

More Cautions About New EB-5 Policy Changes

By Joseph P. Whalen (June 2, 2013)

I urge caution and study before jumping on a particular policy change so as to avoid mistakes. For instance, even though USCIS will allow ***certain issues*** to be altered without the demand for an I-924 Amendment, be sure you are clear on which is which. Additionally, make sure to reconcile the Policy with the controlling statutes and regulations.

As an example, USCIS states that the geographic boundaries may be changed without the need for an I-924 Amendment Application. That said, it still must result in the Regional Center being a “contiguous” geographic area. See I-924 Form Instructions and 8 CFR 103.2(a)(1) which states:

“Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions, notwithstanding any provision of 8 CFR chapter 1 to the contrary, and such instructions are incorporated into the regulations requiring its submission. ...”

The language within the controlling statute which is being interpreted via the Form Instructions reads as follows:

“... 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. ...”

Pub. L. 102–395, title VI, §610, Oct. 6, 1992, 106 Stat. 1874, as amended.

This is only one single issue where major mistakes could be made. A California based RC could not reasonably say that New Jersey was contiguous to it’s existing footprint. Could it? More single issue essays will follow so be sure to check back again.

That’s my two cents, for now.

e-mail: joseph.whalen774@gmail.com