds: OFAC requirements
Job Creation	
Financial Statements	
Regional Center-Specific Issues	
Regional Centers	
EB-5 Business Structures	
Software training	
<b><i>Supporting Documents</i></b>	
<i>as of 2008</i>	<i>added in 2010 and 2011</i>
Form I-526 and I-829	Form I-924 and I-924A
Sample Tax Forms	<i>Adjudicator's Field Manual</i> Sections 22.5 and 25.2 and Appendix 16-1
<i>In re Soffici, In re Ho, In re Izummi, In re Hsuing</i>	INA: ACT 216A
11/23/2005 Aytes Memo	Pub. L. 102-395 and amendments
EB-5 Field Memos from 1998 (only in 2008 materials)	LAUS memos dated 5/4/1992, 7/7/1992, 8/17/1995, and 7/21/2010 related to identifying high unemployment areas
6/10/2003 and 01/19/2005 Yates Memos (only in 2008 materials)	6/17/2009 and 12/11/2009 Neufeld Memos
Example RFE and NOID (only in 2008 materials)	12/21/2006 Aytes Memo
	12/3/2010 Letter to Senator Leahy
	7/20/2011 Pearson Memo
	<i>Chang v. US</i>
	<i>Matter of Treasure Craft of California</i>

See Table 3 below for a detailed content index of the most recently released training materials: 2011 IUSA DOC0042012 (USCIS EB5 Training Materials – Oct 2012).

### *What's different?*

The most recently-released training materials (published 10/2012, from a training in 2011) reproduce previously-released materials while incorporating a number of significant additions and revisions.

- *Regional Center file review, economic analysis, and job creation:* The 2008 training included just two brief presentations introducing Regional Center-specific issues. Other presentations on file review and job creation were evidently drafted with stand-alone EB-5 in mind. Subsequent trainings incorporate significantly more discussion of Regional Center EB-5, including new presentations on I-924 adjudication and on economic analysis issues. New topics include indirect job creation, industry categories and NAICS codes, and business plan analysis. (See especially pages 863-904 of *IIUSA DOC0042012*.)
- *Targeted Employment Area Designation:* The 2008 training material barely mentioned Targeted Employment Area issues, except in context of reviewing precedent decisions. New content in the 2010 and 2011 materials includes a new training presentation dedicated to TEA with slides on the statutory framework for TEAs, 12/2009 Neufeld memo guidance, states' role in TEA designations and the limits of deference to states, and TEA determinations in the I-924 vs. I-526 context. (See especially pages 206-230 and 757-765 of *IIUSA DOC0042012*.) The 2010 and 2011 training materials also include fifteen pages of memos from the Bureau of Labor Statistics Local Area Unemployment Statistics (LAUS) program on the topic of appropriate data, procedures and estimation methodology for identifying high unemployment areas. The most recent memo, dated 7/21/2010, prefaces its recommendations to USCIS regarding appropriate use of unemployment data with the testy comment that "Due to staff turnover and other reasons, the USCIS guidelines regarding identification of high unemployment areas appear to have evolved away from the prior BLS recommendations." (See the memos released by the Department of Labor and published as *IIUSA DOC0022012*.)
- *Training on review standards:* The 2010/11 trainings add a new presentation on "Legal Overview of Burden and Standard of Proof in USCIS Adjudications." The presentation defines "burden of proof," "standard of proof," and the "preponderance of the evidence" standard with reference to the Adjudicator's Field Manual and case law. (*IIUSA DOC0022012* p. 195-197 and 832-838)
- *OFAC requirements:* The 2010/11 trainings add a new presentation on "Lawful Source of Funds: OFAC Requirements." The presentation discusses regulations for Iranian transactions and how to issue RFEs and denials over OFAC license issues. (*IIUSA DOC0022012* p. 608-615 and 828-831)
- *Administrative Appeals Office:* The 2011 training adds a new presentation on "AAO: Functions and Responsibilities." The presentation introduces the Administrative Appeals Office function, organization, authority, jurisdiction, process, precedent and adopted decisions, litigation, initiatives, and proposed rule for appeals, certifications and motions. (*IIUSA DOC0022012* p. 739-747)
- *Copies rather than summaries of statute, case law, and policy documents:* The 2010/11 materials include complete copies of a number of documents that were only summarized or referenced in the previous training. This includes copies of EB-5-related sections of the Adjudicator's Field Manual, Public Law amendments, memos, and a number of federal cases.

