



U.S. Citizenship  
and Immigration  
Services

August 20, 2014

Daniel Abraham Shields  
AscendAmerica, LLC  
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Teaneck NJ, 07666

Application: Form I-924, Application for Regional Center under the Immigrant Investor Pilot Program

Applicant(s): AscendAmerica, LLC

Re: Initial Regional Center Designation – Limited Decision  
AscendAmerica, LLC  
RCW1335251379/ID1335251379

This notice of a limited decision is in reference to the Form I-924, Application for Regional Center under the Immigrant Investor Pilot Program that was filed by the applicant with the U.S. Citizenship and Immigration Services (“USCIS”) on 12/13/2013. The Form I-924 application was filed to request approval of initial regional center designation under the Immigrant Investor Program. The Immigrant Investor Program was established under § 610 of the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102-395, Oct. 6, 1992, 106 Stat. 1874).

**I. Executive Summary of Adjudication**

Effective the date of this notice, USCIS approves, in a limited decision, the Form I-924 request to designate AscendAmerica, LLC as a qualifying participant in the Immigrant Investor Program.

**II. Regional Center Designation – Limited Decision**

The applicant submitted its Form I-924 requesting specific industry categories and geographic regions to be identified for the Regional Center’s use.

Upon review of the record, USCIS has determined that not all of the requested industry categories provided in the Form I-924 represent an appropriate application of a hypothetical project(s) to support the industry categories, and/or geographic regions acceptable for use by the Regional Center.

As such, USCIS has concluded that a limited decision is necessary in this case. Therefore, all requested and approved industry categories and geographic areas have been identified below followed by a decision to disallow any remaining industry categories and geographic areas that do not meet EB-5 requirements.

**A. Industry Categories and Geographic Regions Requested**

The applicant has requested to focus, promote economic growth, and offer capital investment opportunities in the following geographic areas and industry categories:

**1. Geographic Areas - Requested**

State	Counties
NEW YORK	Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, Westchester
NEW JERSEY	Bergen, Burlington, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren
CONNECTICUT	Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, Windham
PENNSYLVANIA	Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, Pike, Susquehanna, Wayne

**2. Industry Categories - Requested**

NAICS	Industry Name
23	Construction
42	Wholesale Trade
44-45	Retail Trade
53	Real Estate and Rental and Leasing
54	Professional, Scientific, and Technical Services
31-33	Manufacturing
48-49	Transportation and Warehousing
52	Finance and Insurance
55	Management of Companies and Enterprises
56	Administrative and Support and Waste Management and Remediation Services
62	Health Care and Social Assistance
71	Arts, Entertainment, and Recreation

**B. Approved Industry Categories and/or Geographic Areas**

The Regional Center is approved for the following industry categories and/or geographic areas for use by the Regional Center.

**1. Geographic Areas - Approved**

USCIS approves the applicant's request to focus, promote economic growth, and offer capital investment opportunities in all of the geographic areas requested in the I-924 and shown below:

State	Counties
NEW YORK	Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, Westchester
NEW JERSEY	Bergen, Burlington, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren
CONNECTICUT	Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, Windham
PENNSYLVANIA	Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, Pike, Susquehanna, Wayne

**2. Industry Categories - Approved**

The applicant is requesting 12 of industrial categories. However, the record is only sufficient to support the approval of only a selected number of the requested industry categories provided in the Form I-924. The remaining disallowed industry categories are listed and discussed later in this decision. The following are those industrial categories that have been approved for use by the Regional Center:

NAICS	Industry Name
23	Construction
42	Wholesale Trade
44-45	Retail Trade
5413	Architectural, Engineering and Related Services
5311	Lessors of Real Estate

**C. Disallowed Industry Categories and/or Geographic Areas**

The following industry categories and/or geographic areas have been disallowed because it has been determined that they do not represent an appropriate application of a hypothetical project to support the industry categories, and/or geographic regions acceptable for use by the Regional Center.

