TAB 1

REPLY TO:

135 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1501
(202) 224-3744
e-mail: grassley.senate.gov/contact.htm

721 FEDERAL BUILDING
210 WALNUT STREET
DES MOINES, IA 50309-2140
(515) 288-1145

150 1ST AVENUE NE
SUITE 325
CEDAR RAPIDS, IA 52401
(319) 363-6832

United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

REPLY TO:

103 FEDERAL COURTHOUSE BUILDING
320 6TH STREET
SIOUX CITY, IA 51101-1244
(712) 233-1860

210 WATERLOO BUILDING
535 COMMERCIAL STREET
WATERLOO, IA 50701-5497
(319) 232-6657

131 WEST 3RD STREET
SUITE 180
DAVENPORT, IA 52801-1419
(563) 322-4331

307 FEDERAL BUILDING
8 SOUTH 6TH STREET
COUNCIL BLUFFS, IA 51501-4204
(712) 322-7103

January 28, 2010

The Honorable Alejandro Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, 5th Floor
Washington, DC 20529

Dear Director Mayorkas:

I wanted to take an opportunity to thank you for your leadership at U.S. Citizenship and Immigration Services and for working with me on several issues over the last year.

I especially want to express my gratitude for the agency's new guidance on H-1B visas. I believe that requirements to establish an employer-employee relationship to qualify for the H-1B specialty occupation classification will go a long way to reduce fraud. As I have said before, too many entities and individuals are taking advantage of the system. Requiring more evidence, such as itineraries and contracts, will help reduce abuse at third-party worksites and improve opportunities for American workers.

Also, thanks again for your assistance on international adoption cases, particularly the case for [redacted] of Iowa. Your personal attention to this matter will make a significant difference in the lives of a special family. Also, I know your agency is working hard to improve the situation for children affected by the earthquake in Haiti. Please don't hesitate to contact me if I can be of service as the process for future adoptions in this devastated country are developed.

Sincerely,

Charles Grassley
United States Senator

RANKING MEMBER,
FINANCE

Committee Assignments:

BUDGET
JUDICIARY
AGRICULTURE

CO-CHAIRMAN,
INTERNATIONAL NARCOTICS
CONTROL CAUCUS

PRINTED ON RECYCLED PAPER

From: [redacted]
Sent: Tuesday, November 10, 2009 12:54 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Grassley calling Mayorkas
Attachments: Outline [redacted].doc

[redacted],

FYI: this is a request for a call from Sen. Grassley to Ali regarding an extremely sticky adoption case. OCR, Field Operations and International have met with his staff repeatedly on this case. The office continues to advocate for this case. I've provided a summary of the case to date.

We are pushing back to have this call at least next week. There has been no movement on this case since August. I want to be sure Ali is well-prepared for the discussion before it occurs.

Thanks,

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:42 PM
To: [redacted]l@grassley.senate.gov'; [redacted]; [redacted]
Cc: [redacted]@grassley.senate.gov'; [redacted]
Subject: RE: Grassley calling Mayorkas

Thanks, [redacted], thanks for the heads-up. I'm adding in [redacted], the Director's scheduler, to coordinate with [redacted] on possible call times regarding this adoption case.

Our international team is checking on the latest status with the Department of State. Given the extensive history on this case, as I recall, is there a specific focus on which Sen. Grassley would like information? (Given the time difference with the embassy overseas we may not have a response back by this afternoon but our team is seeking to pull as much as possible).

We want to be sure we're as responsive as possible.

Thanks, [redacted]

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:12 PM
To: [redacted]@grassley.senate.gov'; [redacted]
Cc: [redacted]@grassley.senate.gov'
Subject: Re: Grassley calling Mayorkas

Including [redacted] and [redacted] for any action.

[redacted], Assistant Chief
Office of Congressional Relations-USCIS
[redacted] (office)
sent from Blackberry Wireless, please excuse any typo.

----- Original Message -----
From: [redacted] (Grassley) <[redacted]@grassley.senate.gov>
To: [redacted]
Cc: [redacted] (Grassley) <[redacted]@grassley.senate.gov>
Sent: Tue Nov 10 11:55:02 2009
Subject: Grassley calling Mayorkas

Hi, [redacted]!

Sen. Grassley would like to talk to the Director today. Would you please check and see if 3;30 works for him? [redacted], our scheduler, is copied here if you want to put his assistant in touch with her.

It's regarding an international adoption case (name is [redacted]. We spoke on this case this summer with some of your people (but I can't find the emails with the names).

[redacted]

U.S. Senator Charles E. Grassley

Phone: [redacted]

www.grassley.senate.gov

Review [redacted] – A71 725 651

March 30, 2007 – adoption of child by [redacted] (to be in full force on May 29, 2007)
April 18, 2007 – filed 1st – I-600
May 10, 2007 – Notice of Intent to Deny was sent to the [redacted]s (extension to respond was given until July 16, 2007)
August 3, 2007, Denied I-600
October 2, 2008 – filed 2nd - I-600A
December 5, 2008 – Approved I-600A ([redacted])
December 17, 2008 – filed I-600
December 29, 2008 – USCIS Moscow received Memo from Vice Consul about I-600 case not being clearly approvable. A full investigation was initiated because the facilitator in the [redacted] case was suspected of being involved in child buying. This investigation revealed that the child was not born to a single mother, but to two living parents with whom the child had been living with up to the time that the adoption occurred.
January 9, 2009 – I-604 (Determination on Child for Adoption) indicating fraud (birth father is alive and currently married to child's mother. No father consent in file.)
January 28, 2009 – Notice of Intent to Deny was sent to the [redacted].
April 15, 2009 – I-600 Denied
May 18, 2009 – Form I-290B, Notice of Appeal or Motion was received. File was forwarded to the AAO.
July 17, 2009 – The AAO dismissed the appeal because the petitioner indicated that a brief and/or evidence would be sent within 30 days, however no additional evidence was received.
August 18, 2009 – USCIS Moscow received an email from Mr. [redacted] that he has filed a Form I-290B, Notice of Appeal or Motion on August 14, 2009, and has sent it to our office via Federal Express, est arrival Tuesday/Wednesday of next week.

From: [redacted]
Sent: Tuesday, November 10, 2009 6:17 PM
To: [redacted]
Subject: FW: Grassley calling Mayorkas
Attachments: Document.pdf

All, fyi. I echo [redacted]s thanks to each of you for the great help this afternoon. Let's be in touch on Thursday on the next steps.

Enjoy your holi-day,

[redacted]

From: [redacted] (Grassley) [mailto: [redacted]@grassley.senate.gov]
Sent: Tuesday, November 10, 2009 6:01 PM
To: [redacted] (Grassley); [redacted] E
Cc: [redacted] (Grassley)
Subject: RE: Grassley calling Mayorkas

Thanks to the Director for listening to the Senator today for making assurances that he would dive into this case. I wanted to make sure that the attached letter from the [redacted] was a part of that review.

Also, my state staff [redacted] says that an I130 petition was recently denied (nov 6) at the California Service Center (receipt number WAC 0921213044). The Director may be interested in that since the USCIS officer in Armenia said they could work around the fact they didn't spend 2 years with him.

Many thanks to you all for your attention to this case. Take care,

[redacted]
Sen. Charles E. Grassley

From: [redacted] (Grassley)
Sent: Tuesday, November 10, 2009 2:13 PM
To: '[redacted] (Grassley); [redacted]
Cc: [redacted] (Grassley)
Subject: RE: Grassley calling Mayorkas

Privacy release attached. Can we do this call today? Please give us a time that works and we can run it by the Senator. He could do it right now. Or, he could do after 4:30.

[redacted]
Sen. Charles E. Grassley

From: [redacted]
Sent: Tuesday, November 10, 2009 1:29 PM
To: [redacted] (Grassley); [redacted] (Grassley); [redacted]

[redacted]
Cc: [redacted]
Subject: Re: Grassley calling Mayorkas

[redacted]

Thank you. We are checking. [redacted] as soon as you're available please call me re: message I'd left.

[redacted], in preparation for the call we will need a privacy release for USCIS to discuss the case. [redacted], could you please work with [redacted] and/or [redacted] now to ensure we have that available.

Thanks very much,

[redacted]

----- Original Message -----
From: [redacted] (Grassley) [redacted]p@grassley.senate.gov>
To: [redacted] (Grassley) < [redacted]@grassley.senate.gov>; [redacted]
Cc: [redacted]>
Sent: Tue Nov 10 13:03:18 2009
Subject: Re: Grassley calling Mayorkas

Is there any time earlier today?

----- Original Message -----
From: [redacted]
To: [redacted] (Grassley); [redacted]
Cc: [redacted] (Grassley); [redacted]>
Sent: Tue Nov 10 12:53:26 2009
Subject: RE: Grassley calling Mayorkas

Hi all,
Today at 3:30pm will not work for Director Mayorkas, as he has a meeting at the WH.

He is travelling the rest of this week and the earliest we could schedule this call would be sometime next week.

[redacted]
Would Nov. 20th at 11:30am EST work for Senator Grassley?
I know [redacted] is working the background on this case and may need time to reach out to the international offices. Please let me know if Friday the 20th would work for the Senator.

Thanks,

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:42 PM
To: [redacted]@grassley.senate.gov'; [redacted]
Cc: [redacted]@grassley.senate.gov'; [redacted]
Subject: RE: Grassley calling Mayorkas

Thanks, [redacted], thanks for the heads-up. I'm adding in [redacted], the Director's scheduler, to coordinate with [redacted] on possible call times regarding this adoption case.

Our international team is checking on the latest status with the Department of State. Given the extensive history on this case, as I recall, is there a specific focus on which Sen. Grassley would like information? (Given the time difference with the embassy overseas we may not have a response back by this afternoon but our team is seeking to pull as much as possible).

We want to be sure we're as responsive as possible.

Thanks, [redacted],

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:12 PM
To: [redacted]@grassley.senate.gov'; [redacted]
Cc: '[redacted]@grassley.senate.gov'
Subject: Re: Grassley calling Mayorkas

Including [redacted] and [redacted] for any action.

[redacted] Assistant Chief
Office of Congressional Relations-USCIS
([redacted] (office)
sent from Blackberry Wireless, please excuse any typo.

----- Original Message -----
From: [redacted] (Grassley) <[redacted]@grassley.senate.gov>
To: [redacted]
Cc: [redacted] (Grassley) <[redacted]p@grassley.senate.gov>
Sent: Tue Nov 10 11:55:02 2009
Subject: Grassley calling Mayorkas

Hi, [redacted]

Sen. Grassley would like to talk to the Director today. Would you please check and see if 3;30 works for him? [redacted], our scheduler, is copied here if you want to put his assistant in touch with her.

It's regarding an international adoption case (name is [redacted]). We spoke on this case this summer with some of your people (but I can't find the emails with the names).

[redacted]

U.S. Senator Charles E. Grassley

Phone: [redacted]

www.grassley.senate.gov

August 13, 2009

Field Office Director
U.S. Department of Homeland Security
United States Embassy
Moscow, 121099 Russia

Re: Consular Case Number: YRV2008843004
Petitioner:
Child:

Dear

and I are requesting that our case be reopened pursuant to 8 C.F.R. §103.5 based upon new evidence. As you are aware of the facts of our case, I will not restate all of the facts in their entirety as you have set forth many of them in your letter dated April 15, 2009.

In addition to the facts that you have set forth, it is important to note that custody was placed with the Armenian government when he was placed onto the centralized adoption registry in approximately July, 2006. It was not until March, 2007 that and I were informed that the Armenian government was going to allow us to adopt .

In your decision, you state that based upon the investigation, biological parents were not divorced at the time of his birth. Further, it appears that one of the major reasons for the denial of s visa is that the biological father, although stating under oath that he gave up parental rights, told embassy officials that he wanted to be reunited with .

When and I visited the embassy in Armenia back in December, 2008, we met with l/k/u at the embassy to discuss our case. He is the same person who helped conduct

West Des Moines, Iowa 50266

the investigation last December and visited the family who has been taking care of [redacted] while we resolve this matter with our government. [redacted] informed [redacted] and I that if we were to obtain the biological father's relinquishment of parental rights, that would be new evidence which would allow the embassy to issue [redacted] visa. [redacted] and I, through the assistance of counsel in Armenia, have obtained said consent from [redacted]. The translated consent and a copy of the original have been enclosed and marked as exhibit 1. Additionally, we were informed that it would be a good idea if we established a guardianship, naming [redacted] as [redacted]s guardian. Taking that advice, enclosed is a certificate of guardianship which has been marked as exhibit 2.

Applicable Law

Section 101(b)(1)(F) of the INA defines a child, among other instances, as someone:

> Under the age of sixteen at the time a petition is filed on his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the *death or disappearance or abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption;* who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence: Provided, That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States:....

The Armenian Code provides for the following:

Article 111. PLACEMENT OF CHILDREN DEPRIVED OF PARENTAL CARE

1. Children deprived of parental care are subject to giving for rearing to a family (adoption), guardian or foster family, and in case of absence of such possibility, all kinds of organizations for children deprived of parental care.

3. *The list of organizations provided for the accommodation of orphans or children deprived of parental care as well as the procedure of accommodation is established by the RA Government.*

Article 112. CHILDREN SUBJECT TO ADOPTION.

1. Adoption is a legal act according to which adopters and adopted obtain rights and obligation stipulated by law for parents and children. Adoption is considered a most preferable way of placement of children deprived of parental care.
2. Adoption is allowed only with regard to children and proceeding from their interests, keeping the requirements of paragraph 2, Provision 1, Article 111 of the given code, as well as taking into consideration the possibilities of complete physical, mental, spiritual and moral development of children.
3. Adoption of siblings by different persons is prohibited, except for the case when such adoption proceeds from a child's interests.
4. *Adoption of children of the RA citizenship by foreign citizens and stateless persons, as well as RA citizens residing out of the RA territory is allowed only in cases if it is impossible to give these children for rearing to the families of the RA citizens permanently living in the RA territory or adopt children by their relatives. Information on children subject to adoption is given to foreign citizens and stateless persons, as well as RA citizens residing out of the RA territory after three months of centralized registration of the mentioned children.*

Article 114. REGISTRATION OF CHILDREN SUBJECT TO ADOPTION AND PERSONS WISHING TO ADOPT.

1. Registration of children subject to adoption is realized in accordance with the procedure established by Provision 3, Article 110 of the given Code.
2. Registration of persons wishing to adopt is realized in accordance with the procedure established by the RA Government. *Registration of foreign citizens and stateless persons, as well as RA citizens residing out of the RA territory wishing to adopt a child of the RA citizenship is realized by the body authorized by the RA Government.*

ARGUMENT.

[redacted] does qualify as an orphan as defined by INA section 101(b)(1)(F) because he in fact was abandoned by both parents. As previously stated, pursuant to Armenian law, [redacted] was placed in the Armenian Centralized Adoption registry in approximately July, 2006. In order to place [redacted] into the registry, it is my understanding that both parents had to consent to his adoption.

Pursuant to Armenian law, when a child is placed into the Centralized Adoption Registry,

he becomes a ward of the government. It is at that point, the government decides where the child will reside until the child is adopted. In this case, the Republic of Armenia government decided to leave [redacted] with his biological parents until such time that he would be adopted.

Armenian Law requires that that the government give first priority of adoption to citizens living within the Republic of Armenia territory. Only after a minimum waiting period of 90 days would a person or couple residing outside Armenia be able to request permission from the Government to adopt a child. Once a child is placed into registration, the decision as to who gets to adopt that child is completely up to the Armenian government. In the present case, the biological parents had absolutely no say in who was going to adopt [redacted]. Once parental rights were terminated and he was given up for adoption, he became a ward of the government and the decision as to who would get to adopt [redacted] rested solely with the government.

[redacted] does qualify as an orphan on the basis of abandonment. He was in fact abandoned by both parents within the meaning of the regulations at 8 C.F.R. 204.3(b). Although [redacted] never lived in an orphanage, he was a ward of the government, and it was the government who was financially responsible for [redacted] and who decided where [redacted] was to reside until he was adopted. As stated above, [redacted] release to us was certainly not for a specific adoption. [redacted] was released to [redacted] and I because that is what the Armenian government, [redacted] guardian, required. Regarding [redacted] biological father, he stated to embassy officials under oath that during the Armenian governemnt's investigation into this matter, he in fact signed release form irrevocably releasing [redacted] for emigration and adoption. Quite frankly, we have not seen any evidence which would corroborate the finding that [redacted] wanted to be reunited with [redacted]. In fact, on May 11, 2009, [redacted] signed off on another consent for adoption and relinquishing all of his parental rights.

Last, [redacted] and I do have a valid adoption decree from a court of competent jurisdiction. As previously stated, [redacted] testified that he relinquished his parental rights early on in Centralized registration process. Due to the fact that neither you nor us could find any hard evidence of this document, [redacted]' signature was obtained on another consent for termination of parental rights and adoption. Based upon [redacted] previous statement under oath and the fact that he freely and voluntarily executed the enclosed consent, it is evident that he was put on notice regarding the adoption of [redacted].

CONCLUSION

Based upon the new evidence which has come to light and has been presented, [redacted] does qualify as an orphan pursuant to INA §101(b)(1)(F). As you can see, [redacted] and I have continually done what was asked of us by the embassy. We were informed that with this new information a visa would be issued and we are now asking that take place. [redacted] is now approaching 3 ½ years of age. [redacted] and I desperately want to be united

with our son. Fortunately, he has been with foster parents that have provided him with love and have done the best that they can in raising him to this point. [redacted] and [redacted] agreed to help us on a limited basis but did not sign up for a long term commitment. We thank God that they have continued to help us through this long process, but they also want to see this come to an end. Without us, [redacted] literally does not have anybody else. The only thing keeping us from raising our son is the issuance of the visa.

Should you have any questions, please do not hesitate to call me at [redacted] or email me at [redacted]. Thank you for your assistance in resolving this matter.

Respectfully,

[redacted]

ՀԱՍԱՀԱՅՈՒԹՅՈՒՆ

[redacted]

[redacted]

Republic of Armenia
Yerevan
Leader of Erebuni Community

28 April 2009

Resolution No. 60
About Imposing Guardianship Authority over the Minor
[redacted]

The resident of 9 Vardashen street, build. 62b, apt 54 of Yerevan Adela Gavrusha Anushavanyan applied the leader of Erebuni community, in particular the Council on Custody and Guardianship Matters requesting to grant her the guardianship authority over the minor [redacted].

The father of the minor [redacted], Mr. [redacted] and the mother Mrs. [redacted] are in the United States of America. Therefore, the child was left without parental care.

Currently [redacted] lives with the minor and, factually, takes care of the child, takes responsibility for the health of the child. She underwent medical examination, she is healthy and therefore she may act as the guardian of [redacted].

The Council on Custody and Guardianship matters proposes to admit the application of [redacted] (resident of 9 Vardashen street, building 62b, apt 54 of Yerevan) about giving her the guardianship authority over the minor [redacted]

In following the articles 34 and 37 of the Civil Code of RA, the paragraph 3 and subparagraphs c), e) and je) of paragraph 6 of Resolution No. 922-N of 22.06.2006 of the Government of Armenia, on the basis of the proposal of the Council on Custody and Guardianship Matters of the community:

1. [redacted] (passport no. AH0505422, issued on 01.10.2007 by 009) as the guardian of the minor [redacted];
2. Impose the arrangement and the responsibility for execution of the resolution on the Council on Custody and Guardianship Matters (chairman: I. Davtyan).
3. The community leader shall supervise the implementation of the resolution.

Leader of Community [redacted] /seal/ /signature/

28 April 2009
Yerevan

I hereby certify that the above is a true translation of the original document from Armenian into English to the best of my knowledge of the English and Armenian languages, for which I put my name and signature below.

[redacted]

Consent

Republic of Armenia
City of Yerevan
May fifteen of two thousand and nine

I, [redacted] citizen of Armenia, born in 12.10.1972, passport AK0295403-067-11.05.2009 registered at address land parcel 1/1, District B-8 of Nubarashen, city of Yerevan, give my agreement for adoption of my son [redacted] born in 29.05.2006, including that I refuse from my parental rights.

For which I put my signature:

[redacted] (printed name) /signature/
[redacted] (handwritten name) /signature/

I read the consent and I agree to its content.

Republic of Armenia
City of Yerevan
May fifteen of two thousand and nine

I, [redacted], the notary officer of Erebuni territorial district of Yerevan, Republic of Armenia, hereby certify the authenticity of the signature of [redacted] done in my presence.
The identity and capability of the signatory(ies), including the authorities of the latter(s) have been verified.
Under Article 67 of the Law on Notaries, I hereby confirm the authenticity of the signature done by a real person, but not the facts set forth in the document.

Registered in Register Book No.2165
The state duty and service fee were collected according to the Law on State Duty and the Law on Notaries of the Republic of Armenia.

Notary [redacted] /signature/ /seal/

I hereby certify that the above is a true translation of the original document from Armenian into English to the best of my knowledge of the English and Armenian languages, for which I put my name and signature below.

[redacted]

ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅՈՒՆ
ԵՐԵՎԱՆ

ԷՐԵԲՈՒՆԻ ՀԱՄԱՅՆՔԻ ՂԵԿԱՎԱՐ

28 ապրիլի, 2009թ.

ՈՐՈՇՈՒՄ 60-Ա

[redacted]

[redacted]

ՀԱՄԱՅՆՔԻ ՂԵԿԱՎԱՐ Ա. ՀԱՐՈՒԹՅՈՒՆՅԱՆ

28 ապրիլի, 2009թ.
Երևան

375008, Երևան, Աստաֆյան Օրբելի 87 Հեռ. 57 26 26

ԽՆԱՄԱԿԱԼԻ

[redacted]

[redacted]

CERTIFICATE OF A GUARDIAN No. 0022

[redacted]
Head of Erebuni Community /signature/
AH0505422

This Certificate certifies that [redacted]
was recognized as the guardian of
[redacted] (born 29.05.2006)
by Resolution No. 60-A of the Head of Erebuni Community of Yerevan
(Council of Guardian and Custody Matters).
The Certificate is valid for 3 years

I hereby certify that the above is a true translation of the original document from Armenian into English to the best of my knowledge of the English and Armenian languages, for which I put my name and signature below.

[redacted]

[redacted]

From: [redacted]
Sent: Friday, November 13, 2009 4:29 PM
To: [redacted]
Subject: Fw: Grassley calling Mayorkas

FYI: here is the last communication with Grassly's office. (They seemed pleased with the way forward).

[redacted], I'll call you now.

----- Original Message -----
From: [redacted]
To: [redacted] (Grassley) [redacted]l@grassley.senate.gov>; [redacted]
Cc: [redacted] (Grassley) [redacted]
Sent: Tue Nov 10 18:13:27 2009
Subject: RE: Grassley calling Mayorkas

Thank you, [redacted]. We will make sure that this letter is part of the review. And thank you for the follow-up information from [redacted] as well. We'll make sure this is all part of the review.

Best,

[redacted]

From: [redacted] (Grassley) [mailto: [redacted] @grassley.senate.gov]
Sent: Tuesday, November 10, 2009 6:01 PM
To: [redacted] (Grassley); [redacted]
Cc: [redacted] (Grassley)
Subject: RE: Grassley calling Mayorkas

Thanks to the Director for listening to the Senator today for making assurances that he would dive into this case. I wanted to make sure that the attached letter from the Hamrocks was a part of that review.

Also, my state staff [redacted] says that an I130 petition was recently denied (nov 6) at the California Service Center (receipt number WAC 0921213044). The Director may be interested in that since the USCIS officer in Armenia said they could work around the fact they didn't spend 2 years with him.

Many thanks to you all for your attention to this case. Take care,

---

[redacted]

Sen. Charles E. Grassley

From: [redacted] (Grassley)
Sent: Tuesday, November 10, 2009 2:13 PM
[redacted]
Cc: [redacted] (Grassley)
Subject: RE: Grassley calling Mayorkas

Privacy release attached. Can we do this call today? Please give us a time that works and we can run it by the Senator. He could do it right now. Or, he could do after 4:30.

[redacted]

Sen. Charles E. Grassley

From: [redacted]
Sent: Tuesday, November 10, 2009 1:29 PM
To: [redacted] (Grassley); [redacted] (Grassley); [redacted]
Cc: [redacted]
Subject: Re: Grassley calling Mayorkas

[redacted]

Thank you. We are checking. [redacted] as soon as you're available please call me re: message I'd left.

[redacted], in preparation for the call we will need a privacy release for USCIS to discuss the case. [redacted] could you please work with [redacted] and/or [redacted] now to ensure we have that available.

Thanks very much,

[redacted]

----- Original Message -----
From: [redacted] (Grassley) [redacted]@grassley.senate.gov>
To: [redacted] (Grassley) <[redacted]@grassley.senate.gov>; [redacted]
Cc: [redacted]
Sent: Tue Nov 10 13:03:18 2009
Subject: Re: Grassley calling Mayorkas

Is there any time earlier today?

----- Original Message -----
From: [redacted]
To: [redacted] (Grassley); [redacted]
Cc: [redacted] (Grassley); [redacted]
Sent: Tue Nov 10 12:53:26 2009
Subject: RE: Grassley calling Mayorkas

Hi all,
Today at 3:30pm will not work for Director Mayorkas, as he has a meeting at the WH.

He is travelling the rest of this week and the earliest we could schedule this call would be sometime next week.

[redacted],
Would Nov. 20th at 11:30am EST work for Senator Grassley?
I know [redacted] is working the background on this case and may need time to reach out to the international offices. Please let me know if Friday the 20th would work for the Senator.

Thanks,

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:42 PM
To: [redacted]@grassley.senate.gov'; [redacted]
Cc: [redacted]@grassley.senate.gov'; [redacted]
Subject: RE: Grassley calling Mayorkas

Thanks, [redacted], thanks for the heads-up. I'm adding in [redacted], the Director's scheduler, to coordinate with [redacted] on possible call times regarding this adoption case.