## *What's unique?*

Insights and commentary unique to the training materials include a few answers to debated questions as well as case-specific examples to illustrate EB-5 requirements.

- *Specific Examples:* In public forums, USCIS routinely declines to illustrate its interpretations with reference to case-specific examples. The training materials, on the other hand, offer a number of concrete examples. These include:
  - Examples of capital investment deficiencies (*IIUSA DOC0042012* p. 36-38)
  - Examples of non-qualifying commercial enterprises (*IIUSA DOC0042012* p. 40)
  - Examples of problematic investments (*IIUSA DOC0042012* p. 42, 55-56)
  - Examples of problematic source of funds scenarios, and specific types of source of funds evidence (p. 69 and 84-85 of *IIUSA DOC0042012* and PDF I p. 5-9 of *AILA InfoNet Doc. No. 11041432*)
  - Examples of what qualifies as “restructure and reorganize” (*IIUSA DOC0042012* p. 753)
  - Examples of what qualifies as “substantial expansion” (*IIUSA DOC0042012* p. 187-191, 754-755)
  - Examples of what qualifies as “material change” (*AILA InfoNet Doc. No. 11041432* PDF II p. 204-216)
  - Example RFE and NOID (most discussing cases involving existing businesses). (*AILA InfoNet Doc. No. 11041432* PDF II p. 252-296)
  - Exercises for assessing information from tax forms (*IIUSA DOC0042012* p. 244-249)
  - Examples of how to use multipliers for economic analysis (*IIUSA DOC0042012* p. 457-464)
  
- *Active involvement:* The 2010/11 materials include a presentation on “Active Involvement in a New Commercial Enterprise.” (*IIUSA DOC0042012* p. 199-205 and 776-779) To quote: “It is important that when adjudicating an I-526 that the ISO bear in mind that the ‘active involvement’ requirement is a lesser requirement when the most critical requirements of lawful source of funds, required amount of capital fully invested and at risk, and creation of ten (10) jobs per alien are all favorably determined. As such, officers should exercise a degree of flexibility in applying the factor of ‘active involvement’ in reaching a determination to grant or deny the petition.” The presentation clarifies that: “In most LLC membership arrangements and corporate stockholder agreements and by-laws provide the investor with authority to make high level policy decisions, which suffices for EB-5 purposes.”
  
- *Reasonable Period of Time:* The training materials include some guidance on how to interpret the requirement that the I-829 petition present “evidence that the alien created or can be expected to create within a reasonable time.” To quote: “We expect in the vast majority of cases that all of the requisite jobs have been created by the time the I-829 is adjudicated. However, the regulations here do contemplate certain circumstances in which the requisite jobs can be created within a ‘reasonable period of time.’ Nonetheless, a favorable adjudication of the I-829 without the requisite jobs having been actually created would be the rare exception. What constitutes a ‘reasonable period of time’ depends on the factors of each individual case. You may consider all appropriate evidence that would (a) clearly justify not having completed the job creation by the end of the two years of conditional residence (e.g., the nature of the investment, the industry involved, natural disasters such as Katrina, etc.) & (b) show that the full number of requisite new

jobs will be created within a clear, defined and credible period of time (typically within 2 1/2 years of the alien's entry as a CPR.)" (*IIUSA DOC0042012* p. 260-261)

*Job creation:* The training materials acknowledge that: "Qualifying Employee' refers only to direct jobs which can be individually identified, NOT to indirect jobs which are never individually or specifically identifiable. Indirect jobs are presumed to have occurred in conjunction with the release of the investor's capital into the enterprise." (*IIUSA DOC0042012* p. 267) They also clarify that "Typically, Form 1-9 together with Quarterly Wage and Hour reports to the State and W-2's are sufficient to make a determination as to whether the individual is a qualified employee." (p. 268) The materials discuss job creation in a troubled business, and state that "each investor must be shown to maintain at least 10 jobs as a result of his or her capital investment. The level of employment must be maintained at no less than the pre-investment level for a period of at least two years." (*IIUSA DOC0042012* p. 306)

