



USCIS Update

Feb. 19, 2009

Sunset Date to Affect Regional Center Proposals Under the Immigrant Investor Pilot Program

Certain Form I-526 Petitions and Form I-485 Applications Affected

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) reminds customers that the applicable provisions of immigration law concerning the EB-5 Immigrant Investor Pilot Program (Pilot Program) will “sunset” or expire at midnight on March 6, 2009.

The sunset date affects all Regional Center Proposals and certain Forms I-526, *Immigrant Petition for Alien Entrepreneurs* and Forms I-485, *Applications to Register Permanent Residence or Adjust Status*, affiliated with Regional Centers relying on “indirect” job creation analyses. USCIS will continue to receive, process, and adjudicate as many Regional Center affiliated Forms I-526 and Forms I-485 as possible until the close of business on March 6, 2009, the scheduled sunset date.

The previous five-year extension of the Pilot Program was set to expire on October 1, 2008. However, on September 30, 2008, the fiscal 2009 continuing resolution bill entitled the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009," H.R. 2638, was signed into law which extended all government operations through March 6, 2009, including the EB-5 Pilot Program.

If the sunset date is not extended, affected Regional Center sponsors and certain Regional Center affiliated I-526 petitioners will not be able to benefit from indirect job creation under the sunset provisions as of March 7, 2009. No new Regional Center Proposals will be accepted as of March 7, 2009. All Forms I-526 received after March 6, 2009 must demonstrate that all ten jobs created will be direct, permanent, full-time (35 hours per week) jobs for qualified U.S. workers (U.S. Citizens, Lawful Permanent Residents, Refugees, Asylees, or persons granted cancellation of removal or suspension of deportation).

Unless the program is extended, USCIS will hold unadjudicated Regional Center proposals and Regional Center affiliated I-526 petitions that were received before the provisions sunset in abeyance for an indeterminate period of time pending further action by Congress. If Congress does not act to reauthorize the Pilot Program, final determinations will be made based on the evidence of “direct” job creation. The decisions will be made based either on the existing evidence of record or in response to a request for evidence, and denials will be issued for any pending Regional Center Proposals.

USCIS has not made a final determination whether it may approve Regional Center affiliated adjustment of status applications after the provisions sunset and it will hold these Form I-485 applications in abeyance pending a final determination or Congressional action. If the sunset provisions are extended, adjudication of the held cases will resume promptly. USCIS will provide further guidance to the public if legislation is enacted to extend the sunset provisions.

Forms I-829, *Petition by Entrepreneur to Remove Conditions*, whether affiliated with a Regional Center or not, will be unaffected by the sunset of these provisions of the Immigration and Nationality Act. For more information on USCIS and its programs, visit www.uscis.gov.