Our international team is checking on the latest status with the Department of State. Given the extensive history on this case, as I recall, is there a specific focus on which Sen. Grassley would like information? (Given the time difference with the embassy overseas we may not have a response back by this afternoon but our team is seeking to pull as much as possible).

We want to be sure we're as responsive as possible.

Thanks, [redacted]

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 10, 2009 12:12 PM
To: [redacted]@grassley.senate.gov'; [redacted]
Cc: 'Le[redacted]@grassley.senate.gov'
Subject: Re: Grassley calling Mayorkas

Including [redacted] and [redacted] for any action.

[redacted], Assistant Chief
Office of Congressional Relations-USCIS
[redacted] (office)
sent from Blackberry Wireless, please excuse any typo.

----- Original Message -----
From: [redacted] (Grassley) <K[redacted]@grassley.senate.gov>
To: [redacted]>
Cc: [redacted] (Grassley) <[redacted]@grassley.senate.gov>
Sent: Tue Nov 10 11:55:02 2009
Subject: Grassley calling Mayorkas

Hi, [redacted]

Sen. Grassley would like to talk to the Director today. Would you please check and see if 3;30 works for him? [redacted], our scheduler, is copied here if you want to put his assistant in touch with her.

It's regarding an international adoption case (name is Hamrock). We spoke on this case this summer with some of your people (but I can't find the emails with the names).

[redacted]

U.S. Senator Charles E. Grassley

Phone: [redacted]

www.grassley.senate.gov

TAB 2

From: [redacted]
Sent: Wednesday, December 14, 2011 7:51 PM
To: [redacted]
Subject: FW: Victorville decision
Attachments: Victorville Regional Center AAO Decision 12 13 2011.doc

Here you go.

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, December 13, 2011 3:20 PM
To: [redacted]
Subject: FW: Victorville decision

Done. [redacted]

From: [redacted]
Sent: Tuesday, December 13, 2011 3:16 PM
To: [redacted]
Subject: FW: Victorville decision

Please see [redacted] note below. I am in Crystal City today and tomorrow morning. Can one of you please print out the attached decision and leave it on [redacted]'s chair? Let me know if you do or I'll need to stop at [redacted] on my way to Crystal City tomorrow.

From: [redacted]
Sent: Tuesday, December 13, 2011 3:11 PM
To: [redacted]
Subject: Re: Victorville decision

Hi [redacted]

Please leave a copy of the decision on my chair. I'll be in tomorrow.

Thanks
[redacted]

From: [redacted]
Sent: Tuesday, December 13, 2011 11:51 AM
To: [redacted]
Subject: Victorville decision

[redacted]

As you are well aware the Victorville EB-5 case resulted in both a CSC decision being certified to the AAO and litigation in federal court. We are operating under a DOJ deadline to decide the case before us before next Monday, and are ready to issue a decision. After working with an economist on the issues, we are affirming the CSC Director's May, 2011 decision to terminate the regional center's designation. The only alternative would have been to remand the case back to CSC, but we saw no legitimate need to prolong the case.

Given Ali's recent concerns around EB-5 issues, do you want to see the decision before we issue it?

[redacted]

[redacted]

Chief, Administrative Appeals Office

United States Citizenship and Immigration Services

Department of Homeland Security

[redacted]

TAB 3

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

May 30, 2013 **PM-602-0083**

Policy Memorandum

SUBJECT: EB-5 Adjudications Policy

PURPOSE: The purpose of this policy memorandum (PM) is to build upon prior policy guidance for adjudicating EB-5 applications and petitions. Prior policy guidance, to the extent it does not conflict with this PM, remains valid unless and until rescinded.

SCOPE: This PM is applicable to, and is binding on, all USCIS employees.

AUTHORITY:

- Immigration and Nationality Act (INA) sections 203(b)(5) and 216A
- Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, Pub. L. No. 102-395, § 610, 106 Stat 1828, 1874 (1992)
- 8 C.F.R. §§ 204.6 and 216.6

I. Introduction

The purpose of the EB-5 Program is to promote the immigration of people who can help create jobs for U.S. workers through their investment of capital into the U.S. economy.

Congress established the EB-5 Program in 1990 to bring new investment capital into the country and to create new jobs for U.S. workers. The EB-5 Program is based on our nation's interest in promoting the immigration of people who invest their capital in new, restructured, or expanded businesses and projects in the United States and help create or preserve needed jobs for U.S. workers by doing so.

In the EB-5 Program, immigrants who invest their capital in job-creating businesses and projects in the United States receive conditional permanent resident status in the United States for a two-year period. After two years, if the immigrants have satisfied the conditions of the EB-5 Program and other criteria of eligibility, the conditions are removed and the immigrants become unconditional lawful permanent residents of the United States. Congress created the two-year conditional status period to help ensure compliance with the statutory and regulatory

requirements and to ensure that the infusion of investment capital is sustained and the U.S. jobs are created.

The 1990 legislation that created the EB-5 Program envisioned lawful permanent resident status for immigrant investors who invest in and engage in the management of job-creating commercial enterprises. In 1993, the legislature enacted the "Immigrant Investor Pilot Program" that was designed to encourage immigrant investment in a range of business and economic development opportunities within designated regional centers. In 2012 Congress reaffirmed its commitment to the regional center model of investment and job creation by removing the word "Pilot" from the now twenty-year old program, and by providing a three-year reauthorization of the regional center model through September 2015.

Our goal at U.S. Citizenship and Immigration Services (USCIS) is to make sure that the potential of the EB-5 Program, including the Immigrant Investor Program, is fully realized, and that the integrity of the EB-5 Program is protected. Through our thoughtful and careful adjudication of applications and petitions in the EB-5 Program, we can realize the intent of Congress to promote the immigration of people who invest capital into our nation's economy and help create jobs for U.S. workers.

II. The Preponderance of the Evidence Standard

As a preliminary matter, it is critical that our adjudication of EB-5 petitions and applications adhere to the correct standard of proof. In the EB-5 program, the petitioner or applicant must establish each element by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 375-376 (AAO 2010). That means that the petitioner or applicant must show that what he or she claims is more likely so than not so. This is a lower standard of proof than both the standard of "clear and convincing," and the standard "beyond a reasonable doubt" that typically applies to criminal cases. The petitioner or applicant does not need to remove all doubt from our adjudication. Even if an adjudicator has some doubt as to the truth, if the petitioner or applicant submits relevant, probative, and credible evidence that leads to the conclusion that the claim is "more likely than not" or "probably true", the petitioner or applicant has satisfied the standard of proof.

III. Ensuring Program Integrity

It is critical to our mission to ensure that we administer the EB-5 program with utmost vigilance to program integrity. Our operational teams work in collaboration with the Fraud Detection and National Security directorate and cases presenting issues relating to fraud, national security, or public safety should be referred as appropriate to law enforcement and regulatory authorities.

IV. The Three Elements of the EB-5 Program

The EB-5 Program is based on three main elements: (1) the immigrant's investment of capital, (2) in a new commercial enterprise, (3) that creates jobs. Each of these elements is explained below in the context of both the original EB-5 Program and the Immigrant Investor Program.

A. The Investment of Capital

The EB-5 Program is based in part on the fact that the United States economy will benefit from an immigrant's contribution of capital. It is also based on the view that the benefit to the U.S. economy is greatest when capital is placed at risk and invested into a new commercial enterprise that, as a result of the investment, creates at least ten jobs for U.S. workers. The regulations that govern the EB-5 Program define the terms "capital" and "investment" with this in mind.

1. "Capital" Defined

The word "capital" in the EB-5 Program does not mean only cash. Instead, the word "capital" is defined broadly in the regulations to take into account the many different ways in which an individual can make a contribution of financial value to a business. The regulation defines "capital" as follows:

> Capital means cash, equipment, inventory, other tangible property, cash equivalents, and indebtedness secured by assets owned by the alien entrepreneur [immigrant investor], provided that the alien entrepreneur [immigrant investor] is personally and primarily liable and that the assets of the new commercial enterprise upon which the petition is based are not used to secure any of the indebtedness. All capital shall be valued at fair market value in United States dollars. Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of section 203(b)(5) of the Act.

8 C.F.R. § 204.6(e).

The definition of "capital" has been clarified in regulations and in precedent decisions that our Administrative Appeals Office (AAO) has issued:

- First, the definition of "capital" is sufficiently broad that it includes not only such things of value as cash, equipment, and other tangible property, but it can also include the immigrant investor's promise to pay (a promissory note), as long as the promise is secured by assets the immigrant investor owns, the immigrant investor is liable for the debt, and the assets of the immigrant investor do not for this purpose include assets of the company in which the immigrant is investing.

  In our AAO's precedent decision *Matter of Hsiung*, 22 I&N Dec. 201, 204 (Assoc. Comm'r 1998), we reflected the fact that the immigrant investor's promissory note can constitute "capital" under the regulations if the note is secured by assets the petitioner owns. We also determined that:

  (1) The assets must be specifically identified as securing the promissory note;

  (2) Any security interest must be perfected to the extent provided for by the jurisdiction in which the asset is located; and,

(3) The asset must be fully amenable to seizure by a U.S. note holder.

- Second, all of the capital must be valued at fair market value in United States dollars. 8 C.F.R. § 204.6(e) (definition of "capital"). The fair market value of a promissory note depends on its present value, not the value at any different time. *Matter of Izummi,* 22 I&N Dec. 169, 186 (Assoc. Comm'r 1998). Moreover, to qualify as capital for EB-5 purposes, "nearly all of the money due under a promissory note must be payable within two years, without provisions for extensions." *Id.* at 194.

- Third, the immigrant investor must establish that he or she is the legal owner of the capital invested. *Matter of Ho,* 22 I&N Dec. 206 (Assoc. Comm'r 1998).

- Fourth, any assets acquired directly or indirectly by unlawful means, such as criminal activity, will not be considered capital. The immigrant investor must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. According to the regulation, to make this showing the immigrant investor's petition must be accompanied, as applicable, by:

  (1) Foreign business registration records; or,

  (2) Corporate, partnership (or any other entity in any form which has filed in any country or subdivision thereof any return described in this list), and personal tax returns including income, franchise, property (whether real, personal, or intangible), or any other tax returns of any kind filed within five years, with any taxing jurisdiction in or outside the United States by or on behalf of the immigrant investor; or,

  (3) Evidence identifying any other source(s) of capital; or,

  (4) Certified copies of any judgments or evidence of all pending governmental civil or criminal actions, governmental administrative proceedings, and any private civil actions (pending or otherwise) involving monetary judgments against the immigrant investor from any court in or outside the United States within the past fifteen years.

8 C.F.R. § 204.6(j)(3)(i)-(iv).

2. "Invest" Defined

The immigrant investor in the EB-5 Program is required to invest his or her capital. The petitioner must document the path of the funds in order to establish that the investment was his or her own funds. *Matter of Izummi*, 22 I&N Dec. at 195. The regulation defines "invest" as follows:

> Invest means to contribute capital. A contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the alien entrepreneur [immigrant investor] and the new commercial enterprise

> does not constitute a contribution of capital . . . .

8 C.F.R. § 204.6(e).

The regulation also provides that, in order to qualify as an investment in the EB-5 Program, the immigrant investor must actually place his or her capital "at risk" for the purpose of generating a return, and that the mere intent to invest is not sufficient. The regulation provides as follows:

> To show that the petitioner has invested or is actively in the process of investing the required amount of capital, the petition must be accompanied by evidence that the petitioner has placed the required amount of capital at risk for the purpose of generating a return on the capital placed at risk. Evidence of mere intent to invest, or of prospective investment arrangements entailing no present commitment, will not suffice to show that the petition is actively in the process of investing. The alien must show actual commitment of the required amount of capital.

8 C.F.R. § 204.6(j)(2).

The EB-5 Program is seeking to attract individuals from other countries who are willing to put their capital at risk in the United States, with the hope of a return on their investment, to help create U.S. jobs. The law does not specify what the degree of risk must be; the entire amount of capital need only be at risk to some degree.

If the immigrant investor is guaranteed the return of a portion of his or her investment, or is guaranteed a rate of return on a portion of his or her investment, then that portion of the capital is not at risk. *Matter of Izummi,* 22 I&N Dec. at 180-188. For the capital to be "at risk" there must be a risk of loss and a chance for gain. In our precedent decision *Matter of Izummi*, 22 I&N Dec. at 183-188, the AAO found that the capital was not at risk because the investment was governed by a redemption agreement that protected against the risk of loss of the capital and, therefore, constituted an impermissible debt arrangement under 8 C.F.R. § 204.6(e) as it was no different from the risk any business creditor incurs. *Id.* at 185. Furthermore, a promise to return any portion of the immigrant investor's minimum required capital negates the required element of risk. Thus, if the agreement between the new commercial enterprise and immigrant investor, such as a limited partnership agreement or operating agreement, provides that the investor may demand return of or redeem some portion of capital after obtaining conditional lawful permanent resident status (*i.e.*, following approval of the investor's Form I-526 and subsequent visa issuance or, in the case of adjustment, approval of the investor's Form I-485), that portion of capital is not at risk. Similarly, if the investor is individually guaranteed the right to eventual ownership or use of a particular asset in consideration of the investor's contribution of capital into the new commercial enterprise, such as a home (or other real estate interest) or item of personal property, the expected present value of the guaranteed ownership or use of such asset does not count toward the total amount of the investor's capital contribution in determining how much money was truly placed at risk. *Cf. Izummi* at 184 (concluding that an investment cannot be considered a qualifying contribution of capital at risk to the extent of a guaranteed return). Nothing, however, precludes an investor from receiving a return on his or her capital (*i.e.*, a

distribution of profits) during or after the conditional residency period, so long as prior to or during the two-year conditional residency period, and before the requisite jobs have been created, the return is not a portion of the investor's principal investment and was not guaranteed to the investor.

An investor's money may be held in escrow until the investor has obtained conditional lawful permanent resident status if the immediate and irrevocable release of the escrowed funds is contingent only upon approval of the investor's Form I-526 and subsequent visa issuance and admission to the United States as a conditional permanent resident or, in the case of adjustment of status, approval of the investor's Form I-485. An investor's funds may be held in escrow within the United States to avoid any evidentiary issues that may arise with respect to issues such as significant currency fluctuations[1] and foreign capital export restrictions. Use of foreign escrow accounts however is not prohibited as long as the petition establishes that it is more likely than not that the minimum qualifying capital investment will be transferred to the new commercial enterprise in the United States upon the investor obtaining conditional lawful permanent resident status. At the Form I-829 stage, USCIS will require evidence verifying that the escrowed funds were released and that the investment was sustained in the new commercial enterprise.

3. The Amount of Capital That Must be Invested

The statute governing the EB-5 Program provides that the immigrant investor must invest at least $1,000,000 in capital in a new commercial enterprise that creates not fewer than ten jobs. As discussed above, this means that the present fair market value, in United States dollars, of the immigrant investor's lawfully-derived capital must be at least $1,000,000. 8 U.S.C. § 1153(b)(5)(C)(i).

An exception exists if the immigrant investor invests his or her capital in a new commercial enterprise that is principally doing business in, and creates jobs in, a "targeted employment area." In such a case, the immigrant investor must invest a minimum of $500,000 in capital. 8 U.S.C. § 1153(b)(5)(C)(ii); 8 C.F.R. § 204.6(f)(2). *See* Section 3.a below for the definition of where the new commercial enterprise is "principally doing business."

An immigrant investor may diversify his or her total EB-5 investment across a portfolio of businesses or projects, so long as the minimum investment amount is placed in a single commercial enterprise. For immigrant investors who are not associated with a regional center, the capital may be deployed into a portfolio of wholly-owned businesses, so long as all capital is deployed through a single commercial enterprise and all jobs are created directly within that commercial enterprise or through the portfolio of businesses that received the EB-5 capital through that commercial enterprise. For example, in an area in which the minimum investment

[1] It should be noted that when funds are held in escrow outside the United States, USCIS will review currency exchange rates at the time of adjudicating the I-526 petition to determine if it is more likely than not that the minimum qualifying capital investment will be made. At the I-829 stage, USCIS will review the evidence in the record, including currency exhange rates at the time of transfer, to determine that when the funds were actually transferred to the United States, the minimum qualifying capital investment was actually made.

amount is $1,000,000, the investor can satisfy the statute if the investor invests in a commercial enterprise that deploys $600,000 of the investment toward one business that it wholly owns, and $400,000 of the investment toward another business that it wholly owns. *See* 8 C.F.R. § 204.6(e). (In this instance, the two wholly-owned businesses would have to create an aggregate of ten new jobs between them.) An investor cannot qualify, on the other hand, by investing $600,000 in one commercial enterprise and $400,000 in a separate commercial enterprise.

In the regional center context, where indirect jobs may be counted, the commercial enterprise may create jobs indirectly through multiple investments in corporate affiliates or in unrelated entities, but the investor cannot qualify by investing directly in those multiple entities. Rather, the investor's capital must still be invested in a single commercial enterprise, which can then deploy that capital in multiple ways as long as one or more of the portfolio of businesses or projects can create the required number of jobs.

a. "Targeted Employment Area" Defined

The statute and regulations governing the EB-5 Program defines a "targeted employment area" as, at the time of investment, a rural area or an area that has experienced unemployment of at least 150 percent of the national average rate. A "rural area" is defined as any area not within either a metropolitan statistical area (as designated by the Office of Management and Budget) or the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States). 8 U.S.C. § 1153(b)(5)(B)(ii), (iii); 8 C.F.R. § 204.6(e). In other words, a rural area must be both outside of a metropolitan statistical area and outside of a city or town having a population of 20,000 or more.

Congress expressly provided for a reduced investment amount in a rural area or an area of high unemployment in order to spur immigrants to invest in new commercial enterprises that are principally doing business in, and creating jobs in, areas of greatest need. In order for the lower capital investment amount of $500,000 to apply, the new commercial enterprise into which the immigrant invests or the actual job creating entity must be principally doing business in the targeted employment area.

For the purpose of the EB-5 Program, a new commercial enterprise is "principally doing business" in the location where it regularly, systematically, and continuously provides goods or services that support job creation. If the new commercial enterprise provides such goods or services in more than one location, it will be deemed to be "principally doing business" in the location that is most significantly related to the job creation. Factors to be considered in making this determination may include, but are not limited to, (1) the location of any jobs directly created by the new commercial enterprise; (2) the location of any expenditure of capital related to the creation of jobs; (3) where the new commercial enterprise conducts its day-to-day operation; and (4) where the new commercial enterprise maintains its assets that are utilized in the creation of jobs. *Matter of Izummi,* 22 I&N Dec. at 174.

As discussed fully below, investments through the Immigrant Investor Program can be made through regional centers and the new commercial enterprise may seek to establish indirect job creation. In these cases, the term "principally doing business" will apply to the job-creating

enterprise rather than the new commercial enterprise. *See* 8 C.F.R. § 204.6(j)(6); *Matter of Izummi,* 22 I&N Dec. at 171-73 (discussing the location of commercial enterprises to which the new commercial enterprise made loans).

The immigrant investor may seek to have a geographic or political subdivision designated as a targeted employment area. To do so, the immigrant investor must demonstrate that the targeted employment area meets the statutory and regulatory criteria through the submission of: (1) evidence that the area is outside of a metropolitan statistical area and outside of a city or town having a population of 20,000 or more; (2) unemployment data for the relevant metropolitan statistical area or county; or (3) a letter from the state government designating a geographic or political subdivision located outside a rural area but within its own boundaries as a high unemployment area. 8 C.F.R. § 204.6(j)(6).

b. A State's Designation of a Targeted Employment Area

The regulation provides that a state government may designate a geographic or political subdivision within its boundaries as a targeted employment area based on high unemployment. Before the state may make such a designation, an official of the state must notify USCIS of the agency, board, or other appropriate governmental body of the state that will be delegated the authority to certify that the geographic or political subdivision is a high unemployment area. The state may then send a letter from the authorized body of the state certifying that the geographic or political subdivision of the metropolitan statistical area or of the city or town with a population of 20,000 or more in which the enterprise is principally doing business has been designated a high unemployment area. 8 C.F.R. § 204.6(i).

Consistent with the regulations, USCIS defers to state determinations of the appropriate boundaries of a geographic or political subdivision that constitutes the targeted employment area. However, for all TEA designations, USCIS must still ensure compliance with the statutory requirement that the proposed area designated by the state in fact has an unemployment rate of at least 150 percent of the national average rate. For this purpose, USCIS will review state determinations of the unemployment rate and, in doing so, USCIS can assess the method or methods by which the state authority obtained the unemployment statistics. Acceptable data sources for purposes of calculating unemployment include U.S. Census Bureau data (including data from the American Community Survey) and data from the Bureau of Labor Statistics (including data from the Local Area Unemployment Statistics).

There is no provision that allows a state to designate a rural area.

B. New Commercial Enterprise

As discussed at the beginning of this PM, the EB-5 Program eligibility requirements are based on the fact that the U.S. economy will benefit from an immigrant investor's investment of capital into a new commercial enterprise that, as a result of the investment, creates at least ten jobs for U.S. workers. We have discussed above the requirements regarding "capital" and "investment." We now turn to the definition of, and requirements for, a "new commercial enterprise."

1. "Commercial Enterprise" Defined

First, the regulation governing the EB-5 Program defines the term "commercial enterprise" broadly, consistent with the realities of the business world and the many different forms and types of structures that job-creating activities can have. The regulation defines a "commercial enterprise" as follows:

> [A]ny for-profit activity formed for the ongoing conduct of lawful business.

8 C.F.R. § 204.6(e).

The regulation provides a list of examples of commercial enterprises. It specifically states that the list is only of examples, and is not a complete list of the many forms a commercial enterprise can have. The examples listed are:

> [A] sole proprietorship, partnership (whether limited or general), holding company, joint venture, corporation, business trust, or other entity which may be publicly or privately owned. This definition includes a commercial enterprise consisting of a holding company and its wholly-owned subsidiaries, provided that each such subsidiary is engaged in a for-profit activity formed for the ongoing conduct of a lawful business.

8 C.F.R. § 204.6(e).

Finally, the regulation provides that the commercial enterprise must be one that is designed to make a profit, unlike, for example, some charitable organizations, and it does not include "a noncommercial activity such as owning and operating a personal residence." 8 C.F.R. § 204.6(e).

2. "New" Defined

In its effort to spur job creation through a wide variety of businesses and projects, the EB-5 Program has presented a broad definition of what constitutes a "new" commercial enterprise into which the immigrant investor can invest the required amount of capital and help create jobs.

The EB-5 Program defines "new" as "established after November 29, 1990." 8 C.F.R. § 204.6(e). The immigrant investor can invest the required amount of capital in a commercial enterprise that was established after November 29, 1990 to qualify for the EB-5 Program, provided the other eligibility criteria are met.

In addition, in the EB-5 Program a "new" commercial enterprise also means a commercial enterprise that was established before November 29, 1990 if the enterprise will be restructured or expanded through the immigrant investor's investment of capital:

a. The Purchase of an Existing Business That is Restructured or Reorganized

The immigrant investor can invest in an existing business, regardless of when that business was first created, provided that the existing business is simultaneously or subsequently restructured or reorganized such that a new commercial enterprise results. 8 C.F.R. § 204.6(h)(2). The facts of *Matter of Soffici*—where an investor purchased a Howard Johnson hotel and continued to run it as a Howard Johnson hotel—were not sufficient to establish a qualifying restructuring or reorganization. 22 I&N Dec. 158, 166 (Assoc. Comm'r 1998) ("A few cosmetic changes to the decor and a new marketing strategy for success do not constitute the kind of restructuring contemplated by the regulations, nor does a simple change in ownership."). On the other hand, examples that could qualify as restructurings or reorganizations include a plan that converts a restaurant into a nightclub, or a plan that adds substantial crop production to an existing livestock farm.

b. The Expansion of An Existing Business

The immigrant investor can invest in an existing business, regardless of when that business was first created, provided that a substantial change in the net worth or number of employees results from the investment of capital. 8 C.F.R. § 204.6(h)(3).

"Substantial change" is defined as follows:

> [A] 40 percent increase either in the net worth, or in the number of employees, so that the new net worth, or number of employees amounts to at least 140 percent of the pre-expansion net worth or number of employees.

8 C.F.R. § 204.6(h)(3).

Investment in a new commercial enterprise in this manner does not exempt the immigrant investor from meeting the requirements relating to the amount of capital that must be invested and the number of jobs that must be created. 8 C.F.R. § 204.6(h)(3).

3. Pooled Investments in Non-Regional Center Cases

The EB-5 Program provides that a new commercial enterprise can be used as the basis for the petition of more than one immigrant investor. Each immigrant investor must invest the required amount of capital and each immigrant investor's investment must result in the required number of jobs. Furthermore, the new commercial enterprise can have owners who are not seeking to enter the EB-5 Program, provided that the source(s) of all capital invested is (or are) identified and all invested capital has been derived by lawful means. 8 C.F.R. § 204.6(g).

4. Evidence of the Establishment of a New Commercial Enterprise

To show that the new commercial enterprise has been established, the immigrant investor must present the following evidence, in addition to any other evidence we deem appropriate:

(1) as applicable, articles of incorporation, certificate of merger or consolidation, partnership agreement, certificate of limited partnership, joint venture agreement, business trust agreement, or other similar organizational document for the new commercial enterprise; or,

(2) A certificate evidencing authority to do business in a state or municipality or, if the form of the business does not require any such certificate or the state or municipality does not issue such a certificate, a statement to that effect; or,

(3) Evidence that, as of a date certain after November 29, 1990, the required amount of capital for the area in which an enterprise is located has been transferred to an existing business, and that the investment has resulted in a substantial increase in the net worth or number of employees of the business to which the capital was transferred. This evidence must be in the form of stock purchase agreements, investment agreements, certified financial reports, payroll records, or any similar instruments, agreements, or documents evidencing the investment in the commercial enterprise and the resulting substantial change in the net worth or number of employees.