*Regional Center Jurisdiction:* The training materials state that regional center approvals are not exclusive, and that an investor petition must be formally affiliated with or made through a USCIS-approved regional center in order to be credited with indirect job creation. Happening to fall within the approved geographic area and industry categories of an approved Regional Center is not sufficient. (*IIUSA DOC0042012* p. 394-404)

### ***What's not there?***

Anecdotal evidence suggests that the training materials released by way of FOIA do not include all the materials in fact used in the 2008-2011 EB-5 trainings. At the risk of reading too much into the blank spaces, here are a few topics that one might have expected to find, but that do not in fact appear in the 2008-2011 EB-5 training materials as released:

- *By-words.* "Verifiable detail" – a phrase that seemed to be the EB-5 team's motto and gold standard for adjudications in 2010/11 – does not appear in the training materials except in quoting the regulations. "Nexus" – the concept that focused many attacks on job creation methodologies in 2012 – is not discussed except by *Matter of Izummi*.
- *Capital investment:* The acceptability of bridge financing and diversification are not discussed.
- *File review:* The I-924 amendment and I-526 exemplar processes are not discussed.
- *Securities issues.* The training includes no material focused on securities law compliance, and gives little guidance for review of offering documents. The training names types of offering documents but does not provide examples. It discusses business structure options and what constitutes a qualifying capital investment in a new commercial enterprise, but does not discuss how to read the controlling documents that define the investment terms. Only Escrow Agreements get detailed treatment. The training does not discuss how to review the plans for marketing and promotion in a Regional Center's Operational Plan, and does not mention the potential impact of SEC regulations on promotion of EB-5 investments.
- *Economic methodologies:* Location of indirect job creation, the time definition of a qualifying job, visitor spending, and tenant occupancy methodology are not discussed. One slide from a presentation on I-829 file review could contain the seed for "tenant occupancy" problems. To quote: "The relocation of pre-existing jobs from another location to a new location or facility based on alien

investment in a new or renovated facility would not be considered to be ‘newly created’ jobs. Any credit claimed for ‘newly created’ jobs for qualified employees in support of an investor’s 1-526/1-829 petition would need to be reconciled against any present jobs for qualified employees which have been relocated, abandoned or lost as a direct result of the EB-5 investor project.” (IIUSA DOC0042012 p. 266)

### ***What’s the message?***

The materials used to train Immigration Service Officers (ISO) for adjudication of EB-5 cases contain explicit and implicit definitions of the ISO job description and standard operating procedures for adjudications.

- **Deference:** The training materials repeatedly refer to EB-5 regulations and case law (and occasionally statute) as the basis for defining and interpreting guidelines for EB-5 case review. The training materials rarely pose standards outside the EB-5 context. (For example, guidelines for review of offering documents, business plans, and economic analysis reference the regulations and do not reference externally-defined standards such as from the SBA, SEC, or trade organizations.) An ISO might conclude from the training that his judgments are to be primarily informed and guided by 8 CFR 204.6, the AAO precedent decisions, and EB-5 case law, and that he needn’t be a trained business analyst, economist, accountant, or attorney to assess the documents.

The training materials emphasize that certain circumstances require the ISO to defer to a supervisor before reaching a conclusion. This includes questioning a state-designated TEA and applying a particular federal court decision to a particular adjudication. (IIUSA DOC0022012 p. 229 and 826)