**1. Industry Categories - Disallowed**

NAICS	Industry Name
53	Real Estate and Rental and Leasing
54	Professional, Scientific, and Technical Services
31-33	Manufacturing
48-49	Transportation and Warehousing
52	Finance and Insurance
55	Management of Companies and Enterprises
56	Administrative and Support and Waste Management and Remediation Services

62	Health Care and Social Assistance
71	Arts, Entertainment, and Recreation

The applicant submitted the following information:

- Economic impact analysis of the project;
- Regional center business plan;
- Hypothetical business plan;

In the case of NAICS codes 53 and 54, these NAICS codes are too general for purposes of making a detailed prediction regarding the impact the project will have on the regional center area. For instance, NAICS code 54 Professional, Scientific, and Technical Services includes:

- Legal Services;
- Accounting, Tax Preparation, Bookkeeping, and Payroll Services;
- Architectural, Engineering, and Related Services;
- Specialized Design Services;
- Computer Systems Design and Related Services;
- Management, Scientific, and Technical Consulting Services;
- Scientific Research and Development Services;
- Advertising, Public Relations, and Related Services;
- Marketing Research and Public Opinion Polling;
- Photographic Services;
- Translation and Interpretation Services; and
- Veterinary Services.

The evidence provided supports the use of NAICS code 5413 Architectural, Engineering, and Related Services; however there is no indication of the intent to focus EB-5 Funds in any of the following industries. The NAICS codes need to be specific enough to generate valid inputs into the input-output model for making valid projected outcomes.

In the case of NAICS Codes 31-33, 48-49, 52, 55, 56, 62, and 71, these industries were not supported by the regional center business plan, the project business plan or the economic analysis. Specifically the mixed-used development project submitted with this application consists of a 32-story building which will include construction of luxury rental apartments, street level retail space and a parking garage.

## **2. Conclusion - Decision to Disallow**

Some aspects of the submitted proposal, as presently constituted, do not meet the regulatory requirements at 8 C.F.R. § 204.6. Therefore the request to grant the specific geographic areas, industry categories and/or hypothetical project(s) listed above cannot be approved.

The decision to disallow the industry categories, geographic areas, and/or hypothetical project(s) identified above does not preclude the filing of Form I-526 petitions related to a subsequent project using the disallowed industry categories, geographic areas, and/or hypothetical project(s). Any future petitions will be adjudicated on their own merit.

There is no appeal to this decision to disallow the specified industry categories and/or geographic scope explained above. However, pursuant to 8 CFR 103.5, a motion can be filed on Form I-290B. Such motion must be accompanied by the proper fee and filed within 30 days of this notice.

Please note that if the I-924 applicant elects to timely file a motion with USCIS and if said motion is granted the application will be reopened and/or reconsidered and a new decision rendered. If the applicant's proposal submitted in support of its motion meets the regulatory requirements at 8 C.F.R. § 204.6 the applicant will be accorded the geographic areas, industry categories and/or hypothetical project(s) that meet EB-5 requirements. If no motion is filed within the time allowed this decision is final.

### **III. Job Creation**

USCIS approves the geographic area and industry categories noted below based on the economic impact analysis presented and reviewed in conjunction with the adjudication of this regional center proposal. The approval of this Form I-924 application is based upon the economically and statistically valid assumptions and estimates provided in the business plan for job creation.

A hypothetical project does not have the factual details necessary to be in compliance with the requirements described in Matter of Ho, 22 I&N Dec. 206 (Assoc. Comm'r 1998). As such, USCIS's approval of any hypothetical job creation estimates presented in a Form I-924 is not accorded deference and may not be relied upon by an individual investor when filing the Form I-526. The business plan and job creation estimates will receive a de novo review by USCIS when an individual investor files Form I-526. Once an actual project is adjudicated upon the filing of the initial Form I-526, USCIS will give deference to subsequent Forms I-526 when the critical assumptions remain materially unchanged from the initially-approved Form I-526.

When filing Form I-526, it will be the responsibility of the individual investor to submit a comprehensive, detailed and credible business plan, showing by a preponderance of the evidence that his or her investment in the new commercial enterprise will create not fewer than 10 full-time positions. If prior to filing a form I-829, the job creation estimated in the business plan submitted by the individual investor materially changes or will not be realized, then it will be the responsibility of the EB-5 investor to notify USCIS of an agreed upon methodology to allocate job creation among eligible investors.

