



May 15, 2018

PA-2018-03

Policy Alert

SUBJECT: Rescission of Guidance Regarding Tenant-Occupancy Methodology

Purpose

U.S. Citizenship and Immigration Services (USCIS) is revising policy guidance in the [USCIS Policy Manual](#) to reflect that, as of May 15, 2018, USCIS no longer considers tenant occupancy to be a reasonable methodology to support economically or statistically valid forecasting tools.

Background

Foreign nationals may seek an immigrant visa under the regional center program to comply with the job creation requirement under section 203(b)(5) of the Immigration and Nationality Act (INA) by establishing “reasonable methodologies for determining the number of jobs created by the program, including such jobs which are estimated to have been created indirectly...” USCIS has determined that tenant-occupancy methodologies result in a connection or nexus between the investment and jobs that is too tenuous. Therefore, USCIS no longer considers this methodology to be reasonable or a valid forecasting tool under the regulations.

USCIS will continue to give deference to Form I-526 and Form I-829 petitions directly related to previously approved projects, absent material change, fraud or misrepresentation, or legal deficiency of the prior determination.¹ Except for cases involving deference, this update is controlling and supersedes any prior guidance on this topic.

Policy Highlights

- Explains that a tenant-occupancy model is not a reasonable methodology because the relationship between the investment and the jobs is too tenuous.

Citation

Volume 6: Immigrants, Part G, Investors, Chapter 2, Eligibility Requirements [[6 USCIS-PM G.2](#)].

¹ Specifically, petitions directly related to projects included in pending or approved applications or petitions at the time of the policy change will be adjudicated under prior guidance. See USCIS Policy Manual, Volume 6, Immigrants, Part G, Investors, Chapter 6, Deference [[6 USCIS-PM G.6](#)].