The training materials do not send a consistent message on the question of deference to prior approvals. As an example, the materials copy the full text of *Chang v. US*, a landmark case involving EB-5 investor plaintiffs who alleged that INS improperly applied its current interpretation of EB-5 retroactively to their I-829 petitions. The decision concludes: “Retroactive application of the new rules adopted by the 1998 precedent decisions to Appellants’ 1-829 petitions is impermissible. The INS may not apply the rules established in the 1998 precedent decisions in reviewing the 1-829 petitions of those whose 1-526 petitions had been approved before those new rules were promulgated.” However, the training presentation that summarizes key take-aways of *Chang v. US* does not discuss the Court’s finding on retroactivity but rather highlights the point that “Circuit Court did not ‘fault the INS for determining that its earlier approvals of I-526 petitions interpreted the EB-5 program in ways that arguably contravened Congressional intent.’” (See pages 126-128, 526-543, and 617-633 of IIUSA DOC0042012.) The presentation seems focused on establishing USCIS’s right to revisit prior approvals, also referencing *Golden Rainbow Freedom Fund v. Janet Reno* (“the law is clear that the ‘prior approvals simply represented the Agency’s prior (short-lived) interpretation of the statute [which] [t]he agency was free to change.”) and *Golden Rainbow Freedom Fund v. John Ashcroft* (“No doubt, Golden Rainbow and the alien investors did rely on the non-precedential position of the INS, and may suffer on that account. They had to know that any initial approval was conditional.”)

- **Review Standard:** The training materials instruct ISOs to apply a “preponderance of the evidence standard,” defined as “more than 50% certainty.” To quote: “If the petitioner submits relevant,

probative, and credible evidence that leads USCIS to believe that the claim is 'probably true' or 'more likely than not,' the applicant or petitioner has satisfied the standard of proof. If a petitioner provides supporting documentation that satisfies the regulatory criteria, and such documentation is legitimate (i.e. not forged, not issued in error, not inaccurate, etc.), USCIS cannot unilaterally impose novel substantive or evidentiary requirements beyond those set forth in the regulatory requirements." (*IIUSA DOC0022012* p. 195-197 and 832-838)

On the other hand, the training presentations frequently frame the file review task in terms of seeking out problematic details. The advice to "be on the lookout for conflicting information" appears several times, and ISOs are encouraged to seek out details that the petitioner may be trying to conceal. The presentation on capital investment issues advises: "Ask for written explanations to accompany documents you don't understand. Ask for written explanations and evidence to clear up contradictions. Follow monetary funds through each transaction. We are not performing IRS audits of the capital, but we do need to track the path of the capital to make sure that it belongs to the petitioner." (*IIUSA DOC0042012* p. 70). The presentation on I-526 adjudication instructs: "The burden of proof is on the petitioner. If you don't understand something, don't pretend. Ask for written clarification or an explanation which you can understand. If you are still not satisfied after getting a response, consider denying the case." (*IIUSA DOC0042012* p. 81)

- *I-924* vs. *I-526* vs. *I-829*: The training materials include some commentary distinguishing what should be adjudicated at different stages, from Regional Center application to investor petition to removal of conditions. For example:
  - (*IIUSA DOC0042012* p. 400) "Responsibility and authority to review, adjudicate, evaluate and approve any economically or statistically valid forecasting tools relating to 'indirect' job creation; including, but not limited to, feasibility studies, analyses of foreign and domestic markets for goods or services to be exported (if applicable), and/or indirect job creation multipliers a required by 8 CFR 204.6(m)(3) rests at *the program level within US CIS at the stage of the regional center review process involving actual adjudication of any application/proposal for USCIS' regional center designation. This is not intended and shall not be done on any case by case basis at the point of-adjudication of any individual investor petition.*"
  - (*IIUSA DOC0042012* p. 431) "Reminder: TEA determinations are not made within Form I-924 applications. Whether a given capital investment meets the TEA , requirements is determined within the Form I-526 adjudication. However, it is helpful to know if a Regional Center plans to offer investments within TEAs as this fact may impact the Regional Center's job creation estimates."
  - (*IIUSA DOC0042012* p. 125) "*Al-Humaid v. Roark*: Defendants have made clear that USCIS has an interest in making sure that the business plan, if followed, would be qualifying. At the Form I-829 stage, whether the planned activities in the business plan are qualifying cannot be adjudicated because such considerations are made at the Form I-526 stage. See *Chang v. United States*, 327 F.3d 911, 927 (9<sup>th</sup> Cir. 2003)"

## *Index to EB-5 Training Materials*

The following index summarizes the content of the document *IIUSA DOC0042012 (USCIS EB-5 Training Materials – Oct 2012)*. Materials up to page 694 in this document appear to belong to a 2010 training while pages 695 and following appear to represent 2011 training materials. The 2010 materials within the 2012 release are essentially the same as the 2010 materials released separately (IIUSA DOC0012012). Shading in the table below indicates where the 2010/11 materials differ from the 2008 training materials published as *AILA InfoNet Doc. No. 11041432*. The “Pages” column below refers to page numbers in *IIUSA DOC0042012*.