8 C.F.R. § 204.6(j), (j)(1)(i)-(iii).

5. Evidence of the Investment in a New Commercial Enterprise

In order for the immigrant investor to show that he or she has committed the required amount of capital to the new commercial enterprise, the evidence presented may include, but is not limited to, the following:

(1) Bank statement(s) showing amount(s) deposited in United States business account(s) for the enterprise;

(2) Evidence of assets which have been purchased for use in the United States enterprise, including invoices, sales receipts, and purchase contracts containing sufficient information to identify such assets, their purchase costs, date of purchase, and purchasing entity;

(3) Evidence of property transferred from abroad for use in the United States enterprise, including United States Customs Service commercial entry documents, bills of lading, and transit insurance policies containing

ownership information and sufficient information to identify the property and to indicate the fair market value of such property;

(4) Evidence of monies transferred or committed to be transferred to the new commercial enterprise in exchange for shares of stock (voting or nonvoting, common or preferred). Such stock may not include terms requiring the new commercial enterprise to redeem it at the holder's request; or

(5) Evidence of any loan or mortgage agreement, promissory note, security agreement, or other evidence of borrowing which is secured by assets of the petitioner, other than those of the new commercial enterprise, and for which the petitioner is personally and primarily liable.

8 C.F.R. § 204.6(j)(2)(i)-(v).

6. The Requirement that the Immigrant Investor be Engaged in the Management of the New Commercial Enterprise

The EB-5 Program requires the immigrant investor to be engaged in the management of the new commercial enterprise, either through the exercise of day-to-day managerial responsibility or through policy formulation. It is not enough that the immigrant investor maintain a purely passive role in regard to his or her investment. 8 C.F.R. § 204.6(j)(5).

To show that the immigrant investor is or will be engaged in the exercise of day-to-day managerial control or in the exercise of policy formulation, the immigrant investor must submit:

(1) A statement of the position title that the immigrant investor has or will have in the new enterprise and a complete description of the position's duties; or,

(2) Evidence that the immigrant investor is a corporate officer or a member of the corporate board of directors; or,

(3) If the new enterprise is a partnership, either limited or general, evidence that the immigrant investor is engaged in either direct management or policy making activities. If the petitioner is a limited partner and the limited partnership agreement provides the immigrant investor with certain rights, powers, and duties normally granted to limited partners under the Uniform Limited Partnership Act, the immigrant investor will be considered sufficiently engaged in the management of the new commercial enterprise.

8 C.F.R. § 204.6(j)(5)(i)-(iii).

7. The Location of the New Commercial Enterprise in a Regional Center

As previously mentioned, there is a regional center model within the EB-5 Program that allows for not only "direct job" creation, but "indirect job creation" as demonstrated by reasonable methodologies. Originally introduced as a "pilot program," and now titled the "Immigrant Investor Program," the program provides investors with expanded opportunities to demonstrate job creation in accordance with a series of job creation rules discussed below. "Regional center" is defined as follows:

> Regional center means any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

8 C.F.R. § 204.6(e).

A regional center that wants to participate in the Immigrant Investor Program must submit a proposal using Form I-924, that:

(1) Clearly describes how the regional center focuses on a geographical region of the United States, and how it will promote economic growth through increased export sales, improved regional productivity, job creation, and increased domestic capital investment;

(2) Provides in verifiable detail how jobs will be created directly or indirectly;

(3) Provides a detailed statement regarding the amount and source of capital which has been committed to the regional center, as well as a description of the promotional efforts taken and planned by the sponsors of the regional center;

(4) Contains a detailed prediction regarding the manner in which the regional center will have a positive impact on the regional or national economy in general as reflected by such factors as increased household earnings, greater demand for business services, utilities, maintenance and repair, and construction both within and without the regional center; and,

(5) Is supported by economically or statistically sound valid forecasting tools, including, but not limited to, feasibility studies, analyses of foreign and domestic markets for the goods or services to be exported, and/or multiplier tables.

8 C.F.R. § 204.6(m)(3)(i)-(v).

USCIS will review the proposed geographic boundaries of a new regional center and will deem them acceptable if the applicant can establish by a preponderance of the evidence that the

proposed economic activity will promote economic growth in the proposed area. The question is a fact-specific one and the law does not require any particular form of evidentiary showing, such as a county-by-county analysis. In USCIS's experience, the reasonableness of proposed regional center geographic boundaries may be demonstrated through evidence that the proposed area is contributing significantly to the supply chain, as well as the labor pool, of the proposed projects.

The Immigrant Investor Program was implemented with the goal of spurring greater economic growth in the geographic area in which a regional center is developed. The regional center model within the Immigrant Investor Program can offer an immigrant investor already-defined investment opportunities, thereby reducing the immigrant investor's responsibility to identify acceptable investment vehicles. As discussed fully below, if the new commercial enterprise is located within and falls within the economic scope of the defined regional center, different job creation requirements apply.

A regional center can contain one or more new commercial enterprises.

The level of verifiable detail required for a Form I-924 to be approved and provided deference may vary depending on the nature of the Form I-924 filing. If the Form I-924 projects are "hypothetical" projects,[2] general proposals and general predictions may be sufficient to determine that the proposed regional center will more likely than not promote economic growth, improved regional productivity, job creation, and increased domestic capital investment. Determinations based on hypothetical projects, however, will not receive deference and the actual projects on which the Form I-526 petitions will be based will receive de novo review during the subsequent filing (e.g., an amended Form I-924 application including the actual project details or the first Form I-526 petition filed by an investor under the regional center project). Organizational and transactional documents submitted with a Form I-924 hypothetical project will not be reviewed to determine compliance with program requirements since these documents will receive de novo review in subsequent filings. If an applicant desires review of organizational and transactional documents for program compliance, a Form I-924 application with a Form I-526 exemplar should be submitted.

Form I-924 applications that are based on actual projects may require more details than a hypothetical project in order to conclude that the proposal contains verifiable details and is supported by economically or statistically sound forecasting tools.[3] Determinations based on

---

[2] An "actual project" refers to a specific project proposal that is supported by a *Matter of Ho* compliant business plan. A "hypothetical project" refers to a project proposal that is not supported by a *Matter of Ho* compliant business plan. The term "exemplar" refers to a sample Form I-526 petition, filed with a Form I-924 actual project proposal, that contains copies of the commercial enterprise's organizational and transactional documents, which USCIS will review to determine if they are in compliance with established EB-5 eligibility requirements.

[3] In cases where the Form I-924 is filed based on actual projects that do not contain sufficient verifiable detail, the projects may still be approved as hypothetical projects if they contain the requisite general proposals and predictions. The projects approved as hypotheticals, however, will not receive deference. In cases where some projects are approvable as actual projects, and others are not approvable or only approvable as hypothetical projects, the approval notice should contain a statement identifying which projects have been approved as actual projects and will be accorded deference and those projects that have been approved as hypothetical projects but will not be accorded deference.

actual projects, however, will be accorded deference to subsequent filings under the project involving the same material facts and issues. While an amended Form I-924 application is not required to perfect a hypothetical project once the actual project details are available, some applicants may choose to file an amended Form I-924 application with a Form I-526 exemplar in order to obtain a favorable determination which will be accorded deference in subsequent related filings, absent material change, fraud, willful misrepresentation, or a legally deficient determination (discussed in more detail below).

C. The Creation of Jobs

In developing the EB-5 Program, Congress intended to promote the immigration of people who invest capital into our nation's economy and help create jobs for U.S. workers. Therefore, the creation of jobs for U.S. workers is a critical element of the EB-5 Program.

It is not enough that the immigrant invests funds into the U.S. economy; the investment must result in the creation of jobs for qualifying employees. As discussed fully below, the EB-5 Program provides that each investment of the required amount of capital in a new commercial enterprise must result in the creation of at least ten jobs.

It is important to recognize that while the immigrant's investment must result in the creation of jobs for qualifying employees, it is the new commercial enterprise that creates the jobs.[4] This distinction is best illustrated in the non-regional center context by an example:

> Ten immigrant investors seek to establish a hotel as their new commercial enterprise. The establishment of the new hotel requires capital to pay financing costs to unrelated third parties, purchasing the land, developing the plans, obtaining the licenses, building the structure, taking care of the grounds, staffing the hotel, and the many other types of expenses involved in the development and operation of a new hotel. The immigrant's investments can go to pay part or all of any of these expenses. Each immigrant's investment of the required amount of capital helps the new commercial enterprise – the new hotel – create ten jobs. The ten immigrants' investments must result in the new hotel's creation of 100 jobs for qualifying employees (ten jobs resulting per each individual immigrant's capital investment).

See 8 C.F.R. §204.6(j) (it is the new commercial enterprise that will create the ten jobs).

Since it is the commercial enterprise that creates the jobs, the developer or the principal of the new commercial enterprise, either directly or through a separate job-creating entity, may utilize interim, temporary or bridge financing – in the form of either debt or equity – prior to receipt of EB-5 capital. If the project commences based on the interim or bridge financing prior to the receipt of the EB-5 capital and subsequently replaces it with EB-5 capital, the new commercial enterprise may still receive credit for the job creation under the regulations. Generally, the replacement of bridge financing with EB-5 investor capital should have been contemplated prior

[4] 8 C.F.R § 204.6(j)(4)(i).

to acquiring the original non-EB-5 financing. However, even if the EB-5 financing was not contemplated prior to acquiring the temporary financing, as long as the financing to be replaced was contemplated as short-term temporary financing which would be subsequently replaced, the infusion of EB-5 financing could still result in the creation of, and credit for, new jobs. For example, the non EB-5 financing originally contemplated to replace the temporary financing may no longer be available to the commercial enterprise as a result of changes in availability of traditional financing. Developers should not be precluded from using EB-5 capital as an alternative source to replace temporary financing simply because it was not contemplated prior to obtaining the bridge or temporary financing.

It is also important to note that the full amount of the immigrant's investment must be made available to the business(es) most closely responsible for creating the jobs upon which EB-5 eligibility is based. *Matter of Izummi*, 22 I&N Dec. at 179. Thus, in the regional center context, if the new commercial enterprise is not the job-creating entity, then the full amount of the capital must be first invested in the new commercial enterprise and then made available to the job-creating entity. *Id.*

1. Full-Time Positions For Qualifying Employees

The EB-5 Program requires that the immigrant investor invest the required amount of capital in a new commercial enterprise in the United States that "will create full-time positions for not fewer than 10 qualifying employees." *8 C.F.R. § 204.6(j).*

An "employee" is defined as follows:

> Employee means an individual who provides services or labor for the new commercial enterprise and who receives wages or other remuneration directly from the new commercial enterprise.

8 C.F.R. § 204.6(e).

The employee must be a "qualifying employee" for the purpose of the EB-5 Program's job creation requirement. A "qualifying employee" is defined as follows:

> Qualifying employee means a United States citizen, a lawfully admitted permanent resident, or other immigrant lawfully authorized to be employed in the United States including, but not limited to, a conditional resident, a temporary resident, an asylee, a refugee, or an alien remaining in the United States under suspension of deportation. This definition does not include the alien entrepreneur [immigrant investor], the alien entrepreneur's spouse [immigrant investor's], sons, or daughters, or any nonimmigrant alien.

8 C.F.R. § 204.6(e).

The EB-5 Program's job creation requirement provides that it is "full-time employment" that must be created for the ten or more qualifying employees. INA § 203(b)(5)(A)(ii), 8 U.S.C. § 1153(b)(5)(A)(ii). "Full-time employment" is defined as follows:

> Full-time employment means employment of a qualified employee by the new commercial enterprise in a position that requires a minimum of 35 working hours per week.

A full-time employment position can be filled by two or more qualifying employees in a job sharing arrangement as long as the 35-working-hours-per-week requirement is met. However, a full-time employment position cannot be filled by combinations of part-time positions, even if those positions when combined meet the hourly requirement. *8 C.F.R. § 204.6(e).* Direct jobs that are intermittent, temporary, seasonal, or transient in nature do not qualify as full-time jobs for EB-5 purposes. Consistent with prior USCIS interpretation, however, jobs that are expected to last for at least two years generally are not intermittent, temporary, seasonal, or transient in nature.

Due to the nature of accepted job creation modeling practices, which do not distinguish whether jobs are full- or part-time, USCIS relies upon the reasonable economic models to determine that it is more likely than not that the indirect jobs are created and will not request additional evidence to validate the job creation estimates in the economic models to prove by a greater level of certainty that the indirect jobs created, or to be created, are full-time or permanent. USCIS may, however, request additional evidence to verify that the direct jobs will be or are full-time and permanent, which may include a review of W-2s or similar evidence at the Form I-829 stage.

2. Job Creation Requirement

As previously discussed, the centerpiece of the EB-5 Program is the creation of jobs. The immigrant investor seeking to enter the United States through the EB-5 Program must invest the required amount of capital in a new commercial enterprise that will create full-time positions for at least ten qualified employees.

There are three measures of job creation in the EB-5 Program, depending on the new commercial enterprise and where it is located:

a. Troubled Business

The EB-5 Program recognizes that in the case of a troubled business, our economy benefits when the immigrant investor helps preserve the troubled business's existing jobs. Therefore, when the immigrant investor is investing in a new commercial enterprise that is a troubled business or, in the regional center context, is placing capital into a job-creating entity that is a troubled business, the immigrant investor must only show that the number of existing employees in the troubled business is being or will be maintained at no less than the pre-investment level for a period of at least two years. 8 C.F.R. § 204.6(j)(4)(ii).

This regulatory provision, while allowing job preservation in lieu of job creation, does not decrease the statutory numeric requirement; in the case of a troubled business, ten jobs must be preserved, created, or some combination of the two (e.g., an investment in a troubled business that creates four qualifying jobs and preserves all six pre-investment jobs would satisfy the statutory and regulatory requirements).

A troubled business is defined as follows:

> [A] business that has been in existence for at least two years, has incurred a net loss for accounting purposes (determined on the basis of generally accepted accounting principles) during the twelve- or twenty-four month period prior to the priority date on the alien entrepreneur's [immigrant investor's] Form I-526, and the loss for such period is at least equal to twenty percent of the troubled business's net worth prior to such loss. For purposes of determining whether or not the troubled business has been in existence for two years, successors in interest to the troubled business will be deemed to have been in existence for the same period of time as the business they succeeded.

8 C.F.R. § 204.6(e).

b. New Commercial Enterprise Not Associated With a Regional Center

For a new commercial enterprise that is not associated with a regional center, the EB-5 Program provides that the full-time positions must be created directly by the new commercial enterprise to be counted. This means that the new commercial enterprise (or its wholly-owned subsidiaries) must itself be the employer of the qualified employees who fill the new full-time positions. 8 C.F.R. § 204.6(e) (definition of employee).

c. New Commercial Enterprise Located Within and Associated With a Regional Center

For a new commercial enterprise that is located within a regional center, the EB-5 Program provides that the full-time positions can be created either directly or indirectly by the new commercial enterprise. 8 C.F.R. § 204.6((j)(4)(iii). Investors investing in a regional center are subject to all the same program requirements except that they may rely on indirect job creation as demonstrated through reasonable methodologies. 8 C.F.R. §§ 204.6(m)(1), (7).

Indirect jobs are those that are held outside of the new commercial enterprise but are created as a result of the new commercial enterprise. For indirect jobs, the new full-time employees would not be employed directly by the new commercial enterprise. For example, indirect jobs can include, but are not limited to, those held by employees of the producers of materials, equipment, or services used by the new commercial enterprise. Indirect jobs can qualify and be counted as jobs attributable to a regional center, based on reasonable economic methodologies, even if they are located outside of the geographical boundaries of a regional center.

For purposes of demonstrating indirect job creation, petitioners must employ reasonable economic methodologies to establish by a preponderance of the evidence that the required infusion of capital or creation of direct jobs will result in a certain number of indirect jobs.

3. Evidence of Job Creation

In order to show that a new commercial enterprise will create not fewer than ten full-time positions for qualifying employees, an immigrant investor must submit the following evidence:

> (A) Documentation consisting of photocopies of relevant tax records, Form I-9, or other similar documents for ten (10) qualifying employees, if such employees have already been hired following the establishment of the new commercial enterprise; or,
>
> (B) A copy of a comprehensive business plan showing that, due to the nature and projected size of the new commercial enterprise, the need for not fewer than ten (10) qualifying employees will result, including approximate dates, within the next two years, and when such employees will be hired.

8 C.F.R. § 204.6(j)(4)(i).

For purposes of the Form I-526 adjudication and the job creation requirements, the two-year period described in 8 C.F.R. § 204.6(j)(4)(i)(B) is deemed to commence six months after the adjudication of the Form I-526. The business plan filed with the Form I-526 should reasonably demonstrate that the requisite number of jobs will be created by the end of this two-year period.

Our AAO precedent decision has articulated the standards by which USCIS will review a business plan:

> The plan should contain a market analysis, including the names of competing businesses and their relative strengths and weaknesses, a comparison of the competition's products and pricing structures, and a description of the target market/prospective customers of the new commercial enterprise. The plan should list the required permits and licenses obtained. If applicable, it should describe the manufacturing or production process, the materials required, and the supply sources. The plan should detail any contracts executed for the supply of materials and/or the distribution of products. It should discuss the marketing strategy of the business, including pricing, advertising, and servicing. The plan should set forth the business's organizational structure and its personnel's experience. It should explain the business's staffing requirements and contain a timetable for hiring, as well as job descriptions for all positions. It should contain sales, cost, and income projections and detail the bases therefore. Most importantly, the business plan must be credible.

Matter of Ho, 22 I&N Dec. at 213. USCIS will review the business plan in its totality to determine if it is more likely than not that the business plan is comprehensive and credible. A

business plan is not required to contain all of the detailed elements described above, but the more details the business plan contains, as described in *Matter of Ho*, the more likely it is that the plan will be considered comprehensive and credible.

In the case of a troubled business, a comprehensive business plan must accompany the other required evidentiary documents. 8 C.F.R. § 204.6(j)(4)(ii). In the case of a new commercial enterprise within a regional center, the direct or indirect job creation may be demonstrated by the types of documents identified above or by reasonable methodologies. 8 C.F.R. § 204.6(j)(4)(iii).

When there are multiple investors in a new commercial enterprise, the total number of full-time positions created for qualifying employees will be allocated only to those immigrant investors who have used the establishment of the new commercial enterprise as the basis for their entry in the EB-5 Program. An allocation does not need to be made among persons not seeking classification in the EB-5 Program, nor does an allocation need to be made among non-natural persons (such as among investing corporations). 8 C.F.R. § 204.6(g)(2).

In general, multiple EB-5 investors petitioning through a regional center or on a standalone basis may not claim credit for the same specific new job. Thus, as a general matter, a petitioner or applicant may not seek credit for the same specifically identified job position that has already been allocated in a previously approved case.

V. Procedural Issues

The EB-5 Program provides that the immigrant investor will file an initial petition and supporting documentation to be classified as eligible to apply for an EB-5 visa through USCIS's adjustment of status process within the United States or through the Department of State's visa application process abroad. Upon adjustment of status or admission to the United States, the immigrant investor is a conditional lawful permanent resident. INA § 216A(a). The EB-5 Program further provides that if, two years after obtaining conditional permanent resident status, the immigrant investor has sustained the investment, created or can be expected to create within a reasonable period of time ten full-time jobs to qualifying employees, and is otherwise conforming to the EB-5 Program's requirements, the conditions generally will be removed and the immigrant investor will be an unconditional lawful permanent resident. INA § 216A(d)(1); 8 C.F.R. § 216.6(c).

A. The Sequence of Individual Investor Filings

An immigrant investor seeking admission into the United States as a lawful permanent resident will proceed in the following sequence:

1. The Form I-526 Petition

- For an immigrant investor who is investing in a new commercial enterprise that is not part of a regional center, the immigrant investor will file a Form I-526 that, together with the supporting evidence, demonstrates by a preponderance of the evidence that the immigrant investor has invested, or is actively in the process of investing, lawfully

obtained capital in a new commercial enterprise in the United States that will create full-time positions for not fewer than ten qualifying direct employees.

- For an immigrant investor who is investing in a new commercial enterprise that is part of a regional center:
  - The entity seeking designation as a regional center will file a Form I-924 that, together with the supporting evidence, demonstrates by a preponderance of the evidence that the requirements for a regional center have been met. The individuals who establish the regional center can be, but need not be, the immigrant investors themselves; and,
  - Once USCIS designates the entity as a regional center, each immigrant investor will file a Form I-526 that, together with the supporting evidence, demonstrates by a preponderance of the evidence that the immigrant investor has invested, or is actively in the process of investing, lawfully obtained capital in a new commercial enterprise in the United States that will create directly or indirectly full-time positions for not fewer than ten qualifying employees.

It is important to note that at this preliminary Form I-526 filing stage, the immigrant investor must demonstrate his or her commitment to invest the capital but need not establish that the required capital already has been invested; it is sufficient if the immigrant investor demonstrates that he or she is actively in the process of investing the required capital. However, evidence of a mere intent to invest or of prospective investment arrangements entailing no present commitment will not suffice. 8 C.F.R. § 204.6(j)(2); *see Matter of Ho,* 22 I&N Dec. at 210. Similarly, at this preliminary stage the immigrant investor need not establish that the required jobs already have been created; it is sufficient if the immigrant investor demonstrates in a business plan that it is more likely than not that the required jobs will be created. 8 C.F.R. § 204.6(j); 8 C.F.R. § 204.6(m).

2. The Form I-829 Petition

Within ninety days prior to the two-year anniversary of the date on which the immigrant investor obtained conditional lawful permanent resident status, the immigrant investor will file a Form I-829 to remove the conditions. The Form I-829 petition to remove conditions must be accompanied by the following evidence:

(1) Evidence that the immigrant investor invested or was actively in the process of investing the required capital and sustained this action throughout the period of the immigrant investor's residence in the United States. The immigrant investor can make this showing if he or she has, in good faith, substantially met the capital investment requirement and continuously maintained his or her capital investment over the two years of conditional residence. At this stage the immigrant investor need not have invested all of the required capital, but must have substantially met that requirement. The evidence may include, but is not limited to, an

audited financial statement or other probative evidence such as bank statements, invoices, receipts, contracts, business licenses, Federal or State income tax returns, and Federal or State quarterly tax statements; and,

(2) Evidence that the commercial enterprise created or can be expected to create, within a reasonable time, ten full-time jobs for qualifying employees. In the case of a troubled business, the immigrant investor must submit evidence that the commercial enterprise maintained the number of existing employees at no less than the pre-investment level for the period following his or her admission as a conditional permanent resident. At least ten jobs must be preserved or created per immigrant investor. The evidence may include, but is not limited to, payroll records, relevant tax documents, and Forms I-9.

See 8 C.F.R. § 216.6(a)(4)(ii-iv).

It is also important to note that the EB-5 Program allows an immigrant investor to become a lawful permanent resident, without conditions, if the immigrant investor has established a new commercial enterprise, substantially met the capital requirement, and can be expected to create within a reasonable time the required number of jobs. All of the goals of capital investment and job creation need not have been fully realized before the conditions on the immigrant investor's status have been removed. Rather, the regulations require the submission of documentary evidence that establishes that it is more likely than not that the investor is in "substantial" compliance with the capital requirements and that the jobs will be created "within a reasonable time."

The "within a reasonable time" requirement permits a degree of flexibility to account for the realities and unpredictability of starting a business venture, but it is not an open-ended allowance. The regulations require that the business plan submitted with Form I-526 establish a likelihood of job creation "within the next two years," 8 C.F.R. § 204.6(j)(4)(i)(B), demonstrating an expectation that EB-5 projects will generally create jobs within such a timeframe. Whether a lengthier timeframe for job creation presented in a Form I-829 is "reasonable" is to be decided based on the totality of the circumstances presented, and USCIS has latitude under the law to request additional evidence concerning those circumstances. Because the law contemplates two years as the baseline expected period in which job creation will take place, jobs that will be created within a year of the two-year anniversary of the alien's admission as a conditional permanent resident or adjustment to conditional permanent resident may generally be considered to be created within a reasonable period of time. Jobs projected to be created beyond that time horizon usually will not be considered to be created within a reasonable time, unless extreme circumstances, such as *force majeure*, are presented.

B. Regional Center Amendments

Because businesses strategies constantly evolve, with new opportunities identified and existing plans improved, the instructions to Form I-924 provide that a regional center may amend a previously-approved designation. The Form I-924 provides a list of acceptable amendments, to

include changes to organizational structure or administration, capital investment projects (including changes in the economic analysis and underlying business plan used to estimate job creation for previously-approved investment opportunities), and an affiliated commercial enterprise's organizational structure, capital investment instruments or offering memoranda.

Such formal amendments to the regional center designation, however, are not required when a regional center changes its industries of focus, its geographic boundaries, its business plans, or its economic methodologies. A regional center may elect to pursue an amendment if it seeks certainty in advance that such changes will be permissible to USCIS before they are adjudicated at the I-526 stage, but the regional center is not required to do so. Of course, all regional centers "must provide updated information to demonstrate the center is continuing to promote economic growth, improved regional productivity, job creation, or increased domestic capital investment in the approved geographic area . . . on an annual basis," 8 C.F.R. § 204.6(m)(6), through the filing of their annual Form I-924A.

C. Deference to Previous Agency Determination

Distinct EB-5 eligibility requirements must be met at each stage of the EB-5 immigration process. Where USCIS has evaluated and approved certain aspects of an EB-5 investment, that favorable determination should generally be given deference at a subsequent stage in the EB-5 process. This policy of deference is an important part of ensuring predictability for EB-5 investors and commercial enterprises (and the persons they employ), and also conserves scarce agency resources, which should not ordinarily be used to duplicate previous adjudicative efforts.

As a general matter, USCIS will not reexamine determinations made earlier in the EB-5 process, and the earlier determinations will be presumed to have been properly decided. Where USCIS has previously concluded that an economic methodology satisfies the requirement of being a "reasonable methodology" to project future job creation as applied to the facts of a particular project, USCIS will continue to afford deference to this determination for all related adjudications, so long as the related adjudication is directly linked to the specific project for which the economic methodology was previously approved. For example, if USCIS approves a Form I-924 or Form I-526 presenting a *Matter of Ho* compliant business plan and a specific economic methodology, USCIS will defer to the finding that the methodology was reasonable in subsequent adjudications of Forms I-526 presenting the same related facts and methodology. However, USCIS will still conduct a de novo review of each prospective immigrant investor's lawful source of funds and other individualized eligibility criteria.