### **IV. Guidelines for Filing Form I-526 Petitions**

Each individual petition, in order to demonstrate that it is affiliated with the AscendAmerica, LLC, in conjunction with addressing all the requirements for an individual immigrant investor petition, shall also contain the following:

1. A copy of this regional center approval notice and designation letter including all subsequent amendment approval letters (if applicable).
2. An economic impact analysis which reflects a job creation methodology required at 8 CFR § 204.6 (j)(4)(iii) and shows how the capital investment by an individual immigrant investor will create not fewer than ten (10) indirect jobs for each immigrant investor.

3. A comprehensive, detailed and credible business plan for an actual project that contains the factual details necessary to be in compliance with the requirements described in Matter of Ho, 22 I&N Dec. 206 (Assoc. Comm'r 1998).
4. Legally executed organizational and transactional documents of the commercial enterprise.

Note: The project reviewed with this Form I-924 application is a hypothetical project. Organizational and transactional documents associated with the new commercial enterprise (NCE) submitted with this Form I-924 have not been reviewed to determine compliance with program requirements since these documents will receive de novo review in subsequent filings (e.g., an amended Form I-924 application with a Form I-526 exemplar or the first Form I-526 petition filed by an investor under the regional center project).

#### **V. Designee's Responsibilities in the Operations of the Regional Center**

As provided in 8 CFR § 204.6 (m)(6), to ensure that the regional center continues to meet the requirements of section 610(a) of the Appropriations Act, a regional center must provide USCIS with updated information to demonstrate the regional center is continuing to promote economic growth, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area. Such information must be submitted to USCIS on an annual basis or as otherwise requested by USCIS. The applicant must monitor all investment activities under the sponsorship of the regional center and to maintain records in order to provide the information required on the Form I-924A Supplement to Form I-924. Form I-924A, Supplement to Form I-924 Application is available in the "Forms" section on the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Regional centers that remain designated for participation in the Immigrant Investor Program as of September 30<sup>th</sup> of a calendar year are required to file Form I-924A Supplement in that year. The Form I-924A Supplement with the required supporting documentation must be filed on or before December 29<sup>th</sup> of the same calendar year.

The failure to timely file a Form I-924A Supplement for each fiscal year in which the regional center has been designated for participation in the Immigrant Investor Program will result in the issuance of an intent to terminate the participation of the regional center in the Immigrant Investor Program, which may ultimately result in the termination of the designation of the regional center.

The regional center designation is non-transferable.

#### **VI. Legal Notice**

This approval and designation of a Regional Center under the Immigrant Investor Program does not constitute or imply an endorsement or recommendation by USCIS, the United States Government or any instrumentality thereof, of the investment opportunities, projects or other business activities related to or undertaken by such Regional Center. Except as expressly set forth in this approval and designation, USCIS has not reviewed any information provided in connection with or otherwise related to the Regional Center for compliance with relevant securities laws or any other laws unrelated to eligibility for designation as a Regional Center. Accordingly USCIS makes no determination or representation whatsoever regarding the compliance of either the Regional Center or associated New Commercial Enterprises with such laws.

AscendAmerica, LLC

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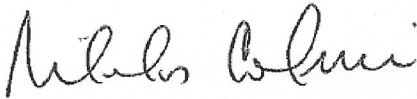
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Each Regional Center designated by USCIS must monitor and oversee all investment offerings and activities associated with, through or under the sponsorship of the Regional Center. The failure of an associated New Commercial Enterprise to comply with all laws and regulations related to such investment offerings and activities may result in the issuance by USCIS of a notice of intent to terminate the Regional Center designation.

If the applicant has any questions concerning the regional center designation under the Immigrant Investor Program, please contact the USCIS by email at [USCIS.ImmigrantInvestorProgram@uscis.dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@uscis.dhs.gov).

Sincerely,



Nicholas Colucci  
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cc: Douglas Hauer  
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