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Sunset Date to Affect Regional Center Proposals under the Immigrant Investor Pilot Program

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) reminds customers that the applicable provisions of immigration law concerning the EB-5 Immigrant Investor Pilot Program (Pilot Program) will "sunset" or expire at midnight on September 30, 2009.

The sunset date affects all Regional Center Proposals. It also affects certain Forms I-526, Immigrant Petition for Alien Entrepreneurs and Forms I-485, Applications to Register Permanent Residence or Adjust Status, if they rely on "indirect" job creation analysis. USCIS will continue to receive, process, and adjudicate as many Regional Center affiliated Forms I-526 and Forms I-485 as possible until the close of business September 30, 2009, the scheduled sunset date.

The previous extension of the Pilot Program was set to expire on March 11, 2009. However, on March 11, 2009, "Fiscal 2009 Omnibus Appropriations Bill," H.R. 1105, was signed into law which extended the Pilot Program through September 30, 2009.

If the sunset date is not extended, affected Regional Center sponsors and certain Regional Center affiliated I-526 petitioners will not be able to benefit from indirect job creation under the sunset provisions as of October 1, 2009. No new Regional Center Proposals will be accepted as of October 1, 2009. All Forms I-526 received after September 30, 2009 must demonstrate that all ten jobs created will be direct, permanent, full-time (35 hours per week) jobs for qualified U.S. workers (U.S. Citizens, Lawful Permanent Residents, Refugees, Asylees, or persons granted cancellation of removal or suspension of deportation).

Unless the program is extended, USCIS will hold in abeyance un-adjudicated Regional Center proposals and Regional Center affiliated I-526 petitions if they rely on indirect job creation that were received before the provisions sunset for an indeterminate time pending further action by Congress. If Congress does not reauthorize the Pilot Program, final determinations will be made based on existing standards for traditional I-526 petitions. These standards require evidence of "direct" job creation. The decisions will be made based either on the existing evidence of record or based on a response to a Request For Evidence (RFE), and denials will be issued for any pending Regional Center Proposals.

USCIS has also determined that it may not approve any Regional Center affiliated adjustment of status applications after the provisions sunset. USCIS will hold these Form I-485 applications in abeyance for an indeterminate time pending further Congressional action. If the sunset provisions are extended, adjudication of the held cases will resume promptly. If Congress does not reauthorize the Pilot Program, denials will be issued for any pending Regional Center affiliated adjustment of status applications.

USCIS will provide further guidance to the public if legislation is enacted to extend the sunset provisions.

Forms I-829, Petition by Entrepreneur to Remove Conditions, whether affiliated with a Regional Center or not, will not be affected by the sunset of these provisions of the Immigration and Nationality Act.

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Related Links

- Employment Based Immigrant EB-5
- I-485,Application to Register Permanent Residence or Adjust Status
- I-526,Immigrant Petition by Alien Entrepreneur
- I-829,Petition by Entrepreneur to Remove Conditions

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