Conversely, a previously favorable decision may not be relied upon in later proceedings where, for example, the underlying facts upon which a favorable decision was made have materially changed, there is evidence of fraud or misrepresentation in the record of proceeding, or the previously favorable decision is determined to be legally deficient. A change in fact is material if the changed circumstances would have a natural tendency to influence or are predictably capable of affecting the decision. *See Kungys v. United States*, 485 U.S. 759, 770-72 (1988) (defining materiality in the context of denaturalization). Where a new filing involves a different project from a previously-approved filing, or the same project but with material changes to the

project plan, deference will not be afforded to the previous adjudication because the agency is being presented with the given set of facts for the first time.

Since prior determinations will be presumed to have been properly decided, a prior favorable determination will not be considered legally deficient for purposes of according deference unless the prior determination involved an objective mistake of fact or an objective mistake of law evidencing ineligibility for the benefit sought, but excluding those subjective evaluations related to evaluating eligibility. Unless there is reason to believe that a prior adjudication involved an objective mistake of fact or law, USCIS should not reexamine determinations made earlier in the EB-5 process. Absent a material change in facts, fraud, or willful misrepresentation, USCIS should not re-adjudicate prior USCIS determinations that are subjective, such as whether the business plan is comprehensive and credible or whether an economic methodology estimating job creation is reasonable.

D. Material Change

The process of establishing a new business and creating jobs depends on a wide array of variables over which an investor or the creator of a new business may not have any control. The very best of business plans may be thrown off, for example, because of a sudden lack of supply in required merchandise, an unexpected hurricane that devastates an area in which the new business was to be built, or a change in the market that the business is intended to serve.

The effect of changed business plans on a regional center or an individual investor's immigration status may differ depending on when the change is made relative to the alien investor's status in the United States.

1. Investors Who Have Not Obtained Conditional Lawful Permanent Resident Status

It is well-established that in visa petition proceedings, a petitioner must establish eligibility at the time of filing and that a petition cannot be approved if, after filing, the petitioner becomes eligible under a new set of facts or circumstances. *See, e.g.*, *Matter of Izummi*, 22 I. & N. Dec. at 176 ("If counsel had wished to test the validity of the newest plan, which is materially different from the original plan, he should have withdrawn the instant petition and advised the petitioner to file a new Form I-526."). In addition, the petitioner must continue to be eligible for classification at the time of adjudication of the petition. 8 C.F.R. § 103.2(b)(1).

Thus, consistent with *Matter of Izummi*, if there are material changes to a Form I-526 at any time after filing, the petition cannot be approved. Under these circumstances, if, at the time of adjudication, the petitioner is asserting eligibility under a materially different set of facts that did not exist when the petition was filed, he or she must file a new Form I-526 petition. For example, if a petitioner files a Form I-526 petition purporting to be associated with a particular project within the scope of an approved regional center but, subsequent to filing, it is determined that the proceeds of the investment will be directed to a job-creating entity in an entirely different project, the petition may not be approved.

A deficient Form I-526 petition may not be cured by subsequent changes to the business plan or factual changes made to address any other deficiency that materially alter the factual basis on which the petition was filed. The only way to perfect material changes under these circumstances is for the immigrant investor to file a new Form I-526 petition to correspond to the changed plans.

Similarly, if, after the approval of a Form I-526 petition but before an alien investor has been admitted to the United States or adjusted his or her status pursuant to that petition, there are material changes to the business plan by which the alien intends to comply with the EB-5 requirements, the alien investor would need to file a new Form I-526 petition. Such material changes would constitute good cause to revoke the approved petition and would result in the denial of admission or an application for adjustment of status.

2. Investors Who Have Obtained Conditional Lawful Permanent Resident Status

Historically, USCIS has required a direct connection between the business plan the investor provides with the Form I-526 and the subsequent removal of conditions. USCIS would not approve a Form I-829 petition if the investor had made an investment and created jobs in the United States if the jobs were not created according to the plan presented in the Form I-526. While that position is a permissible construction of the governing statute, USCIS also notes that the statute does not require that direct connection. In order to provide flexibility to meet the realities of the business world, USCIS will permit an alien who has been admitted to the United States on a conditional basis to remove those conditions when circumstances have changed. An individual investor can, at the prescribed time, proceed with his or her Form I-829 petition to remove conditions and present documentary evidence demonstrating that, notwithstanding the business plan contained in the Form I-526, the requirements for the removal of conditions have been satisfied. Pursuant to this policy, USCIS will no longer deny petitions to remove conditions solely based on failure to adhere to the plan contained in the Form I-526 or to pursue business opportunities within an industry category previously approved for the regional center.

It is important to note that a Form I-526 must be filed in good faith and with full intention to follow the plan outlined in that petition. If the alien investor does not demonstrate that he or she filed the Form I-526 in good faith, USCIS may conclude that the investment in the commercial enterprise was made as a means of evading the immigration laws. Under these circumstances, USCIS may terminate the alien investor's conditional status as required by 8 U.S.C. § 1186b(b)(1)(A).

Furthermore, nothing in this change in policy relieves an alien investor from the requirements for removal of the conditions as set out in 8 U.S.C. § 1186b(d)(1) and 8 C.F.R. § 216.6(a)(4). Thus, even in the event of a change in course, a petitioner must always be able to demonstrate (1) that the required funds were placed "at risk" throughout the period of the petitioner's residence in the United States, and (2) that the required amount of capital was made available to the business or businesses most closely responsible for creating the employment; (3) that this "at risk" investment was "sustained throughout" the period of the applicant's residence in the United States; and (4) that the investor created (or maintained, if applicable), or can be expected to

USCIS will develop a mechanism for the regional center or the immigrant investor to notify USCIS when substantive material changes need to be communicated. Although USCIS will no longer deny petitions solely as a result of a departure from the business plan described in the Form I-526, the certainty afforded by adherence to a previously approved business plan may be eroded as a regional center project departs from that plan. Therefore, if the immigrant investor is seeking to have his or her conditions removed based on a business plan not consistent with the approved Form I-526, the alien investor may need to provide evidence to demonstrate the element of job creation or any other requirement for removal of conditions that is called into question by the changed plan.

Similarly, while the adjudication of Form I-829 petitions will be determined by the facts of an individual case, USCIS may need to revisit issues previously adjudicated in the Form I-526, such as the economic analysis underlying the new job creation in cases where the changes could affect the previously decided issues. For example, if the investment proceeds were diverted from a job-creating entity in one industry to another, and the applicable multipliers changed, USCIS would need to verify that the change did not affect the job creation estimates. Similarly, if the number of investors on a given project changed dramatically, or if certain assumptions or benchmarks made in the economic assessment were not satisfied, USCIS may need to revisit prior determinations to ensure that the requirements for removal of conditions have been met.

USCIS recognizes the fluidity of the business world and therefore allows for material changes to a petitioner's business plan made after the petitioner has obtained conditional lawful permanent resident status. However, immigrant investors, and the regional centers with whom they associate, should understand that availing themselves of this flexibility does decrease the degree of predictability they will enjoy if they instead adhere to the initial plan that is presented to and approved by USCIS.

VI. Conclusion

Congress created the EB-5 Program to promote immigrants' investment of capital into new commercial enterprises in the United States so that new jobs will be created for U.S. workers. The EB-5 Program provides for flexibility in the types and amounts of capital that can be invested, the types of commercial enterprises into which that capital can be invested, and how the resulting jobs can be created. This flexibility serves the promotion of investment and job creation and recognizes the dynamics of the business world in which the EB-5 Program exists. We will continue to adjudicate EB-5 cases with vigilance to program integrity and mindful of these important principles.

VII. Use

This PM is intended solely for the training and guidance of USCIS personnel in performing their duties relative to the adjudication of applications and petitions. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

create within a reasonable period of time, the requisite number of jobs. Accordingly, if an alien investor fails to meet any of these requirements, he or she would not be eligible for removal of conditions.

While changed circumstances after the investor has been admitted in conditional lawful permanent resident status may not require the filing of an amended Form I-526 petition in order for the investor to proceed with and obtain an approval of a Form I-829 petition, changed circumstances which are material may prevent deference from being accorded to the prior determination and a more extensive review will need to be conducted at the Form I-829 stage. For example, in the case of a petition affiliated with a regional center, the petitioner will only receive deference to a prior determination of indirect job creation if the new business plan falls within the scope of the regional center (as defined by either the initial approval or by subsequent amendment to the regional center) with which the petitioner is affiliated. So if an alien was admitted to the United States based on a petition related to a regional center that was only approved for certain projects related to the food service industry, if the proceeds of the alien's investment were subsequently redirected to an alternate project within the job-creating entity, that project would have to be within the food service industry to continue to receive deference to the prior determination of the indirect job creation of the regional center program.[5] Similarly, if a change in plan required the liquidation of an investment and reallocation of that investment into either another job-creating entity or new commercial enterprise, the petition may not comply with the requirements to invest and sustain the investment throughout the period of the alien's residence in the United States. 8 U.S.C. § 1186b(d)(1)(A)(ii); 8 C.F.R. §§ 216.6(a)(4)(iii), (c)(1)(iii).

However, there may be advantages to closely adhering to the business plan described in the Form I-526. If the alien investor follows the business plan described in the Form I-526, USCIS will not revisit certain aspects of the business plan, including issues related to the economic analysis supporting job creation. Thus, during review of the Form I-829, USCIS will generally rely on the previous adjudication if the petitioner claims to have fulfilled the business plan that accompanied the Form I-526 petition. This is consistent with the general policy mandating USCIS deference to previous determinations set forth above in section IV.C.

To improve processing efficiencies and predictability in subsequent filings (i.e. application of deference), many regional centers may choose to amend the Form I-924 approval to reflect job creation in additional industries not previously reviewed at the time of project approval, as well as the resulting change in economic analysis and job creation estimates. Such amendments, however, are not required in order for individual investors to proceed with filing Forms I-526 or Forms I-829 based on the additional jobs created, or to be created, in additional industries.

---

[5] Industry codes are useful for determining that verifiable detail has been provided and the estimated job creation in the economic methodolgy is reasonable, however it should be noted that these industry codes are used for informational purposes in estimating job creation and do not limit the economic or job creating activity of an approved regional center or its investors. Jobs created in industries not previously identified in the economic methodology may still be credited to the investors in subsequent Form I-526 and Form I-829 filings, as long as the evidence in the record establishes that it is probably true that the requisite jobs are estimated to be created, or have been created, in those additional industries.

USCIS will develop a mechanism for the regional center or the immigrant investor to notify USCIS when substantive material changes need to be communicated. Although USCIS will no longer deny petitions solely as a result of a departure from the business plan described in the Form I-526, the certainty afforded by adherence to a previously approved business plan may be eroded as a regional center project departs from that plan. Therefore, if the immigrant investor is seeking to have his or her conditions removed based on a business plan not consistent with the approved Form I-526, the alien investor may need to provide evidence to demonstrate the element of job creation or any other requirement for removal of conditions that is called into question by the changed plan.

Similarly, while the adjudication of Form I-829 petitions will be determined by the facts of an individual case, USCIS may need to revisit issues previously adjudicated in the Form I-526, such as the economic analysis underlying the new job creation in cases where the changes could affect the previously decided issues. For example, if the investment proceeds were diverted from a job-creating entity in one industry to another, and the applicable multipliers changed, USCIS would need to verify that the change did not affect the job creation estimates. Similarly, if the number of investors on a given project changed dramatically, or if certain assumptions or benchmarks made in the economic assessment were not satisfied, USCIS may need to revisit prior determinations to ensure that the requirements for removal of conditions have been met.

USCIS recognizes the fluidity of the business world and therefore allows for material changes to a petitioner's business plan made after the petitioner has obtained conditional lawful permanent resident status. However, immigrant investors, and the regional centers with whom they associate, should understand that availing themselves of this flexibility does decrease the degree of predictability they will enjoy if they instead adhere to the initial plan that is presented to and approved by USCIS.

VI. Conclusion

Congress created the EB-5 Program to promote immigrants' investment of capital into new commercial enterprises in the United States so that new jobs will be created for U.S. workers. The EB-5 Program provides for flexibility in the types and amounts of capital that can be invested, the types of commercial enterprises into which that capital can be invested, and how the resulting jobs can be created. This flexibility serves the promotion of investment and job creation and recognizes the dynamics of the business world in which the EB-5 Program exists. We will continue to adjudicate EB-5 cases with vigilance to program integrity and mindful of these important principles.

VII. Use

This PM is intended solely for the training and guidance of USCIS personnel in performing their duties relative to the adjudication of applications and petitions. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

TAB 4

From: Mayorkas, Alejandro N
Sent: Wednesday, September 21, 2011 4:49 PM
To: [redacted]
Subject: Re: GCFM

Will do.

From: [redacted]
Sent: Wednesday, September 21, 2011 04:47 PM
To: Mayorkas, Alejandro N; [redacted]
Subject: Re: GCFM

You should not have been copied and should not respond.

From: Mayorkas, Alejandro N
Sent: Wednesday, September 21, 2011 04:16 PM
To: [redacted]
Subject: Fw: GCFM

I am cc'd on this message. Should I respond or not, and if so, with what message? Thank you. Ali

---

From: [redacted]
Sent: Wednesday, September 21, 2011 03:57 PM
To: [redacted]>
Cc: Mayorkas, Alejandro N [redacted]>
Subject: FW: GCFM

[redacted]

Once again your e-mail correspondence was much appreciated. I have received a call from GCFM stating that you spoke to [redacted] this morning. Please confirm receipt of my e-mails and ensure that our response is forwarded to the correct individuals. I cannot stress how important a review of these applications are. That said if there are any further questions on the overall structure of the fund please have your team reach out to us to ensure there is clarity on the fund structure.

Dawn M. Lurie
Shareholder
Greenberg Traurig LLP | [redacted] | Tysons Corner, VA 22102
Tel [redacted]
[redacted] | www.gtlaw.com

ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TYSONS CORNER · WASHINGTON, D.C. · WHITE PLAINS
*OPERATES AS GREENBERG TRAURIG MAHER LLP

STRATEGIC ALLIANCES WITH INDEPENDENT LAW FIRMS
MILAN · ROME

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to [redacted].

From: Lurie, Dawn [redacted]
Sent: Wednesday, September 21, 2011 10:50 AM
To: Cc: [redacted]
Subject: Re: GCFM

Dear [redacted]

Thank you very much for the ability to respond directly on behalf of GCFM and the GTA project. As you know timing is critical and we ask that both the A-1 and A-2 funds be giving priority in adjudication. I am attaching a response on the corporate related issues the Service raised on Monday night. Please contact me upon receipt.

Dawn M. Lurie
Shareholder
Greenberg Traurig LLP | [redacted] | Tysons Corner, VA 22102
[redacted] | www.gtlaw.com

ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TYSONS CORNER · WASHINGTON, D.C. · WHITE PLAINS
*OPERATES AS GREENBERG TRAURIG MAHER LLP

STRATEGIC ALLIANCES WITH INDEPENDENT LAW FIRMS
MILAN · ROME

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

TAB 5

From: Mayorkas, Alejandro N
Sent: Monday, June 07, 2010 7:32 AM
To: [redacted]
Subject: Fw: EB-5 Alien Investor program - letter to Senator Warner from Sussex County re: GTA - GCFM
Attachments: Leter to Senator Warner - GTA and GCFM.pdf

Thank you, [redacted], for the heads up. I am notifying our colleagues for handling as appropriate.
Ali

----- Original Message -----
From: [redacted]
To: Mayorkas, Alejandro N
Cc: [redacted]
Sent: Mon Jun 07 07:27:41 2010
Subject: EB-5 Alien Investor program - letter to Senator Warner from Sussex County re: GTA - GCFM

Ali,

I was at a bbq on Saturday night with some friends including Terry MacAuliffe. We were catching up and during the conversation he asked me what I was doing. I mentioned to him that I am working at USCIS. This started off a very interesting conversation in which he told me that his company (there are additional owner/partners) GCFM was having an "incredibly hard time" obtaining an Expansion Amendment for the Mississippi and Louisiana-EB5 Regional Center to expand to VA and Tennessee.

According to Terry, they have been seeking the expansion amendment from USCIS for their green automobile manufacturing project for some time now. He said "American-green manufacturing jobs have been on hold for over 5 months because they keep getting the run around from the USCIS California Service Center" - his words, not mine.

The issues surrounding the case are detailed in the attached letter he sent me from Sussex Deputy County Administrator, George Morrison dated April 28th, to Virginia US Senator, Mark Warner.

You should also know he told me that he had intended this week to publicly criticize the Administration and specifically USCIS for "getting in the way of creating good/clean/green American manufacturing jobs." I asked him to hold off and not to do this until I can look into what the issues surrounding the case are. I did not commit to anything except looking into the matter for him.

He agreed, but wanted to let me know that he had already asked Congressman Moran, Senator Warner and others to send letters/call you this week. I don't know if this will occur, but you should know that these offices could be contacting us.

I have no idea of the merits of the case/expansion, but if what he is saying is accurate and the details of the letter are accurate, then we may want to act on this as soon as possible.

I obviously did not mention our proposed fee increase coming out this Wednesday. However, I would note the context: the largest EB-5 Regional Center project in the country could potentially come out publicly to criticize us about our

administration of the EB-5 Alien Investor program the week we are proposing to significantly increase the fee for the I-924 (application for Regional Center under the Immigrant Investor Pilot Program) EB-5 Alien Entrepreneur Investor program, I think we should get to the bottom of the situation early this week.

Please let me know how you want to proceed.

Regards,

[redacted]

Chief, Office of Communications

U.S. Citizenship and Immigration Services

Department of Homeland Security

[redacted]

TAB 6

From: Mayorkas, Alejandro N
Sent: Thursday, July 29, 2010 8:04 AM
To: [redacted]
Subject: Re: GTA Project

Thank you, [redacted]. As long as this case receives prompt, full, and fair consideration -- as we wish for all cases -- that is great. I would like to know of the decision only so that I may inform our colleague at DHS, as long as [redacted] concurs that is appropriate.
Thanks. Ali

----- Original Message -----
From: [redacted]
To: Mayorkas, Alejandro N; [redacted]
Sent: Wed Jul 28 16:38:43 2010
Subject: FW: GTA Project

Ali,

I remember looking into this before and that it was getting the proper attention and service. From the message below, it appears they responded to an RFE on July 19th. We are confirming with CSC that they received the response and will be adjudicating it soon. Do we owe anyone an update, or will rendering a decision suffice?

From: Mayorkas, Alejandro N
Sent: Wednesday, July 28, 2010 2:12 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA Project

[redacted]

Douglas Smith, the Assistant Secretary for Private Sector in DHS, just forwarded to me the attached regarding an EB-5 petition (he called me in advance a minute ago and indicated that he would be doing so) I am copying [redacted] and [redacted] so that they have visibility. I want to make sure that we are providing customer service consistent with our standards but that we are not providing any preferential treatment. Please address as appropriate.

Thanks very much. Ali

Alejandro N. Mayorkas

Director

United States Citizenship and Immigration Services

[redacted]

Washington, DC 20529

[redacted]

[redacted]

From: Smith, Douglas A [r[redacted]
Sent: Wednesday, July 28, 2010 2:08 PM
To: Mayorkas, Alejandro N
Subject: FW: GTA Project
Importance: High

A – Thanks! Looking forward to our dinner when you get back. Have a great vacation.

From: Terry McAuliffe[redacted]]
Sent: Wednesday, July 28, 2010 1:31 PM
To: Smith, Douglas A
Subject: GTA Project

Doug:

It was great speaking with today. As I mentioned to you, I am the chairman of Greentech Automotive (GTA). GTA is a US-based company dedicated to developing and producing affordable, environment-friendly, and energy-efficient vehicles. We are committed to bringing "green" jobs to the U.S. GTA is partially funded by USCIS EB-5 program through Gulf Coast Funds Management (GCFM) regional center, which was initially approved in August 2008 to cover Mississippi and Louisiana. GCFM filed an Amendment Application in Jan 2010 to expand its operations to Virginia and Tennessee to support GTA's efforts.

I have been extremely frustrated by the USCIS approval process which has delayed our business plan and job creation efforts. The major delay was caused by incorrect information being given to us by USCIS officials regarding the extension process. You should be aware that Senator Warner and other Members of Congress have made inquiries on this project. I would greatly appreciate your attention to this matter as it is imperative to our country that we begin to get people back to work, especially in the manufacturing sector.

The following is GCFM's Amendment timeline:

- Aug 18, 2008: GCFM approved as Regional Center
- Jan 12, 2010: GCFM filed Amendment Application to USCIS – 1st try
- Feb 19, 2010: USCIS rejected on technical issue and GCFM refiled - 2nd try
- May 13, 2010: USCIS Request for Evidence (RFE) by Aug 3
- Jul 19, 2010: GCFM filed answers to RFE – 3rd try

Attached:

1. Apr 28, 2010: Sussex County Board of Supervisors inquiry letter to Senator Warner
2. Jul 19, 2010: GCFM cover letter to USCIS RFE

Terry

WM GreenTech Automotive Corp | [redacted], McLean, VA 22102 | [redacted] | Email: [redacted]m | Website: www.wmgta.com <http://www.wmgta.com/>

Notice of Privilege/Confidentiality:

Privileged and Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply email. Please advise immediately if you or your employer does not consent to Internet email for messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of this company shall be understood as neither given nor endorsed by it.

TAB 7

om: [redacted]
Sent: Monday, January 24, 2011 11:19 AM
To: [redacted]
Cc: [redacted] L
Subject: FW: EB-5 GCFM Documents
Attachments: USCIS Cover Memo EB5 Response to McAuliffe (DN Edit 01-24, 1025).doc; S1 Response to McAuliffe re EB-5 Denial_SCOPS OCC cleared generic response_1-3-11.doc; Talkers for the GCFM issue.docx; McAuliffe Incoming - EB-5.pdf

Adding the original letter from Terry McAuliffe.

From: [redacted]
Sent: Monday, January 24, 2011 11:16 AM
To: [redacted]
Cc: [redacted] L
Subject: EB-5 GCFM Documents

[redacted]

The attached documents have been drafted in response to the letter from Terry McAuliffe to S1. In addition to the response for S1's signature and a cover memo, we have drafted talking points per Ali's request Friday afternoon. Apparently, Ali has a telephone call with S1 this afternoon and he is anxious to have these documents this morning. These have been cleared by OCC and SCOPS, as well as the economist in [redacted]s shop. Please let me know if you need anything from us – we appreciate you reviewing since these have been edited many times and a set of fresh eyes may catch typos or grammatical errors that were missed. Ali said not to worry about format or grammar on his bullets since they've been drafted very quickly.

Hopefully you have the original letter as I just realized it is not included. We'll get that to you right away if you need it.

Thanks!

[redacted]

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

MEMORANDUM FOR THE SECRETARY

FROM: Alejandro N. Mayorkas
Director

SUBJECT: **Response to Terence McAuliffe's December 15, 2010 Letter regarding an EB-5 denial (WF 891401)**

Action Requested: Secretary's signature on the attached letter.

Context: The letter from Terence R. McAuliffe (chairman of WM GreenTech Automotive (GTA)) states that USCIS erroneously denied a request to expand the Gulf Coast Funds Management Regional Center (GCFM), which proposed to expand the jurisdiction of the GCFM to the entire State of Tennessee, along with the southeastern corner of the Commonwealth of Virginia, in order to offer capital investment opportunities to EB-5 investors in a major green automotive manufacturing project. Mr. McAuliffe is not a party in the instant case. He is the chairman of GTA which is one of the projects contemplated by the Gulf Coast Funds Management (GCFM) Regional Center. While we are not able to share any information with Mr. McAuliffe, the below is for the Secretary's information.

Mr. McAuliffe's claim that the case was erroneously denied is without merit. Prior to issuance of the denial, HQ staff within Service Center Operations (SCOPS) and the Office of the Chief Counsel (OCC) reviewed and approved the issuance of the denial. Based on a review of the entire record, with the exception of one legal interpretation included as only part of the basis of the denial, USCIS believes that the denial of the Regional Center amendment request was appropriate and based on the proper application of law and USCIS policy, as follows:

Case Background: A Regional Center may be granted jurisdiction over a limited geographic area for the purpose of concentrating pooled investment in defined economic zones. A Regional Center's geographic area must be contiguous.

GCFM is approved for the geographic area of the State of Louisiana (LA) and the State of Mississippi (MS). About two years ago, GCFM asked USCIS to add the Commonwealth of Virginia (VA) to the geographic scope of their regional center. USCIS could not approve this request because VA is not contiguous to either LA or MS. In February 2010, GCFM requested to add the State of Tennessee (TN) and the southeastern corner of VA to their geographic area in order to "link up" LA and MS to VA. GCFM did not demonstrate that they planned to actually focus EB-5 capital investment activities throughout the requested expanded region.

The August 2010 denial of the amendment request concluded that a Regional Center's economic impacts must be demonstrated at either a national or regional level. USCIS now believes that this regulatory interpretation is overly restrictive given that some Regional Centers may have investment projects with impacts that are solely regional in nature, along with larger projects that may have national impacts.

After receiving the denial in August 2010, on September 10, 2010 GCFM filed a motion requesting that USCIS reopen the decision to deny the amendment request. USCIS has reviewed the motion to reopen and plans to grant the motion to reopen request as new facts have been presented. USCIS plans to render a decision by January 25, 2011.