**Table 3: Index to IIUSA DOC 0042012: USCIS EB-5 Training Materials (2012)**

TITLE	CONTENT	PAGES
<b>EB-5 Immigrant Investment Program Overview</b> [presentation]	Overview of EB-5 program. Includes slides briefly summarizing capital investment and job creation requirements, the Regional Center program and indirect job creation, the EB-5 investor process, 2010 EB-5 statistics, Form I-924 and I-924A, the EB-5 mailbox, reporting fraud and misrepresentation, expedite requests, and Public Law 106-273 cases. [Many slides also appeared in the June and Oct 2010 EB-5 stakeholder meeting presentations. The 2008 materials did not include this section.]	2-30 695-700
<b>In-Depth Capital Investment Issues</b> [presentation]	Quotes from regulations at 8 CFR 204.6(e) to define “capital,” “commercial enterprise,” and “invest.” Discusses appropriate evidence (ref. 8 CFR 204.6(j)), typical documents, example scenarios, and common deficiencies. Includes discussion of business plans (ref. <i>Matter of Ho</i> ), escrow agreements (ref. 8 CFR 204.6(j)), the “at risk” requirement, and tracking capital. Includes slides on currency transfers from China, gifts, bankruptcy, and trusts.	31-71 707-720
<b>Basic Form I-526 Adjudication</b> [presentation]	Describes basic steps for I-526 file review, lists factors and evidence to look for, and gives guidance for issuing RFEs. [The 2010/11 materials do not include the RFE and NOID examples included in the 2008 materials (2008 PDF II pages 252-296).]	72-84 701-706
<b>In-Depth Lawful Source of Capital</b> [presentation]	Quotes from regulations at 8 C.F.R. 204.6(j)(3) regarding source of funds, explains the regulations, provides case study examples, discusses types of evidence and review standard, and treats money laundering. [Pages redacted in this document are shown in the 2008 and 2010 release.]	85-104 748-749
<b>Federal EB-5 Cases</b> [presentation]	Describes issues with implications for EB-5 case review from federal cases including: <i>R.L. Investment Limited Partners</i> <i>Golden Rainbow Freedom Fund v. Janet Reno</i> <i>Golden Rainbow Freedom Fund v. John Ashcroft</i> <i>Spencer Enterprises Inc. v. United States</i> <i>Spencer Enterprises Inc. v. INS</i> <i>De Jong v. INS</i> <i>Kenkhuis v. INS</i> <i>Al-Humaid v. Roark</i> <i>Chang v. United States</i> Issues include USCIS’s right to revisit prior approvals, retained earnings not qualifying as investment, validity of requirements regarding TEAs and source of funds, and disqualification of intermittent construction jobs. [The 2011 materials add a slide (p. 829) cautioning to consult a supervisor before applying cases to particular adjudications. The 2010/11 materials do not include the examples of material change and excerpts from decisions “to be utilized when constructing RFEs and denials” that were given in 2008 (2008 PDF I pages 204-216).]	105-128 819-827
<b>AAO Precedents</b> [presentation]	Summarizes fact patterns and extracts guidelines for adjudication from EB-5 precedent decisions: <i>Matter of Soffici</i> , <i>Matter of Izummi</i> , <i>Matter of Hsiung</i> , and <i>Matter of Ho</i> .	129-177 722-738
<b>AAO: Functions and Responsibilities</b> [presentation]	Introduces the Administrative Appeals Office function, organization, authority, jurisdiction, process, precedent and adopted decisions, litigation, initiatives, and proposed rule for appeals, certifications and motions. [New in 2011.]	739-747
<b>Establishing a New</b>	Quotes from regulations at 8 CFR 204.6(e) and (h) regarding new commercial enterprises,	180-192



