

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:**

Deborah V. Durham  
Iowa Regional Center  
200 East Grand Ave.  
Des Moines, IA 50309

**DATE:** April 19, 2018

**Application: Form I-924**

**File Number: RCW1031910153**

**RCID: ID1031910153**

**NOTICE OF TERMINATION**

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

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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 "Julia L. Harrison", with a long horizontal flourish extending to the right.

Julia L. Harrison

Acting Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions  
(2) Notice of Intent to Terminate issued on January 24, 2018

cc: Lori T. Chesser  
Davis Brown Law Firm  
215 10<sup>th</sup> St., Suite 1300  
Des Moines, IA 50309

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**Iowa 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 December 10, 2004, USCIS designated and authorized the Regional Center's participation in the Program. On January 24, 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 March 19, 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).

#### **A. 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**

(b)(4)

(b)(4)

As noted in the NOIT, the Regional Center was active at one time, with [REDACTED] I-526 petitions approved by USCIS between 2006 and 2012. The Regional Center’s Form I-924A for fiscal year 2012 reported over [REDACTED] in aggregate EB-5 capital investment and the creation of [REDACTED] new jobs. However, the Regional Center’s Form I-924A filings for fiscal years 2013, 2014, 2015, 2016, and 2017 do not report any EB-5 capital investment or job creation. The Regional Center’s Form I-924A filings have not reported 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 since March 2012. Additionally, although the Regional Center’s projects submitted to USCIS in 2004 and 2013 were subsequently approved, both filings were based on hypothetical projects. Iowa Regional Center has not submitted any amendments to USCIS since April 2013 or submitted any amendments seeking exemplar project approval since receiving its initial designation in December 2004.

In the NOIT Response, the Regional Center provided the following evidence:

- Letter from Deborah V. Durham, Director of Iowa Regional Center;
- Exhibit 1 – Copy of resubmission of Form I-924A for FY2017; Form I-797C (Receipt Number RCW1803856414; Confirmation of redemption \$3,035 USCIS filing fee;
- Exhibit 2 – IEDA Budget;
- Exhibit 3 – IEDA website pages; IEDA press releases on economic development achievements;

- Exhibit 4 – IEDA Annual Report; and
- Exhibit 5 – Statement of Patrick Hogan, CEO of CMB Export LLC, with supporting documents

In response to the lack of Regional Center activity, Iowa Regional Center mentions an agreement with CMB Export LLC (“CMB”) to identify and conduct due diligence for potential EB-5 projects. The letter from Deborah Durham, Director of the Iowa Regional Center, states that the current development of a hotel in downtown Des Moines, currently referred to as the 5<sup>th</sup> and Walnut Hotel project, is evidence of Iowa Regional Center’s promotion of economic activity and job creation.

However, it is unclear why the project, and subsequent job creation, should be attributed to Iowa Regional Center simply due to their partnership with CMB Export LLC and not CMB Export LLC alone. The letter from Ms. Durham states that it is CMB that “has been diligently reviewing and pursuing a number of projects in Iowa” ; [REDACTED]

(b)(4) [REDACTED] The NOIT Response also contains a letter from Patrick Hogan, CEO of CMB Export LLC, (b)(4) which states that “CMB identified a great brownfield redevelopment project. [REDACTED]

[REDACTED] and “[t]he Developer and CMB have agreed to use EB-5 capital to help finance the hotel portion of the Project.”

Additionally, the Iowa Economic Development website’s FAQ<sup>1</sup> on the EB-5 program states “Iowa Regional Center chose CMB as the managing Regional Center because of CMB’s successful EB-5 history...CMB Regional Centers function as the general partner of any partnership that lends EB-5 capital.” Therefore, it appears that a CMB-related regional center, and not Iowa Regional Center, will serve as the sponsoring regional center for the project and be responsible for the oversight and of the EB-5 investment capital.

Other than mentioning an agreement between Iowa Regional Center and CMB, the NOIT Response fails to provide any evidence of Iowa Regional Center’s role in the development of the project or the management of EB-5 capital. The NOIT Response does not provide a credible explanation as to why the economic activity of another regional center, CMB Export LLC, should be considered as evidence in determining Iowa Regional Center’s promotion of economic growth and job creation.

Additionally, the NOIT Response acknowledges several potential projects that Iowa Regional Center and CMB Export identified, but were ultimately unsuccessful in sponsoring. Simply conducting due diligence on possible projects is not sufficient for demonstrating the Regional Center’s ability to promote economic growth or develop viable projects in the future.

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<sup>1</sup> [https://www.iowaeconomicdevelopment.com/userdocs/programs/EB-5\\_Q\\_A.pdf](https://www.iowaeconomicdevelopment.com/userdocs/programs/EB-5_Q_A.pdf)

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In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

**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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P.O. Box 660168  
Dallas, TX 75266

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USCIS  
Attn: I-290B  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

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