

## **ROLE OF THE REGIONAL CENTER IN EB-5**

By [Joseph P. Whalen](#) (July 22, 2012)

I see various folks clamoring for EB-5 money without thinking things through. Many fail to take into account certain critical aspects, including, but not necessarily limited to:

- 1) The basic requirements of the individual EB-5 investors,
- 2) Selecting investment approaches that do not involve actual “risk”,
- 3) Raising more capital from EB-5 alien investors than can be justified by the number of jobs to be created,
- 4) Selecting seasonal businesses,
- 5) Selecting businesses that primarily rely on part-time workforces,
- 6) Focusing on non-qualifying residential real estate properties,
- 7) Counting the wrong jobs (customer’s jobs rather than “partners’ jobs”),
- 8) Failing to sufficiently explain and justify the money-to-jobs nexus, and
- 9) Failing to know the *proper role of the Regional Center*.

It is the last item in the above list that is the subject of this essay. The role of the Regional Center is multifaceted and too many folks often do not fully understand their complete *initial obligations*, or plan for their *continuing responsibilities*.

Various analogies might help you understand your role as a Regional Center (RC). You could think of the RC as the “quarterback”, “manager”, “head chef”, “chief”, “foreman”, “director”, “administrator”, “organizer”, “adviser”, “supervisor”, or perhaps the one I like best, which is “*coordinator*”.

If you [perform a simple search](#) for a definition of **coordinator** you will find that it means “*someone whose task is to see that work goes harmoniously*” or [in the alternative](#), “*someone whose job is to make different groups work together in an organized way to achieve something*”. I actually found a definition posted that simply indicated that a “coordinator” coordinates things. So, let’s also look at the [definition of “coordinate”](#) just to be clear it means “*bring the different elements of (a complex activity or organization) into a relationship that will ensure efficiency or harmony*”.

Various job descriptions seek “*project coordinators*” to work across groups, aligning internal team members and external stakeholders. For example, IT project coordinators may coordinate project phases and schedules, arrange support services, order supplies, and track progress. The coordinator typically reports to the project manager and serves as a department liaison to product developers and marketing executives.

The Regional Center has specific up-front duties, back-end duties, and a ton of other duties in-between. Consider carefully what you are getting involved in before doing so and you'll sleep better. As part of the extensive advance planning the Regional Center must look into the future and make some educated guesses. Aside from best guesses, there are some definite and discrete issues and pieces of information that are relatively easy to plan-ahead for, if you think things through.

Think hard about these issues and questions when considering seeking designation as an EB-5 Regional Center, or individual EB-5 investor whether affiliated with a Regional center or not.

- 1) **Industries/NAICS Codes:** What “kinds of commercial enterprises” will receive money from alien investors?
- 2) **Job Creation Potential:** Will that kind of business generate enough jobs to bother seeking Regional Center designation from USCIS or EB-5 funds at all?
- 3) **Timing Issues/Considerations:** Considering the advance planning, the time needed for USCIS to adjudicate the initial Regional Center designation request or a particular amendment request, the time needed to raise capital and vet investors' funds, as well as the various project phases such as: for getting permits, breaking ground on the project, all construction and sub-contractor phases, and the time needed to outfit, equip, and staff the business; *how much time should be reflected in the Business Plan?* In other words, what is your real timeline?
- 4) **Data Categories and Input Sources:** Unless you have “re-invested the wheel”, there should be some industry-specific data available from reliable sources out there somewhere. Where do you find it? How current is it? How reliable is it? These data points or operating parameters for the new commercial enterprise (whatever it may be) need to be clearly presented in a comprehensive, detailed, and credible Business Plan.
- 5) **Expectations:** Relying on all that planning and the Business Plan, you will need to make some predictions about what you expect to accomplish. If the EB-5 investor is working outside of a Regional Center then the Business Plan must be expansive enough to answer these questions IF the jobs have not already been created. In the context of a Regional Center investment project, an Economic Analysis (EA) is utilized to make well supported predictions based on the Business Plan (BP) as well as comparable industry data that is independently available.
- 6) **Evidence:** What specific information and documents will be needed to satisfy USCIS at the end of the alien's process? Is the EA based on *assumptions* and/or *conditions precedent* drawn from the BP? Which specific facts will have to be proven in the I-829 and what documentary evidence will serve as sufficient proof? What data and documents must the RC or investor collect along the way?

Please think long and hard about these issues. That's my two-cents, for now.