<b>Commercial Enterprise</b> [presentation]	references 2002 Amendments to the INA, and discusses investment existing businesses. Provides examples and discusses how to examine documents for evidence that an enterprise is really new, restructured/reorganized, or expanded. [See handwritten answers to the "restructure/reorganize questions on page 753.]	750-755
<b>Burden and Standard of Proof</b> [presentation]	Defines "burden" and "standard" of proof and the "preponderance" standard with reference to the Adjudicator's Field Manual and case law. [This section was new in 2010, and expanded in 2011.]	195-197 832-838
<b>Active Involvement in a NCE</b> [presentation]	Quotes from regulations at 8 CFR 204.6(j) regarding the requirement for "active involvement" in the New Commercial Enterprise, and discusses the requirement with respect to Limited Partnerships, LLCs, and Corporations. [This section was new in 2010.]	199-205 776-779
<b>Targeted Employment Areas</b> [presentation]	Describes Statutory Framework for TEAs (INA §203, 8 CFR § 204.6, INA§ 101, 8 C.F.R. §103.2), TEA determination timing and data issues (with reference to the Neufeld memo), and states' role in TEA designations. The 2010 and 2011 slides differ slightly. [This section was new in 2010, and expanded in 2011.]	206-230 757-765
<b>Understanding Tax Returns</b> [presentation]	Discusses types of tax filings (1040, Schedule C, 1120, 1120S, 1065) and how to mine them for information about capital investments, stock, assets, liabilities, net worth, wages, and other factors that can affect EB5 adjudication.	231-251 795-817
<b>Form I-829 Select Regulatory References</b> [presentation]	Quotes from regulations at 8 CFR 216.6 regarding I-829 adjudication, and comments on modified requirements. Comments on what constitutes "sustained," "substantially met," "reasonable period of time," and "qualifying employee." [Minor wording changes from 2008 to 2011.]	252-270 839-846
<b>Financial Statements</b> [presentation]	Defines frequently-seen financial statement types (Income Statement, Balance Sheet, Statement of Cash Flows), provides examples, and distinguishes between internally generated and audited statements.	271-287 784-786 791-792
<b>Job Creation</b> [presentation]	Quotes from INA 203 [8 USC 1153] to establish the statutory job creation framework, quotes from 8 CFR 204.6(e) to define "employee," "full time employment," "qualifying employee," "targeted employment area," and "troubled business". Quotes from 8 CFR 204.6(g) and (j) on job creation petition requirements, allocation of jobs in pooled investments, and maintaining jobs in a troubled business. Defines "direct," "indirect," and "induced." Comments on intermittent/seasonal employment and constructions jobs with reference to <i>Spencer Enterprises v. US</i> . Discusses job preservation in a troubled business with reference to IMMACT 90, and clarifies that 10 jobs must be created/maintained per investor. Gives examples of evidence to demonstrate direct job creation, and shows copies of forms. (I-9, W-4, W-2, 941) [This section was updated in 2010.]	288-314 766-775
<b>Tax Forms</b> [documents]	Sample completed tax forms (Form 1065, Schedule C, Form 1120S, Schedule K, Form 1120)	315-332 804-819
<b>AFM</b> [document]	Full text of <i>Adjudicator's Field Manual</i> Section 25.2 (I-829 adjudications)	333-357 1000-1024
<b>Regional Center-Specific Issues</b> [presentation]	Quotes from regulations at 8 CFR 204.6(j) and (m) regarding regional center requirements. Provides brief introductions to economic models (RIMS II, IMPLAN, REMI, REDYN) and multipliers. Discusses "preponderance of evidence" standard of evidence, requirements for active involvement, TEA designation requirements, the definition of a "regional center" as opposed to a "geographical region," and the necessity of direct/legal RC affiliation to count indirect jobs.	358-408 853-862
<b>Regional Centers</b> [presentation]	Defines the RC program and discusses RC application and amendment content. Includes suggestions for defining geographic area and content of offering documents.	411-418
<b>RC Program Training</b> [presentation]	Provides an overview of the Pilot Program. Discusses key requirements for Regional Center proposals and I-924 adjudications, Form I-924A, and Regional Center terminations. [This section was new in 2010.]	419-451 863-874
<b>Economic Analysis</b> [presentation]	Overview of economic issues in Regional Center adjudications. Topics include: Business plan analysis Economic impact analysis and economic concepts (Direct/indirect/induced jobs, Multipliers, NAICS codes and industries, household income, per capital income, earnings) TEA issues Economic impact models How to use multipliers	453-475 875-904

