

TOO MANY TOO FAST – SURGE IN REGIONAL CENTERS

By Joseph P. Whalen (Tuesday, November 17, 2015)

The ranks of EB-5 Regional Centers has swelled by approximately 229+ in the last year and a half or so.¹ It scares me because quite a few are *more likely than not* ill-equipped to provide appropriate administrative oversight of projects or fulfill the duties owed to their EB-5 investors. As the number of Regional Center Terminations increases I hope that there are not too many investors caught in the crossfire. I might have unrealistic expectation on that last issue unless USCIS catches problems early enough to NOT approve any I-526s that would later require revocation due to avoidable USCIS adjudicative errors. We can but dream. That does not mean that I think USCIS must “believe” or “have faith” in every project presented which it *provisionally approves* as an I-526 exemplar (*dummy*) petition. It is not their responsibility to even try to go that far. On the other hand, it is the job and responsibility of USCIS to make sure that each EB-5 Regional Center it designates or “licenses” does demonstrate that it knows what it is expected to do and has put forth sufficient evidence that it most likely can do so.

I am particularly concerned with any “*No Deference*” Regional Center that was given status without being forced to make its case with regard to the *knowledge, skills, and abilities* (KSAs) of the principal sponsor, management team, and other key personnel, or developer partners. I also fear that most of them have not even been required to demonstrate any contracts or agreements with other entities (*service providers: management companies, financial companies, securities or law firms*) who do have the needed KSAs.

It remains to be seen if my concerns are valid. I hope I am wrong but realistically, I am afraid I am correct. The I-829s that are finally filed for projects sponsored by “*No Deference*” Regional Centers will be the ultimate test of the administrative oversight issues. Were the correct assumptions identified from the economic analysis? Were the correct documents collected over the course of the investment project? Was the money properly spent? We shall see, in each pooled investment, how these questions are answered.

¹ This does not take into account any Terminations.