It is of note that the regional center has already successfully offered EB-5 capital investment opportunities to EB-5 investors to invest in the automotive plant to be constructed within the State of Mississippi, which is currently within the geographic bounds of the approved regional center. Thus, these economic development plans are moving forward under the regional center's current designation. USCIS must adjudicate each regional center designation or amendment request as put forth by the regional center promoter. Further, such proposals may not be "pre-adjudicated" in advance of filing. However, USCIS did state to the regional center in correspondence issued earlier in 2010 that any denial of the regional center's multi-state expansion request would be without prejudice to the filing of a separate regional center proposal seeking designation of a regional center within the targeted bounds of the State of Tennessee or the Commonwealth of Virginia. USCIS believes that such separate proposals, if properly documented with the economic impacts of the planned automotive plant or transportation hub in the Commonwealth of Virginia or the State of Tennessee, respectively could be approvable. USCIS also believes that it might be reasonable for GCFM to request an expansion of the geographic area of its regional center to include the portion of the State of Tennessee that encompasses the location of the planned transportation hub. This area falls within the Memphis Metropolitan Statistical Area ("MSA") and is in close proximity to the planned automotive plant in Tunica, Mississippi, which is also in the Memphis MSA.

Coordination: This proposed response has been coordinated within USCIS's Operational, Chief Financial Office, Policy and Strategy and Chief Counsel components.

Timeliness: Due to coordination efforts with the various USCIS components on the inquiry and the underlying decision, USCIS was unable to provide a decision within the five day business day standard.

Executive Secretariat Recommendation: I recommend you sign the enclosed letter.

[redacted] Executive Secretary Date

DO NOT DISLOSE

Terence R. McAuliffe
WM GreenTech Automotive Corp.
[redacted]
McLean, VA 22102

Dear Mr. McAuliffe:

Thank you for your December 15, 2010 letter regarding WM GreenTech Automotive Corporation and your concerns with the decision U.S. Citizenship and Immigration Services (USCIS) rendered with respect to the Gulf Coast Funds Management (GCFM) regional center's request to amend the scope of the regional center.

Due to privacy concerns, I may not discuss the substance of the GCFM case with anyone other than GCFM and its representatives. However, I have forwarded your letter to Alejandro Mayorkas, the Director of USCIS for any appropriate action.

I would like to assure you that the Department of Homeland Security through USCIS is committed to the success of the EB-5 Program, and I thank you again for your letter.

Sincerely,

Janet Napolitano

January 24, 2011

GCFM Talking Points

Background:

- GCFM is an approved regional center that encompasses the states of Mississippi and Louisiana.
- One of GCFM's current projects involves the assembly of "green" automobiles in a plant in Mississippi owned and operated by GreenTech Automotive (GTA).
- Under GCFM's current scope, USCIS is currently adjudicating (and where appropriate approving) petitions related to investment in the Mississippi plant.
- GCFM requested an amendment to expand the geographic scope of their regional center in 2009 to include a parts manufacturing plant in southeastern Virginia.
- USCIS denied the request because it has interpreted the appropriate statute and regulations to require that a regional center be a contiguous geographic area.
- On February 2010, a new amendment request was filed seeking to expand the GCFM to include the state of Tennessee and the southern and southeastern portions of Virginia.
- In August 2010, USCIS denied the amendment request.
- On September 10, 2010, GCFM filed a motion to reopen the denied amendment request.

McAuliffe Letter

- On December 15, 2010, Terence R. McAuliffe (chairman of GTA) sent a letter to S1 arguing that the August 2010 denial of the amendment request was inappropriate.
- Because Mr. McAuliffe is not a party to the application before USCIS, we cannot discuss the specifics of the case with him.
- A short response letter to Mr. McAuliffe has been drafted for S1 signature along with a cover memorandum with more background.

Motion and New Decision

- After considering the evidence submitted with the Motion to Reopen, USCIS acknowledges that the August 10, 2010 decision relied in part upon a narrow interpretation of its regulations.
- USCIS believes that it is appropriate to interpret the regulation more broadly.
- However, there are still issues with GCFM's request to expand its regional center.
- GCFM's current request to expand the scope of the regional center appears to be an attempt to satisfy the "contiguous geographic area" requirement by including the entire state of Tennessee and the tobacco dependent counties of southern Virginia.
- The proposed amendment, however, only discusses the regional center's intent to provide capital to one commercial enterprise to be located in one county in the southwestern corner of Tennessee and one commercial enterprise located in one county in the southeastern corner of Virginia. There is no evidence to suggest

that the regional center intends to focus on any of the remaining areas of Tennessee or Virginia.

- USCIS is prepared to conclude that GCFM has failed to demonstrate that it will focus on a limited geographical area that functions as an economic unit.
- Other issues that may be surmountable:
    - The documents submitted suggest that the structure of the regional center's proposed amendments will serve as an investment agent for the individual investors not as an enterprise concentrating pooled resources and then investing those pooled resources as a unit into individual companies or projects.
    - The sample business documents appear to contain an impermissible redemption agreement such that the investors' capital is not truly at risk.
    - The sample business documents do not demonstrate that the investors will be engaged in the management of the new commercial enterprise.

Other Options for GFCM or GTA

- USCIS believes that it might be reasonable for GCFM to request an expansion of the geographic area of its regional center to include the portion of the State of Tennessee that encompasses the location of the planned transportation hub. This area falls within the Memphis Metropolitan Statistical Area ("MSA") and is in close proximity to the planned automotive plant in Tunica, Mississippi, which is also in the Memphis MSA.
- USCIS believes that separate proposals, if properly documented with the economic impacts of the planned automotive parts plant or transportation hub in the Commonwealth of Virginia or the State of Tennessee could be approvable as separate regional centers.

SB

GreenTech Automotive

SCANNED/RECEIVED BY EXEC SEC
2010 DEC 27 AM 10: 19

December 15, 2010

Via USPS mail

Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: GreenTech Automotive and EB-5: USCIS Should Help, not Hurt, Job Creation for U.S. Workers

Dear Secretary Napolitano:

I know you have many duties, including supervising the U.S. immigration system in a way that stimulates our economy. Unfortunately, the U.S. Citizenship and Immigration Services (USCIS) is standing in the way of creating thousands of jobs for U.S. workers. USCIS erroneously denied a request to expand a major green automotive manufacturing facility into economically depressed areas of Tennessee and Virginia. I urge you to reverse this decision so we can help grow the U.S. economy with green jobs.

I am chairman of WM GreenTech Automotive (GTA) (http://www.wmgta.com/), a U.S.-based company that is developing and producing green, affordable hybrid and electric vehicles. We are building a large automobile manufacturing series of facilities in economically depressed areas in several states that should ultimately create up to 34,500 new high-paying automotive jobs for U.S. workers.

GTA plans to build a motor vehicle parts manufacturing plant in Virginia, a warehouse building in Tennessee, and a motor vehicle assembly plant in Mississippi. The overall project is called Project Mastiff.

GTA has targeted full production capacity at one million vehicles annually by 2019. Overall, GTA plans to invest approximately $10 billion to develop the facilities in Virginia, Tennessee and Mississippi and to build a distribution network and production. GTA already has a 400,000 square foot facility in Mississippi.

GTA recently acquired EuAuto, an existing neighborhood electric vehicle (NEV) manufacturer. As EuAuto becomes part of GTA, EuAuto's existing orders from European countries and worldwide distribution must be fulfilled immediately. GTA needs to launch the production of this NEV product (GTA-MyCar) for 10,000-20,000

WM GreenTech Automotive Corp
[redacted] Fl, McLean, VA 22102
[redacted]

GreenTech Automotive, Inc.
[redacted] Tunica, MS 38676
[redacted]

www.wmgta.com

units in 2011. Therefore, GTA will immediately start the NEV assembly in Mississippi to address current GTA-MyCar orders from European countries. Once these immediate needs are met, GTA-MyCar operations will be incorporated into the future GTA manufacturing facility to be completed in Mississippi by the end of 2012. This is the only viable approach for GTA to produce GTA-MyCar products in the United States while waiting for the Mississippi facility to be completed. This course of action will enable GTA to begin installing equipment and hiring assembly workers in early 2011. The estimated initial job creation will be 300 automotive workers for green assembly operations.

Construction for Project Mastiff was expected to start in 2010, with the first phase completed by 2012. USCIS, however, has halted Project Mastiff in its tracks.

Project Mastiff is partially funded by foreign investors through the EB-5 green card category. Each EB-5 investor must invest $500,000 in the United States and create 10 jobs for U.S. workers. EB-5 investors in the GTA project are investing their money through Gulf Coast Funds Management (GCFM), an existing EB-5 regional center already approved by USCIS for the states of Louisiana and Mississippi. GCFM filed an amendment for approval of the Mississippi part of Project Mastiff in April 2009. USCIS approved that amendment in July 2009.

In February 2010 GCFM filed an amendment application to expand its regional center to include the Tennessee and Virginia parts of Project Mastiff. The USCIS denied that amendment in August 2010. GTA promptly filed a motion to reopen. That motion has been pending for over three months.

The USCIS denial of GCFM's amendment request was vague. To the extent that GTA could discern the specific bases for denial, the USCIS erred by misinterpreting the economic reports submitted with the amendment. Dr. Michael Evans prepared both the original and updated economic reports. Dr. Evans has drafted more than 60 economic reports for EB-5 projects and regional center applications, perhaps more than any other economist. Dr. Evans is thus well aware of how to apply standard economic methodologies to EB-5 projects.

USCIS previously accepted Dr. Evans' economic analysis and agreed that Project Mastiff's Mississippi operation will significantly benefit the regional and national economy by creating thousands of automotive jobs. However, when the same economic analysis was applied to the same project's Virginia and Tennessee operations, USCIS failed to see the same economic impact, even though Project Mastiff will also create several thousand new automotive jobs for U.S. workers in Virginia and Tennessee.

WM GreenTech Automotive Corp
[redacted] Fl, McLean, VA 22102
[redacted]

GreenTech Automotive, Inc.
[redacted] Tunica, MS 38676
Tel: [redacted]

www.wmgta.com

GCFM's motion to reopen should be approved as soon as possible so that it can fund GTA's operations and job creation in Virginia and Tennessee. USCIS should also expedite adjudication of all EB-5 petitions for investors in Project Mastiff. GTA has more than 200 EB-5 investors already committed to invest in Project Mastiff. Investors cannot file their petitions, however, until USCIS approves GCFM's amendment. The EB-5 money, although only a small part of the overall financing for Project Mastiff, is crucial. GTA needs the EB-5 financing to get Project Mastiff off the ground so that it can then obtain financing from other sources.

Sincerely,

Terence R. McAuliffe
Chairman

WM GreenTech Automotive Corp
[redacted], 8th Fl, McLean, VA 22102
[redacted]

GreenTech Automotive, Inc.
[redacted] Tunica, MS 38676
[redacted]

www.wmgta.com

[redacted]

NEWAR DRANC 2110
FRI 17 DEC 2010 TH

USA FOREVER

✓#012

USSS ★ #004 X-RAYED ★

RECEIVED DEC 2 1 2010

"RECEIVED DAMAG

DEC 22 2010
486

Janet Napolitano
Secretary of Homeland Secur
U.S. Dept. of Homeland Securit
Washington, D.C. 20528

TAB 8

From: [redacted]
Sent: Wednesday, February 02, 2011 5:38 PM
To: Mayorkas, Alejandro N
Subject: RE: Meeting Tomorrow

Thanks Ali. While it would have been better, as you note below, for you not to be involved in this type of meeting - given the current situation – what you outline below is the most appropriate course of action. I do not see any harm in indicating that the agency has been in touch with the regional center's attorney of record and that that will remain the avenue for any agency communications on this matter.

[redacted]
Acting Chief Counsel
U.S. Citizenship & Immigration Services
202 272 1441

From: Mayorkas, Alejandro N[redacted]
Sent: Wednesday, February 02, 2011 5:26 PM
To: [redacted]
Subject: Meeting Tomorrow

[redacted]
I have been requested by S1's office to join a meeting with Terry McAuliffe about the EB-5 program. I believe Mr. McAuliffe, whom I have not met before, has an interest in particular cases that are pending

with us. Previously I requested that I not join such a meeting given the pendency of the cases. I now have been asked to join the meeting. I will not discuss the cases or provide information about them. I will be in listen-only mode. May I, though, inform him only that our agency representatives recently had a discussion with the attorney of record?
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

TAB 9

From: Mayorkas, Alejandro N [mailto:[redacted]]
Sent: Thursday, February 03, 2011 9:25 PM
To: [redacted]
Subject: Report of Meeting Today

[redacted]

Earlier this afternoon, I honored a Dept. request and met with Terry McAuliffe. I entered the meeting with the knowledge that I could not talk about the specifics of the EB-5 case pending before us, and that I would just listen.

When I met with Mr. McAuliffe, I learned that he was joined by two individuals who work for WM Greentech Automotive Corp., [redacted] and [redacted], and an attorney whose name I believe is [redacted] of Greenberg Traurig.

The substance of the meeting proceeded as follows:

Mr. McAuliffe indicated that counsel had an excellent conference call with USCIS officials, and they were all grateful. The attorney confirmed the value of the meeting and appreciation for it. She indicated that USCIS had said that the new petition would receive expedited treatment (approximately 60-90 days).

Mr. McAuliffe expressed his wish that this call would have occurred some time ago; it would have, he said, saved a good deal of time and energy. He said that he learned of the flaws in the petition, which could have been cured earlier. (He made a quick comment that they originally filed as they did based on the expressed views of [redacted]).

Mr. McAuliffe indicated that he did not want to review what had transpired earlier, nor did he want to discuss the case. Rather, he wanted to emphasize the value and importance of the EB-5 program (foreign investment to create American jobs) and the need for institutionalizing dialogue of the type that occurred in the conference call recently held. Mr. McAuliffe spoke of the value of the EB-5 program for a few minutes.

I shared with everyone what I said about the EB-5 program during yesterday's national stakeholder engagement. Mr. McAuliffe was very pleased to hear that.

Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]
[redacted]@[redacted]

TAB 10

From: [redacted]
Sent: Friday, June 24, 2011 4:55 PM
To: Mayorkas, Alejandro N
Subject: RE: EB5 check

I would not even begin to pretend to be an expert in this area. I sent this on to our real SMEs who will get us the right answer. And if I misspoke below, I will let you know ASAP. This will be a learning experience for both of us.

I believe that for bullet one the RFE is based on the current submissions and the lack of specificity. In the Gulf Coast Amendment I believe we had such significant overarching issues with the geographic scope of the proposed amendment to include the Commonwealth of Virginia I don't think we were focusing on the actual Virginia location. The actual physical location within Virginia was more a minor issue when compared to including Virginia in the Gulf Coast Regional Center.

This Regional Center was filed as an actual investment plan and not a hypothetical (exemplar) plan. Under the rubric of an actual investment plan they would need to define the location and be able to establish the timelines. We need to know exactly the plan is because it will be noted on the approval notice that I-526 applicant's will file the documentation associated with the RC and this plan has been approved by USCIS. The documentation with respect to the location could be a sales agreement, copy of the deed, a letter between the seller and buyer, a lease or whatever shows the location of the property. In the alternative under an exemplar plan we wouldn't need that level of specificity and in this RFE we are giving them that option to basically opt out of the actual model and move into an exemplar model. However, generally folks who want to attract immediate investors prefer the actual plan because the I-526 generally has less chance of receiving an RFE etc. In this case, the RFE is based on the regional center's request for review as an actual plan and is the basis for the more detailed requirements. They can choose to go under the exemplar process if they want.

s for timelines, there are internal conflicts within the record where it states that they are calculating duration of the onstruction phase at 18 months and then it changes to 24 months. This is a material issue because the economic analysis they provided is based on the crediting of construction jobs which per our policy guidance we will only credit construction jobs if the construction project lasts two year. (6/17/09 memo). In addition, if they don't have a location we have to add in time for such things as location purchase/lease, permit acquisition etc which makes the timeline determination dependent on the location selection which undermines the request to be considered under the actual investment plan. They want to use early investor fund for activities associated with the architectural design/construction etc which impacts not only timelines but also job creation. So the simple answer is time estimates can be acceptable as long as they sound reasonable and reflect what they actually are trying to do. In this case they have been trying roll this plan out for well over two years and they still don't seem to have specificity which an actual plan requires.

The risk for us is if this is approved with these less than specific plans under the actual model, folks will file their I-526s and get RFEs requesting the specific information and evidence we are currently requesting. We are trying to take care of getting the documentation at this regional center stage because they filed as an actual investment plan in the hopes to not have to present anything more detailed at the I-526 stage. They can opt to change this filing into an exemplar filing and we can approve it if we are reasonably satisfied that the jobs will be created within the required EB5 timeframe. Even if the opt to be considered under an exemplar plan, they need a reasonable high level timeline that lays out the timeframe of this project to allow for construction jobs to be created.

I hope this helps and didn't further muddy the waters.

Have a good weekend.

From: Mayorkas, Alejandro N
Sent: Friday, June 24, 2011 3:48 PM
To: [redacted]
Subject: RE: EB5 check

Thank you, [redacted]

I understand there to be two deficiencies, one with respect to the timeline for the project and the other with respect to the specific location of the automotive plant. A few questions come to mind:

- Were these deficiencies identified in response to the prior submission, or has the new submission changed so as to raise these issues for the first time?
- How can a proposal be required to identify the specific location of the plant before the proposal is approved? If I am a petitioner, I would not purchase real estate to build the plant before I knew the proposal was approved.
- Are time estimates sufficient for the timeline?

Thanks very much. I am eager to learn as much as possible about the EB-5 program because it is the source of considerable attention and, given the job creation potential, appropriate interest.

Thanks so much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Friday, June 24, 2011 3:21 PM
To: Mayorkas, Alejandro N
Subject: FW: EB5 check

Here it is

From: [redacted]
Sent: Friday, June 17, 2011 4:44 PM
To: [redacted]
Cc: [redacted]
Subject: RE: EB5 check

Hi [redacted]

FYI - The CSC issued an RFE on this case for one specific issue (after I talked the ISO off of the ledge for including a ridiculous issue given the Gulf Coast history), attached.

I am going to be on leave this next week, but will be in DC on Monday morning through Friday afternoon.

Thanks,

[redacted]

From: [redacted]
Sent: Thursday, June 09, 2011 5:07 PM
To: [redacted]
Subject: RE: EB5 check

[redacted]

Please let me know when the case is assigned for adjudication.

Thanks,

[redacted]

From: [redacted]
Sent: Thursday, June 09, 2011 3:31 PM
To: [redacted]
Subject: RE: EB5 check

Yes. Please expedite based on the previous filing history.

From: [redacted]
Sent: Thursday, June 09, 2011 3:25 PM
To: [redacted]
Subject: RE: EB5 check

Hi [redacted]

This case is a re-filing in the sense that it is filed by the entity that is going to operate the VA-based factory for the Greentech Automotive plant. You may recall that we denied a succession of Gulf Coast RC amendments that sought to extend the geographic scope of that RC to Southern VA so that this VA automotive plant could be an EB-5 project for the LA/MS-based regional center. The last USCIS action in those cases was to deny a motion to reopen the Gulf Coast RC amendment denial and to certify the decision to the AAO where it remains pending.

Let me know if you want me to ask the CSC to consider expediting this case in light of this tortured history.

.hanks,

[redacted]

From: [redacted]
Sent: Tuesday, June 07, 2011 11:14 PM
To: [redacted] P
Subject: Fw: EB5 check

Hi [redacted] - do we know if this is a re-filed case?

From: [redacted]
Sent: Tuesday, June 07, 2011 03:49 PM
To: 'Mayorkas, Alejandro N' [redacted]
Subject: RE: EB5 check

Ali,

SCOPS checked the status of this case. It was filed on 4/28/11. The processing time for an I-924 is 6 months so this case is not off track or in a black hole. I don't know what the petitioner claims so if there is something else that we are not aware of please let me know.

hanks Ali,

[redacted]

From: Mayorkas, Alejandro N[redacted]]
Sent: Thursday, May 26, 2011 1:15 PM
To: [redacted]
Subject: FW: EB5 check

[redacted]
Here is another EB-5 case about which there appears to be some concern re delays. Can you look into this? We need to continue to bring great focus with respect to this program.
Thanks very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Smith, Douglas A[redacted]v]
Sent: Thursday, May 26, 2011 11:57 AM
To: Mayorkas, Alejandro N
Subject: EB5 check

A – you mind seeing if you can get any intel on this one. Seems to be in a black hole. Thanks

Petitioner: Virginia Center for Foreign Investment and Job Creation LLC
Petition Number: RCW 1111850202

Douglas A. Smith
Assistant Secretary
Private Sector Office
Department of Homeland Security
[redacted]

Click here to receive Private Sector Community Preparedness Email Updates

TAB 11

From: Mayorkas, Alejandro N
Sent: Thursday, September 22, 2011 3:05 PM
To: [redacted]
Subject: FW: EB-5 crisis

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Thursday, September 22, 2011 3:05 PM
To: '[redacted]'
Subject: RE: EB-5 crisis

[redacted],
Thank you for your e-mail. I will forward your e-mail as appropriate.
Ali

Alejandro N. Mayorkas
irector
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Thursday, September 22, 2011 2:47 PM
To: alejandro.[redacted]
Subject: EB-5 crisis

Hello, Ali -

I wouldn't attempt to contact you directly, but I believe this is truly urgent.

I am sure you are aware of great frustration with the EB5 program in general, and I believe you are familiar in particular with the Gulf Coast Funds Regional Center. That Regional Center has approximately 100 I-526s pending for investments in the Gulf Coast Automotive Fund to build electric, hybrid or other fuel efficient cars at GreenTech Automotive. Many petitions have been pending over a year, a few were approved. I do not represent any of the individual investors or the Gulf Coast Funds Regional Center. I have, however, been consulting with GreenTech Automotive regarding structuring future EB5 investments and a new Regional Center to partially fund another automotive plant in southern Virginia. All of the information above is in the public domain as the principals of GreenTech have been interviewed frequently on the projects.

Today, [redacted], the CEO of GreenTech advised me that they are considering withdrawing from the EB5 program. He said that CSC has made it so difficult for those attempting to create jobs that if their cases are not resolved in the next few days, they will conclude that the EB5 program is not a viable financing tool. His colorful description was, "It seems to us that the California Service Center may not work the way he [referring to you] wishes. The service center has

been trying so hard to find chicken bones in an egg, then ask people to explain why egg white is not a bone." $50,000,000 is already either in escrow or invested, and many potential investors are waiting for the first offering to be approved so that the next can be structured. Clearly, thousands if not 10s of thousands of US jobs will be significantly delayed or lost if the initial I-526s are not approved, and they decide to pull the plug on future offerings.

But that isn't even the worst of it, if GreenTech Automotive pulls out of the program as not viable, that information will be all over China in minutes and Chinese investments in any EB-5 program are likely to dry up.

[redacted]
Head, Immigration Practice
Dickstein Shapiro LLP
[redacted] | Washington, DC 20006
[redacted]

Confidentiality Statement
This e-mail message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination, forwarding, printing, copying, or other distribution of this e-mail message and any attached files is strictly prohibited. Dickstein Shapiro reserves the right to monitor any communication that is created, received, or sent on its network. If you have received this confidential communication in error, please notify the sender immediately by reply e-mail message and permanently delete the original message.

To reply to our email administrator directly, send an email to [redacted]

Dickstein Shapiro LLP
www.dicksteinshapiro.com

From: Mayorkas, Alejandro N
Sent: Wednesday, January 23, 2013 5:58 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

[redacted],
Apparently, this is not going through to you as this attorney initially addressed it.
Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
20[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Wednesday, January 23, 2013 5:56 PM
To: 'Simone Williams'; [redacted]
Subject: RE: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Ms. Williams,
Just to reiterate our brief conversation, I expressly stated that I would not engage in a discussion of a particular case or cases.
Thank you for directing your written communication to [redacted], who will in turn direct it as appropriate.
Thank you. Alejandro Mayorkas

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Simone Williams [redacted]
Sent: Wednesday, January 23, 2013 5:44 PM
To: [redacted]
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [redacted]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi
and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors. Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently $17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **I-829 Petition Remains Pending for over one year: RE: [redacted] Receipt #: WAC 12-091-00217.** Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **I-526 Petition Remains Pending for 10 months: RE: [redacted]; Receipt #: WAC-12-903-20340.** On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USICS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [redacted], which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and verage wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) **Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS**. Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [redacted] if you require further information.

Yours truly,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
ww.gulfcoastfunds.com

From: Mayorkas, Alejandro N
Sent: Thursday, January 31, 2013 5:57 PM
To: [redacted]
Subject: FW: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Please handle however you deem appropriate.
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Thursday, January 31, 2013 5:55 PM
To: 'Simone Williams'
Cc: [redacted] GTA; tony rodham; [redacted]
Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Ms. Williams,

As the Director of this Agency, I do not adjudicate cases and am not the proper audience for a telephone call or a meeting about a particular case. I will forward your email to the appropriate individual in the Agency.

Thank you. Alejandro Mayorkas

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Simone Williams [redacted]
Sent: Thursday, January 31, 2013 5:50 PM
To: 'alejandro.mayorkas[redacted]
Cc: [redacted] GTA; tony rodham; [redacted]
Subject: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

Dear Mr. Mayorkas,

Further to my voicemail message this evening, we would like to request a brief in-person meeting with you tomorrow to discuss emergency issues regarding Gulf Coast Funds Management and GreenTech Automotive Inc. Could you please let us know your availability anytime tomorrow. We thank you for your prompt attention to this matter.

Best regards,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Simone Williams
Sent: Wednesday, January 23, 2013 5:44 PM
To: 'alejandro.mayorkas[redacted]
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [redacted]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi
and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors. Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently $17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as

prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **<u>I-829 Petition Remains Pending for over one year:</u> RE:[redacted]; Receipt #: WAC 12-091-00217.** Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **<u>I-526 Petition Remains Pending for 10 months</u>: RE:[redacted] Receipt #: WAC-12-903-20340.** On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USICS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

<u>Our response</u>: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

<u>Our response</u>: We submitted a supplement to the economic report, prepared by [redacted], which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

<u>Our response</u>: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

<u>Our response</u>: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently

engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) **Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS**. Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [redacted] if you require further information.