	Research techniques and sources of information List of NAICS codes [This section was new in 2010 and expanded in 2011.]	
<b>Material Misrepresentation</b>	Defines “material misrepresentation”	476
<b>Statute</b> [document]	Quote from INA: ACT 216A on Conditional Permanent Resident Status for Certain Alien Entrepreneurs, Spouses, and Children	477-481
<b>Regulations</b> [document]	Quote from 8 CFR § 204.6(m)(6) on Termination of participation of Regional Centers	482
<b>Memo</b> [document]	11/23/2005 Aytes Memo on Handling of N-400s filed by Alien Entrepreneurs with Pending I-829s, Addition to <i>Adjudicator’s Field Manual (AFM)</i> Chapter 22	483-487
<b>Memo</b> [document]	12/11/2009 Neufeld Memo on Adjudication of EB-5 Regional Center Proposals and Affiliated Form 1-526 and Form I-829 Petitions; Adjudicators Field Manual (AFM) Update to Chapters 22.4 and 25.2 (ADO9-38)	488-510
<b>from Department of Labor</b> [documents]	This section is redacted by USCIS but available separately (IIUSA DOC0022012 2010 DOL EB-5 training materials). Includes memos from BLS Local Area Unemployment Statistics (LAUS) program on the topic of appropriate procedures and estimation methodology for identifying high unemployment areas. Memos are dated 5/4/1992, 7/7/1992, 8/17/1995, and 7/21/2010.	511-525
<b>Federal Case</b> [document]	Full text of <i>Chang v. US</i>	526-543 617-633
<b>Federal Case</b> [document]	Full text of <i>Matter of Treasure Craft of California</i>	544-549
<b>AO Decisions</b> [documents]	Full text of <i>In re Soffici</i> , <i>In re Ho</i> , <i>In re Izummi</i> , <i>In re Hsuing</i>	550-607 1023-1080
<b>Lawful Source of Funds: OFAC requirements</b> [presentation]	Discusses regulations for Iranian transactions and RFEs and denials related to OFAC license requirements. [This presentation does not appear in the 2008 materials.]	608-615 828-831
<b>Forms</b> [documents]	Blank copies of Form I-526, I-924, I-924A, and I-829	634-635 666-694
<b>Memo</b> [document]	6/17/2009 Neufeld Memo on EB-5 Alien Entrepreneurs – Job Creation and Full-Time Positions (AFM Update AD 09-04)	637-644
<b>Memo</b> [document]	12/21/2006 Aytes Memo on Delegation of Authority to Service Center Directors to Adjudicate Form 1-829 and N-400 when Form 1-829 is Still Pending. (AFM Update: Chapter 25.2: Immigrant Investor AD06-31 & AD 06-04)	645-665
<b>EB-5 Business Structures</b> [presentation]	Provides definitions of General Partnership, Limited Partnership, LLC, S Corp.	780-783
<b>Statute</b> [documents]	Quotes from Section 610 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. 102-395 and Amendments by P.L. 105-119, P.L.106-396, P.L.107-273, P.L.108-156, P.L.110-329, P.L.111-8, and P.L. 111-83	848-852
<b>Software training</b> [presentation]	Training for data entry in MFAS, iCLAIMS and SNAP Web systems	905-965
<b>Memo</b> [document]	7/20/2011 Pearson Memo on Fingerprint Waiver Policy	966-969
<b>AFM</b> [document]	Full text of Adjudicator’s Field Manual Appendix 16-1	970-971
<b>Letter</b> [document]	12/3/2010 Letter to Senator Leahy on indirect job creation	972-973
<b>AFM</b> [document]	Full text of Adjudicator’s Field Manual Section 22.4	976-999