



USCIS Update

June 18, 2009

USCIS Issues Guidance Memorandum on EB-5 Immigrant Investor Program *Update to Adjudicators Field Manual Clarifies the Timing of Job Creation and the Meaning of “Full-Time” Job Positions*

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) today issued a guidance memorandum that provides USCIS adjudication officers with instructions related to the timing of job creation and the meaning of “full-time” positions in the EB-5 [Immigrant Investor Program](#).

The guidance [memorandum](#) update to the Adjudicator’s Field Manual (AFM) clarifies that for purposes of the Immigrant Petition by Alien Entrepreneur (Form I-526) adjudication and the job creation requirements, USCIS will consider the two-year period to begin six months after the adjudication of the Form I-526.

USCIS officers will ensure that the business plan filed with the Form I-526 reasonably demonstrates that the requisite number of jobs will be created by the end of the two-year period. For Regional Center petitions and for purposes of indirect job creation, USCIS adjudicators may consider economic models that rely on certain variables to show job creation and the amount of investment to determine whether the required infusion of capital or creation of direct jobs will result in a certain number of indirect jobs.

USCIS also has concluded that certain direct and indirect jobs that would have previously been considered to be temporary or intermittent (such as construction jobs) may be considered as permanent jobs for Form I-526 and the Petition by Entrepreneur to Remove Conditions (Form I-829) purposes if the positions can be expected to last at least 2 years.

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