Yours truly,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Mayorkas, Alejandro N
Sent: Thursday, January 31, 2013 6:15 PM
To: [redacted]
Subject: FW: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Fyi.
I am not responding to this follow up email.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Simone Williams [redacted]]
Sent: Thursday, January 31, 2013 6:12 PM
To: Mayorkas, Alejandro N
Cc: [redacted] GTA; tony rodham; [redacted]
Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas: We appreciate your prompt attention to this matter and your offer to forward our e-mail to the appropriate individual. We felt it appropriate to contact you as the head of the Agency, to give you an urgent status update of the project, not a particular case. We would like to request an in-person meeting or a telephone call with you or any individual in the Agency that may be prepared to provide immediate guidance or action on our petitions. Thank-you kindly for your prompt attention to this matter.

Best regards,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Mayorkas, Alejandro N [redacted]]
Sent: Thursday, January 31, 2013 5:55 PM
To: Simone Williams
Cc: [redacted] GTA; tony rodham; [redacted]
Subject: RE: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.

Ms. Williams,

As the Director of this Agency, I do not adjudicate cases and am not the proper audience for a telephone call or a meeting about a particular case. I will forward your email to the appropriate individual in the Agency.

Thank you. Alejandro Mayorkas

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Simone Williams [redacted]
Sent: Thursday, January 31, 2013 5:50 PM
To: 'alejandro.mayorkas@[redacted]
Cc: [redacted] GTA; tony rodham; [redacted]
Subject: Emergency Issues re Gulf Coast Funds Management and GreenTech Automotive Inc.
Importance: High

Dear Mr. Mayorkas,

Further to my voicemail message this evening, we would like to request a brief in-person meeting with you tomorrow to discuss emergency issues regarding Gulf Coast Funds Management and GreenTech Automotive Inc. Could you please let us know your availability anytime tomorrow. We thank you for your prompt attention to this matter.

Best regards,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Simone Williams
Sent: Wednesday, January 23, 2013 5:44 PM
To: 'alejandro.mayorkas@[redacted]
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [redacted]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an

independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi
and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors. Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently $17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **I-829 Petition Remains Pending for over one year: RE: [redacted] Receipt #: WAC 12-091-00217.** Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **I-526 Petition Remains Pending for 10 months: RE: [redacted] Receipt #: WAC-12-903-20340.** On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USICS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.

Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn

Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [redacted], which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) **Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS**. Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [redacted] if you require further information.

Yours truly,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Mayorkas, Alejandro N
Sent: Friday, February 01, 2013 1:00 PM
To: Smith, Douglas A; Kroloff, Noah
Subject: RE: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Douglas,
We recognize the need to adjudicate the EB-5 cases in far shorter a period of time and, in fact, we have articulated a goal of 90-day adjudications when the new program office is up and running.

Law Enforcement Sensitive: That being said, please also recognize that, overarching, we have national security and law enforcement responsibilities and those responsibilities will not be compromised by processing time goals.

Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Smith, Douglas A [redacted]
Sent: Friday, February 01, 2013 11:57 AM
To: Mayorkas, Alejandro N; Kroloff, Noah
Subject: Re: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Ali, it is not about weighing to tell them which way to decide, it its weighing in to get it done one way or another. People have a right to expect we can make a decision faster then a year.

From: Mayorkas, Alejandro N
Sent: Friday, February 01, 2013 11:18 AM
To: Smith, Douglas A; Kroloff, Noah
Subject: RE: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Douglas,
I cannot weigh in. It is not appropriate for me to do so.

The attorney sent an email to me and I responded that I could not weigh in, but that I would forward her email to the appropriate individual. I will do the same here.

We are making structural changes to improve the program dramatically (e.g., creating a new program office with individuals with the requisite expertise). In the interim, we are retaining on an emergency/contract basis individuals with top-tier economic/business expertise.

Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

[redacted]
Washington, DC 20529
[redacted]

From: Smith, Douglas A [redacted]
Sent: Friday, February 01, 2013 10:44 AM
To: Kroloff, Noah
Cc: Mayorkas, Alejandro N
Subject: Re: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Ali, see below. I know you are hesitant to weigh in, but the plant will be forced to close unless this can be resolved today. Thanks for your immediate attention to this.

From: Kroloff, Noah
Sent: Friday, February 01, 2013 10:41 AM
To: Smith, Douglas A
Cc: Mayorkas, Alejandro N
Subject: Re: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Not familiar with this, but looping the two of you directly

From: Smith, Douglas A
Sent: Friday, February 01, 2013 10:39 AM Eastern Standard Time
To: Kroloff, Noah
Subject: Fw: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Any way you can kick Ali into gear? If this doesn't get resolved by COB today, the plant will have to shut down and lay off 100 people on Monday.

From: Simone Williams [redacted]
Sent: Tuesday, January 29, 2013 10:21 AM
To: Smith, Douglas A
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Hello Doug,

As we discussed, we received another 6 RFEs from USCIS requesting basically the same information as the first RFE we received for [redacted] (Receipt #: WAC-12-903-20340).
Furthermore, as you are aware, we still have an I-829 Petition that has remained pending for over one year ([redacted]; Receipt #: WAC 12-091-00217). This I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues. Obviously, USCIS's undue delay in issuing a decision in our I-829 and I-526 RFE cases, is becoming a serious issue for us. In fact, the delay continues to threaten the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions.

We need USCIS to issue a decision on the I-829 and RFE for [redacted] as soon as possible. Please note that three of the four issues raised in [redacted] RFE and the subsequent 6 RFEs were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.
Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the

purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.

Our response: We submitted a supplement to the economic report, prepared by [redacted], which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.

Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."

Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

We really appreciate your assistance in looking into this matter for us and any help you can offer. If you need anything further, please do not hesitate to contact me at [redacted].

Thanks much,
Simone

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

From: Mayorkas, Alejandro N
Sent: Tuesday, January 29, 2013 3:27 PM
To: [redacted]
Cc: [redacted]
Subject: Fw: Gulf Coast Funds Management and GreenTech Automotive Inc.
Attachments: Pending Petitions filed by GCFM_2011 to Dec 2012_updated.xlsx

Importance: High

From: anthony rodham [redacted]
Sent: Tuesday, January 29, 2013 03:25 PM Eastern Standard Time
To: alejandro.mayorkas@[redacted]
Subject: Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [redacted]

This is to follow up on an e-mail sent to you last week by Simone Williams, the General Counsel of Gulf Coast Funds Management, Regional Center (GCFM). Yesterday, GCFM received another six (6) RFEs from USCIS requesting basically the same information as the Second RFE we received for [redacted] (Receipt #: WAC-12-903-20340). (Please see updated Pending Petitions list attached for details on RFEs received).

As explained in Simone's e-mail dated January 23, 2013 (and included below for your convenience), the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. Furthermore, we filed our response to [redacted] second RFE on December 13, 2012 and have yet to receive a response from USCIS. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times and have pursued the matter by contacting our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date.

For many months, we have been urging USCIS to issue a decision on our I-829 and I-526 cases. As we mentioned previously, USCIS's undue delay in issuing a decision in our I-829 and I-526 RFE cases continues to threaten the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and the delay is hampering our ability to bring in new EB-5 investors and the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions.

We need USCIS to issue a decision on the I-829 and RFE for [redacted] as soon as possible. Please note that three of the four issues raised in [redacted] RFE and the subsequent 6 RFEs we just received, were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.
Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.
Our response: We submitted a supplement to the economic report, prepared by [redacted] which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.
c. The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.
Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.
d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."
Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

We really appreciate your assistance in looking into this matter for us to move our cases along. If you need any further information, please do not hesitate to contact GCFM's General Counsel, Simone Williams at
[redacted]

Best regards,
Anthony Rodham

From: Simone Williams
Sent: Wednesday, January 23, 2013 5:44 PM
To: 'alejandro.mayorkas@[redacted]
Subject: Further to our conversation today re Gulf Coast Funds Management and GreenTech Automotive Inc.

Dear Mr. Mayorkas and [redacted]

Re: EB-5 and GTA: Inaction by USCIS on EB-5 Petitions Costing Americans Thousands of Jobs

Further to our conversation today, I am writing to express our concern regarding the undue delay by USCIS in reviewing our EB-5 petitions. This delay is having a detrimental impact on the ongoing operations of GreenTech Automotive, Inc. ("GTA"), and GTA's ability to create and maintain American jobs. I outline the key facts below as follows:

Parties Involved: Gulf Coast Funds Management, LLC ("GCFM") is an EB-5 Regional Center approved in 2008 by USCIS to manage EB-5 projects for the states of Louisiana and Mississippi. GCFM currently manages EB-5 investment projects in the job creating enterprise, GreenTech Automotive, Inc. ("GTA"), a Mississippi Corporation.

Background Facts About GTA: GTA is a U.S. based company dedicated to producing green, affordable hybrid and electric vehicles. GTA is building a 300,000 square foot automobile manufacturing facility in Tunica, Mississippi, an economically depressed area in Mississippi with a 19.0% unemployment rate in desperate need of jobs. GTA's operations are expected to create up to 7,400 new high-paying green jobs in the United States by 2014 according to an independent economic analysis by Evans, Carroll & Associates Inc. GTA is currently manufacturing vehicles at a temporary facility in Horn Lake, Mississippi and will transfer its operations and jobs to the Tunica facility, when completed. The production capacity of the Tunica facility is expected to be 50,000 vehicles per year.

Chronology of EB-5 Petitions filed with USCIS and Current Issue: GTA is partially funded by EB-5 investments managed by GCFM. Since GCFM began filing I-526 petitions for the GTA project in 2009, it has established a proven track record of success with USCIS and had already received ninety-two (92) I-526 petition approvals for the GTA project on behalf of EB-5 investors.

Unfortunately, we are now experiencing a significant delay in review of our I-829 and I-526 petitions by USCIS, although there are no material changes in our documentation or filings. This delay is threatening the ongoing operations of GTA because GTA relies on EB-5 investors as a key source of funding for its projects and (i) such delay is hampering our ability to bring in new EB-5 investors and (ii) the EB-5 money raised in our current offering is being held in escrow pending approval of the I-526 petitions. EB-5 funding to GTA is now at a virtual standstill, which will negatively impact our ongoing plant production, car manufacturing and the creation of jobs for U.S. workers. Currently $17 million of EB-5 funding is being held in an escrow account for our investors, and cannot be released to GTA until USCIS approves our I-526 petitions. Furthermore, the I-829 petition GCFM filed on December 30, 2011 has been pending for over one year, which is well beyond the normal USCIS processing time. We contacted the USCIS Immigrant Investor Program to follow up on the status of our cases many times. This office acknowledged that our cases were beyond normal processing times but did not provide us with any further information about our cases. We further pursued the matter by contacting the CIS ombudsman, and our local senator offices for assistance, neither of which have been able to obtain any further information about our petitions from USCIS to date, despite numerous requests.

Requested Relief: GCFM requests that the I-829 petition and I-526 petitions filed on behalf of EB-5 investors investing in the GTA project be approved as soon as possible so that GCFM may effectively market the GTA project to prospective EB-5 investors. Undue delay by USCIS in reviewing our I-829 petition has jeopardized our marketing efforts, as prospective investors are reluctant to invest in GTA without seeing our I-829 petition approval record. GCFM also requests that USCIS expedite adjudication of all I-526 petitions so that it can fund GTA's operations and job creation in Mississippi. As mentioned above, approvals are required for GTA to raise additional EB-5 funding and to access the EB-5 money already raised. Without such funds, GTA's car manufacturing operations and creation of U.S. jobs is in serious jeopardy and our ability to preserve existing jobs for GTA employees is also at stake. In addition, GCFM requests efficient review and approval of our I-924 ("exemplar") petition, which did not involve any significant changes to our current investment structure. Please see attached spreadsheet and brief explanation below for further details on our pending cases:

(1) **I-829 Petition Remains Pending for over one year: RE: [redacted] Receipt #: WAC 12-091-00217.** Our I-829 petition was filed on December 30, 2011 and has been pending for over one year, despite the fact that this petition does not involve any tenant-occupancy issues.

(2) **I-526 Petition Remains Pending for 10 months: RE: [redacted] Receipt #: WAC-12-903-20340.** On April 27, 2012, GCFM filed an I-526 petition for the A-3 fund, with strong supporting documentation. On July 31, 2012, USICS issued a Request for Evidence ("RFE") for this case, requesting only one more trace document, which evidenced that the funds were transferred from the Investor to the A-3 LP. Two of the items that GCFM already provided with the initial filing were requested again, in addition to one more supplemental transfer document. We immediately filed our response the next day on August 1, 2012. On December 10, 2012, we received another RFE on this case on a whole set of other issues --- and three of the four issues raised in the RFE were already reviewed and accepted by USCIS when they approved 92 of our previous I-526 petitions. We filed our response to the second RFE on December 13, 2012. Our response to the 4 issues raised in the RFE can be summarized as follows:

a. The RFE requests evidence that our temporary facility (the "Pilot Production Facility") in Horn Lake, Mississippi is located in a TEA.
Our response: The funds raised by the New Commercial Enterprise (NCE) will be used for the continuation of the design and construction of the JCE's permanent automobile manufacturing facility in Tunica County, Mississippi, and for the purchase and installation of certain fixtures. GTA has not changed its plan to build a manufacturing facility on 100 acres of land it owns in Tunica, Mississippi (the "Permanent Facility"). GTA will transfer all its employees at the Pilot Production Facility to the Permanent Facility in Tunica once it is complete. The temporary positions in Horn Lake will not be counted toward the total job creation. Those positions will only be created when such employees are permanently relocated to the permanent facility. Accordingly, it is not necessary to demonstrate that Horn Lake is located in a TEA.

b. The RFE requests that the Economic report by Evans, Carroll & Associates should clearly show that indirect employment effects were not double counted.
Our response: We submitted a supplement to the economic report, prepared by [redacted] which clearly shows, that indirect employment effects were not double counted. The average automobile considered by the IMPLAN multipliers has a gas engine for power and utilizes a small and inexpensive lead-acid battery mainly to start the car before the engine provides the power. Electric vehicles actually have two batteries: the first is the same in function and price to the battery above, the second (the "EV Battery") provides the energy to power the vehicle. EV Batteries cost approximately 100 to 200 times more than the cost of a traditional car battery, and range from 35% and 74% of the cost of the entire vehicle. Only the first small battery to start the car is included in the IMPLAN multiplier, so no portion of the multiplier for the EV Battery is included in the IMPLAN multiplier and therefore there is no double counting.

The RFE asks that we submit a comprehensive business plan specific to GreenTech Automotive Partnership A-3 LP.
Our response: Pursuant to this request, we provided the Overall Business Plan prepared with the PPM for this NCE. The Overall Business Plan is compliant with Matter of Ho, supra and includes a market analysis; the manufacturing process; materials required and

supply sources; marketing strategy; the business' organizational structure; and its personnel's experience. The plan also specifies the employees at the Pilot Production Facility as of the date of the plan (who will be transferred to the permanent plant), and the anticipated direct employees to be hired listed by job title, description, and average wage. The plan includes timelines and income projections.

d. The RFE requests further information regarding a section of the PPM for the NCE regarding "Prior Financing."
Our response: We explain why this language should not be read to indicate that rescission rights are likely or are expected to materially affect the business of the JCE. In addition, we provided a list of transactions that the JCE is currently engaged in, which could be used to pay such rescission rights; in the unlikely event that all or a large portion of the investors were issued and exercised rescission rights.

(3) **Thirty (30) I-526 Petitions and an I-924 (exemplar) Petition Remain Pending with USCIS**. Please see attached spreadsheet for further details.

We greatly appreciate your assistance and we look forward to receiving a decision from USCIS regarding the processing of our I-829, I-526 and I-924 cases. Please do not hesitate to contact me at [redacted] if you require further information.

Yours truly,
Simone Williams

D. Simone Williams
General Counsel
Gulf Coast Funds Management, LLC
[redacted]
McLean, VA 22102
[redacted]
www.gulfcoastfunds.com

·om: Mayorkas, Alejandro N
ıt: Friday, December 07, 2012 9:29 AM
To: [redacted]W
Subject: Re: GTA & EB5

Thanks, [redacted]
Ali

From: [redacted]
Sent: Friday, December 07, 2012 09:09 AM Eastern Standard Time
To: [redacted] Mayorkas, Alejandro N
Subject: FW: GTA & EB5

In case you get any follow up inquiries, these cases are within our normal processing times.

From: [redacted]
Sent: Thursday, December 06, 2012 8:00 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

Hi [redacted]

This is an interesting letter. You know, of course, USCIS doesn't issue funds nor do we issue a report on investors, so I can't really comment on that. Here's what I can tell you:

GTA is Greentech Automotive Partnership A-3, LP (RCW 10 319 10101) and they have filed 24 I-526 forms – the oldest of which was filed 08/21/2012. One of those petitions has an RFE issued (12/4/12); the remainder are awaiting review. I will follow up in the morning on this to see if these cases have been distributed to the team, now that the specialized team has reviewed at least one case.

I meant to take a look at our inquiries to see if we had any outstanding requests for status on this one, but haven't had a chance yet today. We are behind on our inquiries and hope to have them current again by the end of this month. Will let you know tomorrow if we have some (and will prioritize the response if we do).
[redacted]

From: [redacted]
Sent: Wednesday, December 05, 2012 12:10 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

Hi [redacted]

I hope you had (or are having) a good and safe trip home. Please take a look at this and provide me with an update. Clearly, the author has little understanding of the program or our processes, but nonetheless I'd like a status ort given the complaint of processing delays.

Thanks,

[redacted]

From: Mayorkas, Alejandro N
Sent: Wednesday, December 05, 2012 3:03 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

[redacted]
For handling however you deem appropriate. I am adding [redacted] given the reference to contacts with members of Congress. I am adding [redacted] due to a reference to contact with the Secretary's office.
Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Terry McAuliffe [redacted]]
Sent: Wednesday, December 05, 2012 2:02 PM
To: Alejandro N. Mayorkas
Subject: Fwd: GTA & EB5

Sent from my iPhone

Begin forwarded message:

> **From:** [redacted]
> **Date:** December 5, 2012, 2:00:27 PM EST
> **To:** Terry McAuliffe <[redacted]
> **Subject: FW: GTA & EB5**
>
> FYI.
>
> **From:** [redacted]
> **Sent:** Wednesday, December 05, 2012 11:48 AM
> **To:** '[redacted]
> **Cc:** [redacted] (Cochran)';
> '[redacted] (Wicker)'; [redacted]
> **Subject:** GTA & EB5
>
> All,
>
> GreenTech has come to a real crossroads with their construction in Tunica County. They have spent $6,000,000 on site preparation costs, but are unable to proceed with facility construction until funds are released from the US Custom and Immigration Services. To date, there is $15 million designated for construction in an escrow account at Chase Manhattan Bank that can only be accessed after USCIS reviews pending requests and completes a 3 page report on each applicant. The offices of Senators

Cochran and Wicker and Congressman Thompson have made numerous and diligent inquiries on our behalf only to be stonewalled by requests for privacy releases by individual investors. We have repeatedly said we did not need to know who the individual investors were, we just wanted the process of completing the forms and releasing the funds to continue.

The funds that GreenTech spent on site preparation came from operating funds while they were waiting on USCIS to release the construction funds – GTA has been trying to get this done since February. But, at this point, GTA may be near having to shut down existing operations in Horn Lake and laying off 100 employees within 30 days if funds are not released. It is incomprehensible to me that 'paperwork' is having such an impact on people's jobs and lives. Every day of delay pushes the creation of 300 jobs in Tunica County further away.

One temporary solution is a bridge loan of $3 million to GTA. If any of you have thoughts or suggestions on that issue, GTA would very much appreciate any efforts. I have written Homeland Security Secretary Janet Napolitano requesting that she personally investigate this issue. GTA has learned that this is an issue for all EB-5 projects currently in the US. There are several hundred projects with the same problems, but GTA is the most successful manufacturing EB-5 project to attract Chinese funds to be invested in the US for jobs for Americans.

Another reason given by USCIS is that they are in the process of moving the reviewing of these documents from California to Washington DC because of issues with employees reviewing the documents. USCIS has not met any of their self imposed timelines for the review/approval of the documents.

The purpose of this memo is just to make you aware of events that may impact all of us. Any thoughts or suggestions will be greatly appreciated and thanks to all for your continued support of this project. Please feel free to forward to anyone who you think might be able to assist.

Best,

[redacted] | President/CEO | Tunica Chamber & Economic Development Foundation|
[redacted] | Tunica MS 38676 | [redacted] ofc | [redacted]

TAB 12

:om: [redacted]
ent: Monday, November 26, 2012 10:43 AM
To: [redacted]
Cc: [redacted]
Subject: FW: SLS Hotel- Las Vegas - marketing without an exemplar approval- chaos in the marketplace as a result-

Hi [redacted] – I'm looping you in on this for your take on what our obligations are. Unless I'm reading this wrong, it appears the author is complaining about an approved Regional Center marketing investment opportunities overseas without having an approved exemplar I-526. He's asking us to withhold adjudication of their I-526s in the interest of "fairness". My limited understanding is that an exemplar is not a pre-requisite for us to adjudicate individual I-526 petitions but I'm concerned about the marketing aspect – again, my limited understanding of the SEC rules is that one is not to market investments except to sophisticated investors and/or to those with whom one has a prior relationship.

So, any guidance you can offer would be much appreciated.

Thanks,

[redacted]

From: Mayorkas, Alejandro N
Sent: Monday, November 26, 2012 10:28 AM
: [redacted]
ıbject: FW: SLS Hotel- Las Vegas - marketing without an exemplar approval- chaos in the marketplace as a result-

[redacted]
Fyi, for handling as you deem appropriate.
Thank you. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Monday, November 26, 2012 10:27 AM
To: [redacted]
Subject: RE: SLS Hotel- Las Vegas - marketing without an exemplar approval- chaos in the marketplace as a [redacted]

[redacted]
I will forward your e-mail to the appropriate individual in our agency.
Thank you. Alejandro Mayorkas

Alejandro N. Mayorkas
'irector
.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529

[redacted]

From: [redacted]]
Sent: Thursday, November 22, 2012 4:13 PM
To: alejandro.mayorkas[redacted]
Subject: SLS Hotel- Las Vegas - marketing without an exemplar approval- chaos in the marketplace as a result-

Subject - SLS Hotel Las Vegas Regional Center- American Dream Fund- - marketing without an exemplar approval-

To the office of the Alejandro Mayorkas Esq- Dept of Homeland Security - Honorable Director :

Dear Mr. Mayorkas :

I would like to point out that this large project is marketing in China through major agencies without an exemplar approval. The result of which is that real industries like manufacturing that are attempting to attract foreign investment into there projects and which have adhered to all applicable laws both foreign and domestic and followed
the process of getting approved via an exemplar approval are being unnecessarily burdened because they cannot compete against these large projects who have clearly
taken shortcuts, The end result is less capital to real job creating projects in favor of projects that clearly are creating excess supply in terms of final demand and do very little to help the real economy . The investor market is clearly confused but will choose a hotel project in most cases because perceived safety of brick and mortar. The end result if the I-526 petitions are adjudicated is that investment is flowing into projects that USCIS economist's have not rendered an opinion on and may not fit the job requirement statues.

I would hope that this office as least listens to my viewpoint on this matter and this specific project. . Fairness in terms of remedy for short cutting the process in my opinion would be not to adjudicate i-526 petitions unless there is an exemplar in place and thus projects would realize the rules apply to all projects fairly and slowly the market will work more efficiently and ultimately add to the USA economic base from employment multipliers and not just capital inflows which clearly is the requirement of the law despite what some projects espouse. This is a jobs program not an investment program and projects need to realize this.

Thanks for your consideration of reviewing my comments.
[redacted]

TAB 13

ɔm: Mayorkas, Alejandro N
ent: Friday, January 25, 2013 1:16 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Expedite Request for SLS Lender, LLC

[redacted] I mentioned to you the Department of Commerce letter, which I read, because it underscores our need to develop expertise on a fast/urgent track (the Department with the relevant expertise believes that, contrary to our adjudication, the expedite criteria have been met). I did not wish to get involved in the case itself. Having now read your email, I am surprised by our response. For example, the petitioner has to present evidence of a request for an extension of time from the funder, or an explanation of why such a request was not submitted? Are we imposing that condition ourselves now? I will defer to those with adjudications experience. I must ask whether, based on the deal document and given the Department of Commerce's view, are we following the law applicable to the standard of proof? I would like each of your views.

Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Vashington, DC 20529
[redacted]

From: [redacted]
Sent: Friday, January 25, 2013 12:56 PM
To: Mayorkas, Alejandro N
Cc: [redacted]
Subject: FW: Expedite Request for SLS Lender, LLC

I spoke with CSC a few minutes ago. They had already taken steps to expedite even though they have asked for evidence in support of the expedite requests. The files were delivered to the economists yesterday for their review with an understanding of the urgency. The thinking was that they wanted to be positioned to meet the deadline assuming the requested evidence would be provided.

From: [redacted]
Sent: Wednesday, January 23, 2013 8:34 PM
To: Prince, Rose M
Cc: [redacted]W
Subject: Re: Expedite Request for SLS Lender, LLC

Hi [redacted]

This looks great. Thanks for all your hard work on this.

Thanks,
[redacted]

From: [redacted]
Sent: Wednesday, January 23, 2013 08:26 PM Eastern Standard Time
To: [redacted]
Cc: [redacted]W
Subject: FW: Expedite Request for SLS Lender, LLC

[redacted]
We have received several expedite requests submitted for the Las Vegas Regional Center (NCE SLS Lender, LLC). My last count was 17 requests. (There also appears to be several different names being used for the NCE, but we have confirmed all the requests are related.) We are planning to send the same response to all requesters using the Immigrant Investor Mailbox. Just as a side note, there are currently only 47 of the potential 230 I-526 petitions filed at this time.

[redacted]

Mr. / Ms. ,

At this time, additional information is required to facilitate the adjudication of your request for expedited processing of the I-526 petition(s) associated with SLS Lender, LLC. Please provide the following:

- Copies of the executed agreement with JP Morgan securing funds held in escrow awaiting twenty three (23) EB-5 approvals.
- Explanation and evidence of efforts made to obtain an extension on the agreement with JP Morgan. If this is not an option for SLS Lender LLC, please provide an explanation with supporting evidence as to why this is not feasible.
- The expedite request indicates potential for severe financial loss and that expediting the adjudication of the petitions is of compelling interest to the US. Considering the nature and investment requirements of the immigrant investor program, please explain and provide evidence that demonstrates how this potential for loss is extraordinary and should mandate the prioritization of these petitions over other EB-5 investor petitions.

Respectfully,
USCIS Immigrant Investor Program

TAB 14

om: Mayorkas, Alejandro N
Sent: Friday, January 25, 2013 1:17 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Expedite Request for SLS Lender, LLC

Please drop me from the case-specific chain. Adding [redacted] to the extent a legislative inquiry is involved. Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Friday, January 25, 2013 1:14 PM
To: [redacted] Mayorkas, Alejandro N
Cc: [redacted]
Subject: RE: Expedite Request for SLS Lender, LLC

You should be hearing from CSC shortly. I provided the information I have.

From: [redacted]
Sent: Friday, January 25, 2013 1:05 PM
To: [redacted] Mayorkas, Alejandro N
Cc: [redacted]
Subject: RE: Expedite Request for SLS Lender, LLC

Has CSC decided to formally expedite? Subsequent to the decision to ask for SLS to confirm their efforts to mitigate the harm to the project by the delay (e.g. efforts to renegotiate or explanation why that is not practical), we received a letter from SelectUSA reiterating the request to expedite which seems compelling (notwithstanding our request for additional clarification) in regards to the request and potential harm and disruption to the project.

If we are expediting, I think we should go ahead and provide an update to Senator Reid.

Thanks,
[redacted]

From: [redacted]
Sent: Friday, January 25, 2013 12:56 PM
To: Mayorkas, Alejandro N
Cc: [redacted]
Subject: FW: Expedite Request for SLS Lender, LLC

spoke with CSC a few minutes ago. They had already taken steps to expedite even though they have asked for evidence in support of the expedite requests. The files were delivered to the economists yesterday for their review with

an understanding of the urgency. The thinking was that they wanted to be positioned to meet the deadline assuming the requested evidence would be provided.

From: [redacted]
Sent: Wednesday, January 23, 2013 8:34 PM
To: [redacted]
Cc: [redacted]
Subject: Re: Expedite Request for SLS Lender, LLC

Hi [redacted]

This looks great. Thanks for all your hard work on this.

Thanks,
[redacted]

From: [redacted]
Sent: Wednesday, January 23, 2013 08:26 PM Eastern Standard Time
To: [redacted]
Cc: [redacted]
Subject: FW: Expedite Request for SLS Lender, LLC

[redacted]
We have received several expedite requests submitted for the Las Vegas Regional Center (NCE SLS Lender, LLC). My last count was 17 requests. (There also appears to be several different names being used for the NCE, but we have confirmed all the requests are related.) We are planning to send the same response to all requesters using the Immigrant Investor Mailbox. Just as a side note, there are currently only 47 of the potential 230 I-526 petitions filed at this time.

[redacted]

Mr. / Ms. ,

At this time, additional information is required to facilitate the adjudication of your request for expedited processing of the I-526 petition(s) associated with SLS Lender, LLC. Please provide the following:

- Copies of the executed agreement with JP Morgan securing funds held in escrow awaiting twenty three (23) EB-5 approvals.
- Explanation and evidence of efforts made to obtain an extension on the agreement with JP Morgan. If this is not an option for SLS Lender LLC, please provide an explanation with supporting evidence as to why this is not feasible.
- The expedite request indicates potential for severe financial loss and that expediting the adjudication of the petitions is of compelling interest to the US. Considering the nature and investment requirements of the immigrant investor program, please explain and provide evidence that demonstrates how this potential for loss is extraordinary and should mandate the prioritization of these petitions over other EB-5 investor petitions.

Respectfully,
USCIS Immigrant Investor Program

TAB 15

om: Mayorkas, Alejandro N
ent: Wednesday, January 30, 2013 8:05 PM
To: [redacted]
Cc: [redacted]
Subject: RE: SLS Las Vegas USCIS Response Letters

Thank you, [redacted] I have taken the liberty of adding everyone to my response, plus [redacted]

I appreciate everyone's approach to the issues.

I agree that to grant an expedite request means only that we have agreed, based on some articulated and supported time sensitivity, to review the case on an accelerated basis. It does not mean or in any way suggest that we have rendered any decision on the merits of the petition. If, for example, a security issue arises that will take time to resolve, then – regardless of whether we have agreed to expedited review – we will take the time needed to resolve the security issue and we will not act until we have achieved resolution.

I agree that we need to run enhanced security and integrity checks.

From my review of the chronology outlined below, I am concerned that a process breakdown occurred in this case. I think we should review and discuss the chronology to better understand the process and whether we need to make justments system-wide. I look forward to discussing.

Thank you again.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]
[redacted]

From: [redacted] P
Sent: Wednesday, January 30, 2013 6:42 PM
To: Mayorkas, Alejandro N; [redacted]

Ali and [redacted]

FYI, I'm forwarding the below email chain to you, [redacted], for visibility given the legislative interest, and you, Ali, given your interest in enhancing EB-5 security vetting and program integrity in general.

[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 4:49 PM
To: [redacted]
Cc: Vela [redacted]
Subject: RE: SLS Las Vegas USCIS Response Letters

The request in these cases involved multiple I-526 petitions (I believe there are about 47 currently pending and they requested that we expedite 23). It is my understanding that the decision to expedite a case just means that it will be moved up in the order in which it was received, but that the integrity of the process and the decision would remain the same. As far as I am aware CSC has already begun moving these cases up in the order but is otherwise processing them the same as they otherwise would be (e.g. holding those with security concerns in abeyance, issuing RFEs if the evidence is insufficient, etc).

Thanks,
[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 4:42 PM
To: [redacted]
Cc: [redacted]
Subject: Re: SLS Las Vegas USCIS Response Letters

I must disagree, we do not approved an expedite request prior to reviewing the case for security issues. As in this case, here are significant security concerns that will cause significant delays in having the security checks completed.

If USCIS informs the requestor that the request to expedite was approved, the requestor will expect some sort of action rather soon. In this case, we need FinCEN reports that could take a month or two, therefore the request should be denied so the requestor doesn't start to question why they have not receiving any actions by USCIS.

Has there been a decision on this request?

Thanks,
[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 04:20 PM
To: [redacted]
Cc: [redacted]
Subject: RE: SLS Las Vegas USCIS Response Letters

[redacted]

Thanks for that important clarification.

[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 4:09 PM
To: [redacted]
[redacted]
.ntary, Ruth E; Silvers, [redacted]
Subject: RE: SLS Las Vegas USCIS Response Letters

All:

I think it is important to note that any decision to expedite solely means that we will make a decision on a case as expeditiously as possible, but will still require security checks to be cleared, case otherwise must be approvable, etc. As such, even if the decision to expedite was granted, we still would work each case to 100% completion before issuing a decision. That means that some might get expedited RFE's, approvals, denials, security checks, etc., but it shouldn't mean that we have otherwise determined every case is approvable.

Hope that helps.

[redacted]

++++++++++++++++++++
[redacted]
Threat Assessment Branch
Service Center Operations
U.S. Citizenship and Immigration Services
Department of Homeland Security
[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 4:04 PM
To: [redacted]
Cc: [redacted]
Subject: RE: SLS Las Vegas USCIS Response Letters

[redacted] – can you confirm that the expedite request has been granted?

From: [redacted]
Sent: Tuesday, January 29, 2013 3:51 PM
To: [redacted]
Cc: [redacted]
Subject: Re: SLS Las Vegas USCIS Response Letters
Importance: High

[redacted]

You indicated that the expedite request has been approved, is this true?
I don't know of any circumstance in which expedite request are approved prior to security checks being conducted and cleared; are you sure that the request was approved?
Ve have received information that there are significant security/criminal suspicions on several of the I-526 applicants. ,his is just on the few that we have checked, there is high side information on one applicant and others have highly suspicious money transfersj such that the FBI has recommended that USCIS review the BSA data prior to approving these cases. Due to these finding, I highly recommend denying the request and submitting every applicant filing under

this Regional Center for TIDE and NCTC checks and BSA data request and reviewed prior to adjudications. Obviously, if we are to request these security checks and FinCEN intelligence reports on these applicants, we cannot expedite the request.

.ıanks

[redacted]

From: [redacted]
Sent: Tuesday, January 29, 2013 02:57 PM
To: [redacted]
Cc: [redacted]
Subject: FW: SLS Las Vegas USCIS Response Letters

[redacted] – do we have any national security concerns with this RC? The decision to expedite has been made.

Thanks,

[redacted]

From: [redacted]
Sent: Friday, January 25, 2013 9:02 PM
To: [redacted]
Subject: Fw: SLS Las Vegas USCIS Response Letters

[redacted]

Please see the email below from
.nator Reid's staffer regarding the response that was sent by the SLS petitioners.

Thanks as always.

[redacted]

[redacted]
USCIS, Office of Legislative Affairs
[redacted]

From: [redacted] (Reid) [redacted]]
Sent: Friday, January 25, 2013 06:53 PM Eastern Standard Time
To: [redacted]
Cc: [redacted]
Subject: FW: SLS Las Vegas USCIS Response Letters

Can you guys make sure that the Immigrant Investor program gets these documents and the documents here: https://krss.sharefile.com/d/se928985113c4565b

Let me know if they need anything else.

From: [redacted]
ent: Friday, January 25, 2013 3:47 PM
To: [redacted] (Reid)
Subject: FW: SLS Las Vegas USCIS Response Letters

[redacted]

'ease see email chain below and attachments. We have emailed and Fed Ex'd these letters and exhibits to the USCIS this .ternoon. If you care to reference any of the exhibits attached please access them through this file sharing site. https://krss.sharefile.com/d/se928985113c4565b

Have a good weekend!

[redacted]

[redacted]
Date: Friday, January 25, 2013 3:03 PM
To: [redacted]
Subject: USCIS Response Letters

Attached please find the letters that have been sent to the USCIS in response to their questions received yesterday. The "ADF Cover Letter" includes the "Joint Venture Letter" as an exhibit and references all petitions that have been filed. The law firms that have been contacted by USCIS will also be sending the same "ADF Cover Letter" on their letterhead on behalf of their respective clients. As some of you know from [redacted]'s e-mail, the ADF and Klasko letters are being e-mailed and sent by Fedex to USCIS today. Please let me know if you would like a copy of all the exhibits 'erenced in the "Klasko Letter." Thank you for all your comments and assistance...

Best,

[redacted]

[redacted]e | Managing Director
Stockbridge Real Estate Funds
[redacted]th
New York, NY 10036
[redacted]

TAB 16

Mayorkas, Alejandro N

From: Mayorkas, Alejandro N
Sent: Tuesday, June 28, 2011 8:10 PM
To: [redacted]
Subject: FW: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

Dawn's reply to my response to her. Thanks.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Tuesday, June 28, 2011 6:39 PM
To: Mayorkas, Alejandro N
Subject: RE: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

Thank you for your email. I am embarrassed and apologize for paraphrasing your words incorrectly. I acknowledge what you note below is exactly what you said to me. Indeed a series of unrelated RFE requests create uncertainty and make it difficult to navigate the Eb-5 program. At the same time I understand that, occasionally, information provided in an initial RFE response opens another avenue of queries.

Once again we very much appreciate your time in this matter and most importantly your active involvement in the improving the Eb-5 program as a whole.

Best,
Dawn

Dawn M. Lurie
Shareholder
Greenberg Traurig LLP | [redacted] | Tysons Corner, VA 22102
[redacted] | www.gtlaw.com

GT GreenbergTraurig

ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TYSONS CORNER · WASHINGTON, D.C. · WHITE PLAINS
*OPERATES AS GREENBERG TRAURIG MAHER LLP

STRATEGIC ALLIANCES WITH INDEPENDENT LAW FIRMS
MILAN · ROME

[illegible] CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

From: Mayorkas, Alejandro N [redacted]
Sent: Tuesday, June 28, 2011 5:25 PM

To: Lurie, Dawn (Shld-TCO-Imm)
Subject: RE: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

Dawn,

I appreciated our call yesterday and the time you took to express your position in response to the RFE your client received. The efficient processing of EB-5 petitions and applications is very important to our agency.

I do not believe I represented that there will be "no additional requests outside the scope of this [pending] RFE." I have not analyzed the case file. What I did express is my general view that the serial issuance of RFEs does not seem fair unless everyone understands at the outset that outstanding issues or deficiencies are being addressed in serial fashion.

I will forward your e-mail as appropriate, and I will ask whether there are any other issues to be addressed. If the response is other than "no," we can discuss the equities of the situation that creates.

Thank you again. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Tuesday, June 28, 2011 9:44 AM
To: Mayorkas, Alejandro N
Cc: [redacted]
Subject: Virginia Center for Foreign Investment and Job Creation RWC 1111850202
Importance: High

Dear Director Mayorkas,

It was a pleasure speaking with you today. As we discussed, the VA Center very much appreciates the opportunity to respond to the Request for Additional Evidence (RFE). Based on our conversation, it appears we agree that the Service has presented my client with the following two choices:

A.. Provide an updated business plan for GTA including information on the specific location of the GreenTech Automotive Plant in Virginia, a proposed start and end date, as well as a proposed construction dates inclusive of various construction phases. (The RFE also requests a clarification on the timeline for construction, citing an alleged inconsistency in the Exhibits); or

B. Withdraw the request for review of the actual investment plan and present the current plan as an exemplar with a more high-level prospective construction timeline.

I further understand that there will be no additional requests outside the scope of this RFE. The Center will be approved with either a written withdrawal of the actual investment plan request (i.e. nothing at all further needed for such approval) OR my client will supplement the Regional Center application with the information requested in bullet point A above.

Thank you also for the opportunity to discuss the additional concerns I noted.

- The Service appears to use the term "exemplar" differently throughout the RFE. In the past we understood an "exemplar" project approval to be the equivalent of what you recently termed a "shovel-ready" project approval. The alternative to a "exemplar"/"shovel ready" project being provided as part of an initial Regional Center application was to include a set of "hypothetical" documents to support the Center application.

- On Page 2 of the RFE the Service acknowledges this and states: A request for initial designation as a Regional Center (RC) may involve:

  - .A request for review of an exemplar Form I-526 for review of an exemplar Form I-526...prior to the filing of Form I-526 by individual alien entrepreneurs with USCIS and/or:
  - In the case of a RC amendment request....(not applicable to the VA Center)

The Service determined the VA Center was requesting an initial designation as a RC to include a review of a specific investment project, and a a review of an exemplar Form I-526

My first point of clarification surrounds this sentence, is review of an specific investment project and a review of an exemplar Form I-526 not one in the same?
Isn't the alternative to request designation of the Regional Center only providing a set of the hypothetical documents and receiving a designation only. The RC may then file an amendment to receive the exemplar/shovel ready project approval or file individual I-526 petitions without the project approval. It seems encouraging the former would save the Service an enormous amount of resources but of course the lengthy delays in amendments deter RCs from such filings.

The Service states on Page 2 that an "actual business or investment plan must meet all of the criteria of Matter of HO, otherwise it is only a highly detailed **exemplar** (emphasis added) plan". The use of the word **exemplar** here is confusing.
This paragraph further notes that "the plan presented does not include an actual start date or end date for the project and also does not identify the specific location of the automotive plant".
The summary request of the VA Center found on page 4 states : "withdraw the request for review of the *actual investment plan* and present the current plan as an *exemplar* with a more high-level prospective construction timeline.

Hopefully my confusion is illustrated in the summary request, the word Exemplar appears to have different meanings and this causes confusion for a layperson.

Other points noted in the RFE that we will address in the response but that you should be aware of:

- On Page 3 of the RFE states that the record states "**In this case the record includes contradictory evidence relating to the length of construction.**"

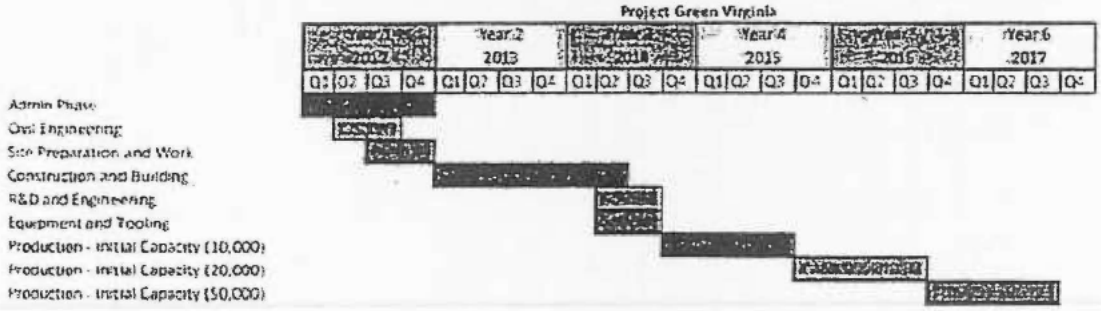
  - Unfortunately it appears that the adjudicator did not fully review and analyze the business plan.
  - There is no discrepancy between the data and information identified in the business plan (exhibit III-A) versus the economic report (exhibit III-B). Both documents reference a *possible* 18 or 24 month construction timeline and Dr. Evans purposefully provides two separate sets of data describing the job creation for either time frame. This is intended to avoid issues later on at the I-829 stage for individual investors.

- The RFE also implies that the business plan did not meet the criteria following Matter of Ho and specifically mentions a deficiency on the timeline for construction. For the record the VA Center business plan included the following:

  - Market analysis - *provided at pages 27-33*
  - Description of target market/prospective enterprise - *provided at pages 5-10*
  - Describe Manufacturing or production process, material required, and supply sources - *provided at pages 8-10*
  - Detail any contracts executed for the supply of materials and/or distribution of products - *too premature in development stage to have these items*
  - Marketing Strategy - *provided at pages 34-35*
  - Organizational structure and personnel experience - *provided at pages 37-39*
  - Staffing requirements and timetable for hiring and job description for all positions - *not applicable given the RIMS II Revenue/Expenditure economic model being used to show job creation.*
  - Sales, cost and income projections - *provided at pages 41-42*

Aside from the construction issue no other deficiency is identified, and we will accept this at fact value and assume the language was provided as general background only.

- The RFE implies that the construction timeframe is deficient.
  - We understands the need to provide more details within each phase identifying specific steps and correlating expenditures where possible and plan to do so in the response.
  - However the business plan did provide the timeline below. It is not clear whether the Service requiring a specific month, day and year for each phase? With the delays in adjudication of both the Regional Center application and individual I-526 petitions (and thus funding) by the USCIS combined with the sheer magnitude of the construction of a manufacturing plant of this scale, specific dates are not feasible.
  - Therefore estimated dates will provided. However it is critical that the Service understand the realities of business and that such changes to the timeline could be affected by the incentive negotiations with the Commonwealth, the permitting process as well as environmental or weather delays and other variables that are common to similar projects, will not be considered a material change. The timeline previously included is illustrativef below.



Thank you again for your time in this matter.

Dawn M. Lurie
Shareholder
Greenberg Traurig LLP | [redacted] | McLean, VA 22102
[redacted] | [redacted] | [redacted]
[redacted] | www.gtlaw.com

GT GreenbergTraurig

ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TYSONS CORNER · WASHINGTON, D.C. · WHITE PLAINS
*OPERATES AS GREENBERG TRAURIG MAHER LLP

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

TAB 17

Mayorkas, Alejandro N

From: Mayorkas, Alejandro N
Sent: Tuesday, June 28, 2011 5:31 PM
To: [redacted]
Subject: FW: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

Fyi. I neglected to copy you.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Tuesday, June 28, 2011 5:29 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

[redacted]

I understand that [redacted] has spoken with you about the fact that Dawn Lurie contacted me about the Virginia EB-5 case. I am forwarding to you now her follow-up email to me, along with my brief response. I defer to you as to what should or should not be shared with SCOPS, as we are all mindful of the need to ensure that our adjudicators do not feel any pressure in their adjudication of these (or any) cases.

I will forward to you another e-mail from Dawn that I received this morning as well.

Thank you very much. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Mayorkas, Alejandro N
Sent: Tuesday, June 28, 2011 5:25 PM
To: [redacted]
Subject: RE: Virginia Center for Foreign Investment and Job Creation RWC 1111850202

Dawn,

I appreciated our call yesterday and the time you took to express your position in response to the RFE your client received. The efficient processing of EB-5 petitions and applications is very important to our agency.

I do not believe I represented that there will be "no additional requests outside the scope of this [pending] RFE." I have not analyzed the case file. What I did express is my general view that the serial issuance of RFEs does not seem fair unless everyone understands at the outset that outstanding issues or deficiencies are being addressed in serial fashion.

will forward your e-mail as appropriate, and I will ask whether there are any other issues to be addressed. If the sponse is other than "no," we can discuss the equities of the situation that creates.

Thank you again. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted].
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Tuesday, June 28, 2011 9:44 AM
To: Mayorkas, Alejandro N
Cc: [redacted]
Subject: Virginia Center for Foreign Investment and Job Creation RWC 1111850202
Importance: High

Dear Director Mayorkas,

It was a pleasure speaking with you today. As we discussed, the VA Center very much appreciates the opportunity to respond to the Request for Additional Evidence (RFE). Based on our conversation, it appears we agree that the Service has presented my client with the following two choices:

A.. Provide an updated business plan for GTA including information on the specific location of the GreenTech Automotive Plant in Virginia, a proposed start and end date, as well as a proposed construction dates inclusive of various construction hases. (The RFE also requests a clarification on the timeline for construction, citing an alleged inconsistency in the xhibits); or

B. Withdraw the request for review of the actual investment plan and present the current plan as an exemplar with a more high-level prospective construction timeline.

I further understand that there will be no additional requests outside the scope of this RFE. The Center will be approved with either a written withdrawal of the actual investment plan request (i.e. nothing at all further needed for such approval) OR my client will supplement the Regional Center application with the information requested in bullet point A above.

Thank you also for the opportunity to discuss the additional concerns I noted.

- The Service appears to use the term "exemplar" differently throughout the RFE. In the past we understood an "exemplar" project approval to be the equivalent of what you recently termed a "shovel-ready" project approval. The alternative to a "exemplar"/"shovel ready" project being provided as part of an initial Regional Center application was to include a set of "hypothetical" documents to support the Center application.
  - On Page 2 of the RFE the Service acknowledges this and states: A request for initial designation as a Regional Center (RC) may involve:
    - .A request for review of an exemplar Form I-526 for review of an exemplar Form I-526...prior to the filing of Form I-526 by individual alien entrepreneurs with USCIS and/or:
    - In the case of a RC amendment request....(not applicable to the VA Center)

The Service determined the VA Center was requesting an initial designation as a RC to include a review of a specific investment project. and a a review of an exemplar Form I-526.

My first point of clarification surrounds this sentence, is review of an specific investment project and a review of exemplar Form I-526 not one in the same?

..n't the alternative to request designation of the Regional Center only providing a set of the hypothetical documents and receiving a designation only. The RC may then file an amendment to receive the exemplar/shovel ready project approval

or file individual I-526 petitions without the project approval. It seems encouraging the former would save the Service an enormous amount of resources but of course the lengthy delays in amendments deter RCs from such filings.

> The Service states on Page 2 that an "actual business or investment plan must meet all of the criteria of Matter of HO. otherwise it is only a highly detailed **exemplar** (emphasis added) plan". The use of the word **exemplar** here is confusing.
> This paragraph further notes that "the plan presented does not include an actual start date or end date for the project and also does not identify the specific location of the automotive plant".
> The summary request of the VA Center found on page 4 states : "withdraw the request for review of the *actual investment plan* and present the current plan as an *exemplar* with a more high-level prospective construction timeline.

Hopefully my confusion is illustrated in the summary request, the word Exemplar appears to have different meanings and this causes confusion for a layperson.

Other points noted in the RFE that we will address in the response but that you should be aware of:

- On Page 3 of the RFE states that the record states **"In this case the record includes contradictory evidence relating to the length of construction."**
  - Unfortunately it appears that the adjudicator did not fully review and analyze the business plan.
  - There is no discrepancy between the data and information identified in the business plan (exhibit III-A) versus the economic report (exhibit III-B). Both documents reference a *possible* 18 or 24 month construction timeline and Dr. Evans purposefully provides two separate sets of data describing the job creation for either time frame. This is intended to avoid issues later on at the I-829 stage for individual investors.

- The RFE also implies that the business plan did not meet the criteria following Matter of Ho and specifically mentions a deficiency on the timeline for construction. For the record the VA Center business plan included the following:
  - Market analysis - *provided at pages 27-33*
  - Description of target market/prospective enterprise - *provided at pages 5-10*
  - Describe Manufacturing or production process, material required, and supply sources - *provided at pages 8-10*
  - Detail any contracts executed for the supply of materials and/or distribution of products - *too premature in development stage to have these items*
  - Marketing Strategy - *provided at pages 34-35*
  - Organizational structure and personnel experience - *provided at pages 37-39*
  - Staffing requirements and timetable for hiring and job description for all positions - *not applicable given the RIMS II Revenue/Expenditure economic model being used to show job creation.*
  - Sales, cost and income projections - *provided at pages 41-42*

  Aside from the construction issue no other deficiency is identified, and we will accept this at fact value and assume the language was provided as general background only.

- The RFE implies that the construction timeframe is deficient.
  - We understands the need to provide more details within each phase identifying specific steps and correlating expenditures where possible and plan to do so in the response.
  - However the business plan did provide the timeline below. It is not clear whether the Service requiring a specific month, day and year for each phase? With the delays in adjudication of both the Regional Center application and individual I-526 petitions (and thus funding) by the USCIS combined with the sheer magnitude of the construction of a manufacturing plant of this scale, specific dates are not feasible.
  - Therefore estimated dates will provided. However it is critical that the Service understand the realities of business and that such changes to the timeline could be affected by the incentive negotiations with the Commonwealth, the permitting process as well as environmental or weather delays and other variables that are common to similar projects, will not be considered a material change. The timeline previously included is illustrativef below.

TAB 18

From: H. Ronald Klasko <RKlasko@klaskolaw.com>
Sent: Friday, February 01, 2013 5:10 PM
To: Mayorkas, Alejandro N; [redacted] P
Cc: [redacted]
Subject: RE: SLS Hotel EB-5

Thank you, Ali. I understand.

^^

H. Ronald Klasko, Esq.
Klasko, Rulon, Stock & Seltzer, LLP
[redacted]
Philadelphia, PA 19103
[redacted]
Websites:
www.klaskolaw.com
www.eb5immigration.com
www.eb1immigration.com
www.worksite-compliance.com
http://blog.klaskolaw.com

This email is from Klasko, Rulon, Stock & Seltzer, LLP, a law firm, and may contain information that is confidential or privileged. If you are not the intended recipient, do not read, copy or distribute the email or any attachments. Instead, please notify the sender and delete the email and any attachments.

From: Mayorkas, Alejandro N [[redacted]
Sent: Friday, February 01, 2013 2:53 PM
To: [redacted]
Cc: [redacted]
Subject: Re: SLS Hotel EB-5

[redacted]
We were pleased to answer process questions in our call with the Senator's office yesterday. We cannot speak with you about the case.

Thank you for your understanding.
Ali

From: H. Ronald Klasko [redacted]
Sent: Friday, February 01, 2013 02:43 PM Eastern Standard Time
To: Mayorkas, Alejandro N; [redacted]
Subject: SLS Hotel EB-5

Good afternoon, gentlemen.
I have been unsuccessful reaching [redacted] by phone, so I am sending this email.
I am communicating with you at the suggestion of Senator Reid's office. I received a call from that office last night relating to me the substance of a conversation that was held with both of you yesterday regarding the EB-5 expedite on the SLS Hotel. I would like to clarify a possible misunderstanding that may have been communicated during that call and offer a couple of ideas that may lead to a more prompt resolution of this pressing matter.
I would greatly appreciate if either of you could contact me today to discuss this. My private office line is [redacted]. If I am not in my office, please call [redacted]8, and my receptionist will pull me out of any meeting to take the call.
Thank you very much for the attention that you are devoting to this matter.
Ron

^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^^

H. Ronald Klasko, Esq.
Klasko, Rulon, Stock & Seltzer, LLP
[redacted]
Philadelphia, PA 19103
[redacted]
Websites:
www.klaskolaw.com
www.eb5immigration.com
www.eb1immigration.com
www.worksite-compliance.com
http://blog.klaskolaw.com

This email is from Klasko, Rulon, Stock & Seltzer, LLP, a law firm, and may contain information that is confidential or privileged. If you are not the intended recipient, do not read, copy or distribute the email or any attachments. Instead, please notify the sender and delete the email and any attachments.

TAB 19

·om: Mayorkas, Alejandro N
ıt: Friday, December 07, 2012 9:29 AM
To: [redacted]
Subject: Re: GTA & EB5

Thanks, [redacted]
Ali

From: [redacted]
Sent: Friday, December 07, 2012 09:09 AM Eastern Standard Time
To: [redacted] Mayorkas, Alejandro N
Subject: FW: GTA & EB5

In case you get any follow up inquiries, these cases are within our normal processing times.

From: [redacted]
Sent: Thursday, December 06, 2012 8:00 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

Hi [redacted]

ı nis is an interesting letter. You know, of course, USCIS doesn't issue funds nor do we issue a report on investors, so I can't really comment on that. Here's what I can tell you:

GTA is Greentech Automotive Partnership A-3, LP (RCW 10 319 10101) and they have filed 24 I-526 forms – the oldest of which was filed 08/21/2012. One of those petitions has an RFE issued (12/4/12); the remainder are awaiting review. I will follow up in the morning on this to see if these cases have been distributed to the team, now that the specialized team has reviewed at least one case.

I meant to take a look at our inquiries to see if we had any outstanding requests for status on this one, but haven't had a chance yet today. We are behind on our inquiries and hope to have them current again by the end of this month. Will let you know tomorrow if we have some (and will prioritize the response if we do).
[redacted]

From: [redacted]
Sent: Wednesday, December 05, 2012 12:10 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

Hi [redacted]

I hope you had (or are having) a good and safe trip home. Please take a look at this and provide me with an update. Clearly, the author has little understanding of the program or our processes, but nonetheless I'd like a status ort given the complaint of processing delays.

Thanks,

[redacted]

From: Mayorkas, Alejandro N
Sent: Wednesday, December 05, 2012 3:03 PM
To: [redacted]
Cc: [redacted]
Subject: FW: GTA & EB5

[redacted]

For handling however you deem appropriate. I am adding [redacted] given the reference to contacts with members of Congress. I am adding [redacted] due to a reference to contact with the Secretary's office.
Thanks. Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: Terry McAuliffe [redacted]
Sent: Wednesday, December 05, 2012 2:02 PM
To: Alejandro N. Mayorkas
Subject: Fwd: GTA & EB5

Sent from my iPhone

Begin forwarded message:

> **From:** [redacted]com>
> **Date:** December 5, 2012, 2:00:27 PM EST
> **To:** Terry McAuliffe [redacted]>
> **Subject: FW: GTA & EB5**
>
> FYI.
>
> **From:** [redacted]
> **Sent:** Wednesday, December 05, 2012 11:48 AM
> **To:** '[redacted]'
> **Cc:** [redacted] (Cochran)'; [redacted] (Wicker)'; [redacted]
> **Subject:** GTA & EB5
>
> All,
>
> GreenTech has come to a real crossroads with their construction in Tunica County. They have spent $6,000,000 on site preparation costs, but are unable to proceed with facility construction until funds are released from the US Custom and Immigration Services. To date, there is $15 million designated for construction in an escrow account at Chase Manhattan Bank that can only be accessed after USCIS reviews pending requests and completes a 3 page report on each applicant. The offices of Senators

Cochran and Wicker and Congressman Thompson have made numerous and diligent inquiries on our behalf only to be stonewalled by requests for privacy releases by individual investors. We have repeatedly said we did not need to know who the individual investors were, we just wanted the process of completing the forms and releasing the funds to continue.

The funds that GreenTech spent on site preparation came from operating funds while they were waiting on USCIS to release the construction funds – GTA has been trying to get this done since February. But, at this point, GTA may be near having to shut down existing operations in Horn Lake and laying off 100 employees within 30 days if funds are not released. It is incomprehensible to me that 'paperwork' is having such an impact on people's jobs and lives. Every day of delay pushes the creation of 300 jobs in Tunica County further away.

One temporary solution is a bridge loan of $3 million to GTA. If any of you have thoughts or suggestions on that issue, GTA would very much appreciate any efforts. I have written Homeland Security Secretary Janet Napolitano requesting that she personally investigate this issue. GTA has learned that this is an issue for all EB-5 projects currently in the US. There are several hundred projects with the same problems, but GTA is the most successful manufacturing EB-5 project to attract Chinese funds to be invested in the US for jobs for Americans.

Another reason given by USCIS is that they are in the process of moving the reviewing of these documents from California to Washington DC because of issues with employees reviewing the documents. USCIS has not met any of their self imposed timelines for the review/approval of the documents.

The purpose of this memo is just to make you aware of events that may impact all of us. Any thoughts or suggestions will be greatly appreciated and thanks to all for your continued support of this project. Please feel free to forward to anyone who you think might be able to assist.

Best,

[redacted] | President/CEO | Tunica Chamber & Economic Development Foundation|
[redacted] | Tunica MS 38676 | [redacted]

TAB 20

From: Mayorkas, Alejandro N <A[redacted]
Sent: Friday, April 05, 2013 3:59 PM
To: Smith, Douglas A
Subject: RE: when you have a chance

That is incorrect. I recommend that you cease communications with Mr. McAuliffe on USCIS matters in which he has an interest.
Thanks. Ali

From: Smith, Douglas A[redacted]]
Sent: Friday, April 05, 2013 3:56 PM
To: Mayorkas, Alejandro N
Subject: Re: when you have a chance

Even though you promised to? Ok

From: Mayorkas, Alejandro N
Sent: Friday, April 05, 2013 02:24 PM
To: Smith, Douglas A
Subject: RE: when you have a chance

Douglas,
I am not sure why Mr. McAuliffe is calling you about a case pending in our agency. In any event, I will not call him.
Thank you. Ali

From: Smith, Douglas A[redacted]]
Sent: Friday, April 05, 2013 2:13 PM
To: Mayorkas, Alejandro N
Subject: when you have a chance

As my daughter would say, tag, you are it. Can you return Terry M's call. He hounded me again yesterday that it has been three weeks since you said you would call him right back. Thanks

Douglas A. Smith
Assistant Secretary
Private Sector Office
Department of Homeland Security
[redacted]

Click here to receive Private Sector Community Preparedness Email Updates

TAB 21

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

APR 02 2010

Memorandum

TO: USCIS Employees

FROM: Alejandro N. Mayorkas
Director

SUBJECT: Ethics and Integrity Memorandum No. 2: Preferential Treatment

A government position is a public trust requiring an employee to act impartially in the performance of his or her duties. The "Standards of Ethical Conduct for Employees of the Executive Branch" (5 CFR 2635) regulates the conduct of Federal Government employees and prohibits preferential treatment as a form of "Misuse of Position." Subpart G of the Standards of Ethical Conduct states:

> "An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."

Purpose

This memorandum provides guidance to USCIS employees on avoiding and preventing situations that could be, or appear to be, preferential treatment. It also provides information on obtaining further guidance, and on how to report suspected misconduct.

Guidance

Each USCIS employee has the duty to act impartially in the performance of his or her official duties. Any occurrence of actual or perceived preferential treatment, e.g., treating similarly-situated applicants differently, can call into question our ability to implement our Nation's immigration laws fairly, honestly, and properly.

A USCIS employee could violate the prohibitions against preferential treatment in a number of ways, by:

- Working on, or in any way attempting to expedite or otherwise influence the processing of, an immigration application, petition, or benefit for a friend, relative, neighbor or acquaintance;
- Meeting with certain stakeholders to the exclusion of others;
- Writing contract requirements that favor one organization over another;
- Referring applicants to a particular immigration practitioner or vendor;

- Using his or her official position or title in a manner that could reasonably be construed to imply that USCIS or the Government sanctions or endorses his or her personal activities;
- Using USCIS letterhead or his or her official position or title to:
  - Provide a letter of recommendation for an individual;[1] or
  - Endorse any organization, product, service, or enterprise.

Often the appearance of preferential treatment can be as damaging to our Agency's reputation as actual preferential treatment; therefore, a USCIS employee should avoid matters (e.g., cases or applications) if his or her participation may cause a reasonable person to question the employee's impartiality. Should a question arise about whether an employee's action(s) might be seen as providing preferential treatment, the employee should discuss his or her concerns with a supervisor or USCIS Ethics Officer before acting on the matter.

Failure to adhere to the standards or the guidance set forth in this memorandum may subject the employee to disciplinary penalties, up to and including removal from employment. Such disciplinary action may be in addition to any criminal or civil action or penalty prescribed by law.

Contact Information

If you have questions related to ethical standards applicable to your position, please discuss the issue with your supervisor or contact a USCIS Ethics Officer. For further information on ethics rules please go to http://ethics.uscis.dhs.gov, or contact the Ethics Division at USCIS.Ethics@dhs.gov.

To report a suspected violation of ethics rules or any other allegation of misconduct, contact the Office of Security and Integrity by any of the following methods:

1. Online through the USCIS intranet at http://osi.uscis.dhs.gov/Forms/Complaint;
2. Fax at (202) 233-2453; or
3. Mail at the following address:
   Chief, Investigations Division
   Office of Security and Integrity MS 2275
   U.S. Citizenship and Immigration Services
   633 Third Street, NW, 3rd Floor
   Washington, DC 20529-2275

Questions should be posed and reports should be made immediately upon identifying an issue or concern.

---

[1] USCIS employees may sign a letter of recommendation using their official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom the USCIS employee has dealt in the course of Federal employment or whom he is recommending for Federal employment.

TAB 22

From: Mayorkas, Alejandro N
Sent: Thursday, August 09, 2012 1:30 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Executive Summary Colorado RC

Thank you very much, [redacted]
Given that we made an error in an initial adjudication, is there a legal solution to the age-out issue? I am adding Steve, to whom I will forward the memo.
This memo is very clear. Thank you.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]

From: [redacted]
Sent: Thursday, August 09, 2012 12:55 PM
To: Mayorkas, Alejandro N; [redacted]
Cc: [redacted]
Subject: FW: Executive Summary Colorado RC

Everyone,

We are ready to deny 4 I-526 petitions that may prompt interest by media or congressional offices. You are probably familiar with this from prior conversations and DHS interest. Attached hereto is a 3-page briefing document that explains how we have come to this point. We are ready to issue the denials, but I want to make sure you all are ready for that before we do so. I would like to have the notices placed in the mail tomorrow if possible. Please advise if that poses a problem, or if you require any additional information.

Thanks,

[redacted]

From: [redacted]
Sent: Thursday, August 09, 2012 12:20 PM
To: [redacted]
Cc: [redacted]
Subject: Executive Summary Colorado RC

As requested.

Executive Summary of Colorado Regional Center, LLC and I-526 Petitions Filed Based Upon Colorado Solaris Regional Center Project LLLP

Background:

The Colorado Regional Center, LLC (CRC) filed a regional center application that was approved in 2009. Several amendments were filed and one was approved in 2011, which generated 59 original I-526 filings.

The Solaris Residences Project is a commercial enterprise under the Colorado Regional Center and consists of 79 condominium units and 70,000 square feet of commercial space in Vail, Colorado. USCIS approved the Solaris Residences Project in error. USCIS failed to identify documentation in the amendment which allowed individual I-526 investors the right to use a condominium unit for an aggregate of 21 days per year as part of the investment plan for a project.

USCIS is prepared to issue a Motion to Reopen the approved Regional Center amendment to address the documents with "usage rights". A total of 55 of the originally filed I-526 petitions were withdrawn, and there are 4 pending I-526 files with age-out dependents. USCIS is prepared to deny the remaining I-526 petitions that were not eligible at the time of filing as required per 8 CFR 103.2(b)(1).

History of the Regional Center

Colorado Regional Center (CRC) filed an initial Regional Center Proposal and multiple amendments. USCIS approved the initial proposal and the 3rd amendment. The 1st and 2nd amendments were closed. A total of 59 I-526 petitions were originally filed.

Initial RC Proposal (RCW1031910180): On July 20, 2009, CRC filed its initial proposal. There were no "usage clauses" in the documents submitted in the initial proposal.

On May 14, 2010, the California Service Center approved the initial proposal. The approval was based on an economic analysis relating to exemplar business plans submitted for each economic cluster, and not I-526 exemplar projects. There was no specific project named in the approval notice.

The job creation analysis was based on construction and operations of office buildings, hotels, light manufacturing facilities, retail space, restaurants, and a bioscience research park.

1st Amendment (RCW1031910259): In its 1st amendment proposal of October 4, 2010, CRC sought to change the ownership of CRC from Texas Heritage Capital, LLC (20%) and Waveland Ventures, LLC (80% ownership) to solely Waveland Ventures, LLC. On December 7, 2010 the amendment proposal was administratively closed because it was not necessary to file an amendment for a change of ownership. A notice of closure was sent advising the regional center that an amendment was not needed.

2nd Amendment (RCW 1034050032): In its 2nd amendment proposal of November 19, 2010, CRC sought pre-approval of an I-526 Exemplar Project, the Solaris Residences Project. On February 7, 2011 the amendment proposal was denied because CRC submitted a letter withdrawing the proposal.

3rd Amendment (RCW1109750193): In its 3rd amendment application of April 7, 2011, CRC sought pre-approval of an I-526 Exemplar Project, the Solaris Residences Project. On June 30, 2011, USCIS approved the 3rd Amendment Application.

USCIS later determined that the supporting documentation included in the Amendment Application did not satisfy two essential EB-5 requirements:

1. The EB-5 capital would not be available to the job creating entity and
2. The EB-5 capital was not adequate and was not fully placed at risk. The individual investors were entitled to as many as 21 days use of the condominium units per year. This represented a return of their investment that reduced the total minimum requisite investment.

In addition, the project involved commercial space and a job creation methodology that was based upon counting the tenant occupants. USCIS is giving deference to the tenant occupancy job creation approach for the Forms I-526 in accordance with USCIS policy.

A Motion to Re-open and Request for Evidence has been drafted and is currently under review to address the "usage rights" capital investment deficiency in this amendment.

History of I-526 Investor Petitions:

In mid-February 2012, I-526 Officers adjudicating I-526s based upon the CRC new commercial enterprise (NCE) recognized the EB-5 capital issues described above. The full minimum capital investment was not being placed at risk in the job creating entity (JCE), Solaris Property Owner, LLC. Supporting documents indicated that each individual I-526 investor would receive up to a maximum of 21 calendar days' usage rights per year in a condominium unit as part of a loan agreement between the NCE and the JCE.

The documents containing that provision were identified in both the I-526s filed at that time and later in the 3rd I-924 Amendment that had been approved on June 30, 2011. The documents containing the EB-5 non-compliant language included:

- A Yield Enhancement Agreement
- A Confidential Information Memorandum
- The Limited Liability Limited Partnership Agreement of the Colorado Limited Liability Limited Partnership; and

Requests for Evidence were issued for the I-526s to address the "usage rights" issue. In response to the RFE, USCIS was advised that the usage rights issue was addressed in the documents of the I-924 amendment that was approved on June 30, 2011. Upon review of the I-924 amendment, this was determined to be true.

Some I-526 petitioners responded to the RFEs by removing the offending "usage rights" language in their documents. USCIS determined that, despite remedying the non-compliant language, the I-526 filers were not eligible at the time of filing because the original I-526 filings were submitted with the non-compliant documents.

On March 20, 2012, USCIS sent emails via the USCIS Immigrant Investor Program mailbox to the attorneys representing all of the 59 I-526 filers at that time. USCIS explained that the aggregate 21 day "usage rights" were a non-EB5 compliant provision and that the I-526s were not approvable at the time of filing. USCIS provided these attorneys with the option to withdraw any similar petitions and re-file new Forms I-526 without fee. The re-filed I-526s would be expedited upon receipt.

In response to the 59 emails:

- 55 petitioners withdrew their I-526s and 54 of those re-filed their I-526s with the corrected documents.
- One chose not to re-file.
- The remaining 4 I-526s had dependents that would age-out if they re-filed their I-526s. USCIS has prepared draft denial notices which cite the petitioners' ineligibility at the time of filing.

<u>The Current Status of the I-526s for this NCE as of August 7, 2012 are as follows:</u>

Filings:

59	Original filings
70	New filings
54	Refiled petitions
183	Total I-526s Filed

Disposition:

55	Withdrawn
51	Approved
70	Pending (no action)
4	Pending Denial with Age-Out Dependents
3	Pending with RFE response
183	Total

I-526 petitions continue to be filed for investors for this regional center filing.

<u>Summary:</u>

USCIS should reopen the approved Regional Center Amendment, and it should deny the remaining 4 Forms I-526. It is unfortunate that the RC was approved in error, and it is also unfortunate that 4 of the original I-526 cases involve aged-out dependents. However, we cannot overlook the fact that essential eligibility requirements have not been met -- EB-5 minimum capital investment and eligibility at time of filing.

From: Mayorkas, Alejandro N
Sent: Tuesday, August 14, 2012 5:50 PM
To: [redacted]
Subject: RE: Info. for D1 on Colorado Cases

Thanks, [redacted] Let's discuss tomorrow some time.
Ali

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services
[redacted]
Washington, DC 20529
[redacted]
[redacted]@[redacted]

From: [redacted]
Sent: Tuesday, August 14, 2012 5:31 PM
To: Mayorkas, Alejandro N; [redacted]
Subject: FW: Info. for D1 on Colorado Cases

It appears all of the over-21 children are overseas except for those of one petitioner. That petitioner has two who appear to be attending school as F-1s.

From: [redacted]
Sent: Tuesday, August 14, 2012 3:10 PM
To: [redacted]
Subject: FW: Info. for D1 on Colorado Cases

[redacted]

See below details on the whereabouts of each petitioner and derivative. Let me know if you need anything else.

[redacted]

++++++++++++++++++++

[redacted]
[redacted]
Service Center Operations
U.S. Citizenship and Immigration Services
Department of Homeland Security
[redacted]
[redacted]

From: [redacted]
Sent: Tuesday, August 14, 2012 9:44 AM
To: [redacted]
Subject: RE: Info. for D1 on Colorado Cases

[redacted]

WAC1290177665

Petitioner is [redacted]
Spouse is [redacted] (04/06/1965)
According to SQ94 [redacted] and her spouse visited the U.S. with B-2 visas and most recently departed on 9/21/2011. They appear to be outside of the U.S.
The petitioner's children are [redacted] and [redacted] (twins with D.O.B. 2/4/1991). [redacted] visited the U.S. with his parents and also departed on 9/21/2011. [redacted] has been attending the U. of V[redacted] as an F-1. She most recently departed on 5/24/12. All dependents appear to be outside of the U.S.

WAC1190647722

Petitioner is [redacted]
Spouse is [redacted] (7/23/1966)
Children are [redacted] (9/5/1990) and [redacted] (6/18/1995)
Mrs. [redacted] and both children appear to be in the U.S. with F-1 visas. SQ94 shows an arrival date of 8/22/2011 for the petitioner's spouse and children and no departure dates.
Mr. [redacted] appears to have last entered as a B2 on 6/7/2012 and departed on 7/27/2012.

WAC1290116976

Petitioner is [redacted]
Spouse is [redacted] (4/17/1964)
Children are [redacted] (2/9/1991) and [redacted] (6/17/1993)
[redacted] and spouse last entered as B2 on March 4, 2011 and departed on September 26, 2011.
CCDI shows that Mr. [redacted] and spouse requested a B2 visa for travel on 4/29/2012 through May 2012. SQ94 does not show that they returned to the U.S. after 9/26/11. It appears that the two children are outside of the U.S. and there are no records showing either of the children have entered the U.S.

WAC1190658224

Petitioner is [redacted]
Spouse is [redacted] (5/18/1965)
Children are [redacted] (2/11/1990) and [redacted] (9/12/2006)
No records showing that the petitioner or her spouse have been in the U.S. No records to show that [redacted] has been in the U.S.
[redacted] has been a student at Woodbury University. He was most recently admitted as an F1 on 3/25/2009 and most recently departed on 5/9/2009.
No members of this family appear to currently be in the U.S.

Please let me know if you need anything further. Thanks. [redacted]

From: [redacted]
Sent: Tuesday, August 14, 2012 8:32 AM
To: [redacted]
Subject: FW: Info. for D1 on Colorado Cases

FYI –

From: [redacted] W
Sent: Tuesday, August 14, 2012 8:25 AM
To: [redacted]
Cc: [redacted]
Subject: FW: Info. for D1 on Colorado Cases

[redacted]

Dir. Mayorkas has requested information on the petitioner and derivative family members in the four Colorado Project Solaris "age-out" I-526 petitions. Mainly, Dir. Mayorkas is trying to find out where the petitioner and derivative family members currently are residing (i.e. in the U.S. or abroad) and the age of the derivatives. I was able to check the petitioner since their name and DOB is in the system and here is what I found according to ADIS and SQ94:

- 3 of the 4 petitioners have entered the U.S. on B2/WT (South Korea) visas but are all now currently outside of the U.S.
  - WAC1290116976 - Last entered on 09/13/2011 as a B-2 and departed on 09/26/2011.
  - WAC1190647722 - Last entered on 06/07/2012 as a WT and departed on 07/27/2012.
  - WAC1290177665 - Last entered on 08/23/2011 as a B-2 and departed on 09/02/2011.
- 1 petitioner has no entry records so appears to be outside of the U.S.
  - WAC-1190658224 - No records in ADIS or SQ94.

As such, it appears like the petitioners are all outside the U.S. What I need done is to have the files checked to see if the derivative family members are identified (sometimes they are and sometimes they aren't within a 526 petition) and if they are, have checks ran to see if any of the derivatives appear to be in the U.S.

Once you have the information please feel free to respond to this email with whatever you find. It doesn't have to be detailed, simply providing the relationship of any individuals found (i.e. spouse or child), the DOB, and whether or not they have been in the U.S., and if so, what status and where are they now. As an example:

WAC1290116976

- Spouse / 07/31/1966 / Last entered on 09/13/2011 as a B-2 and departed on 09/26/2011 / Appears to be outside of the U.S.
- Child / 09/22/1995 / Last entered on 09/13/2011 as a B-2 and departed on 09/26/2011 / Appears to be outside of the U.S.

This isn't "right this second" urgent, but we should try and get this information to Dir. Mayorkas today.

THANKS SO MUCH and let me know if you have any questions.

[redacted]

++++++++++++++++++++

[redacted]

Service Center Operations
U.S. Citizenship and Immigration Services
Department of Homeland Security

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, August 14, 2012 8:04 AM
To: [redacted]
Subject: RE: Info. for D1 on Colorado Cases

[redacted]

-----Original Message-----
From: [redacted]
Sent: Tuesday, August 14, 2012 6:13 AM
To: [redacted]
Subject: Info. for D1 on Colorado Cases
Importance: High

[redacted]

Ali has requested specific information (location (US or abroad), age, etc.) on the petitioner and their family members for the four age out cases.

Who can I work with to facilitate getting this information to Ali ASAP?

Thanks for letting me know.

[redacted]

++++++++++++++++++++++++

[redacted]r
Service Center Operations
U.S. Citizenship and Immigration Services Department of Homeland Security
[redacted]