

January 26, 2022

Samantha L. Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Ave. NW,
Washington, DC 20529-2240

Submitted via www.regulations.gov

OMB Control No.: 1615-NEW

Docket ID: USCIS-2022-0010

**Re: Agency Information Collection Activities; Draft Form I-956K,
Registration for Direct and Third-Party Promoters**

Dear Ms. Deshommes:

Klasko Immigration Law Partners LLP (“Klasko,” or “KILP”) respectfully submits the following comments on behalf of all the plaintiffs in *EB5 Capital, et al. v. DHS, et al.*, (No. 3:22-cv-3948-VC (N.D. Cal.)), and plaintiff Invest in the USA (“IIUSA”) in *Behring Regional Center LLC vs. Alejandro Mayorkas et al.*, Case No. 3:22-cv-2487VC (ND Cal.), to the above-referenced Department of Homeland Security (“DHS”) and U.S. Citizenship and Immigration Services (“USCIS”) Agency Information Collection Activities: Draft Form I-956K (OMB Control No.:1615-NEW; Docket ID: USCIS-2022-0010) (hereinafter “Form I-956K”, or the “Form”) pursuant to a notice collection dated December 27, 2022. These comments are intended to supplement the November 1, 2022, comments submitted by plaintiffs on this form.

Klasko is the counsel for all plaintiffs in *EB5 Capital, et al. v. DHS, et al.*, (No. 3:22-cv-3948-VC (N.D. Cal.)), and plaintiff Invest in the USA (“IIUSA”) in *Behring Regional Center LLC vs. Alejandro Mayorkas et al.*, Case No. 3:22-cv-2487VC (ND Cal.). Klasko’s seasoned and renowned EB-5 immigration lawyers have helped thousands of foreign nationals successfully navigate the EB-5 investor program to obtain conditional and permanent residency in the United States. In addition, Klasko’s EB-5 team is adept at navigating the complexities of the EB-5 program for regional centers and developers. Klasko works with an accomplished network of securities lawyers, economists, business plan writers, and other professionals to structure projects that are EB-5 compliant.

The plaintiffs in *EB5 Capital, et al. v. DHS, et al.*, (No. 3:22-cv-3948-VC (N.D. Cal.)) are USA EB5 Immigration, LLC d/b/a EB5 Capital, CanAm Enterprises, LP, Civitas Capital Management, LLC, Golden State Renaissance Ventures, LLC d/b/a Golden Gate Global, and Pine State Regional Center, LLC.

EB5 Capital owns and operates five regional centers that serve 14 states. Since its founding in 2008, it has funded over \$900 million in EB-5 funds for 32 completed and current projects. It has a 100% project approval rate from USCIS. It is headquartered in Bethesda, Maryland.

CanAm Enterprises, LP owns and operates seven regional centers. In its thirty-five years of experience, it has raised over \$3 billion in EB-5 funds for 63 projects from more than 5,800 EB-5 investors. It has more than 5,000 I-526 petition approvals, and more than 2,500 I-829 petition approvals have been issued to its EB-5 investors. It has a 100% project approval rate from USCIS. It is headquartered in New York, NY.

Civitas Capital Management, LLC owns and operates several regional centers, including the Civitas Texas Regional Center. Since its founding in 2009, it has raised more than \$700 million in EB-5 investments. It has a 100% project approval rate from USCIS. It is headquartered in Dallas, Texas.

Golden State Renaissance Ventures, LLC d/b/a Golden Gate Global owns and operates several regional centers. Since its founding in 2011, it has raised over \$650 million in EB-5 funds, which account for over 22,000 jobs created. It has a 100% project approval rate by USCIS. It is headquartered in San Francisco, California.

Pine State Regional Center, LLC was designated by USCIS as an EB-5 regional center in 2014. With a focus on rural manufacturing EB-5 projects, Pine State provides financing to highly impactful job-creating projects, deploying over \$100 million of foreign investor capital to date. It is headquartered in Little Rock, Arkansas.

Invest in the USA (“IIUSA”) is the national membership-based 501(c)(6) non-profit trade association for the EB-5 Regional Center Program. IIUSA represents over a hundred regional center members serving forty-seven states and territories. Its mission is to advocate for EB-5 stakeholders, including its regional center members, to foster U.S. economic development and domestic job creation. It is headquartered in Washington, D.C.

Comments to Form I-956K

Definitions:

The Form calls for the registration of “direct promoters,” “third-party promoters,” and “migration agents.” Neither the statute, the regulations, nor the instructions to the Form define these terms, and they are not self-defining. The instructions should indicate USCIS’ definition of these terms before individuals or entities are required to register. Specifically, the instructions should distinguish between the terms so that a registrant can determine which category(ies) are applicable.

Online Applications

It is essential that the registrant be able to register online and provide the required evidence electronically. Mailing the form and documentation, particularly for registrants in remote areas, may prove unduly burdensome. USCIS should state when online Form I-956K registration will be available.

Receipt Notices

USCIS should confirm that electronic receipt notices will be provided to Form I-956K registrants and indicate the expected time frame for such notices.

Penalties

The instructions state the following regarding penalties:

“If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-956K, we may take appropriate action on any associated applications or petitions, which may include the denial of another immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.”

USCIS should clarify what applications or petitions could be considered “associated” with a Form I-956K filing. USCIS should also clarify what immigration benefits may be denied. USCIS should confirm that investors will not be denied immigration benefits due to fraud or misrepresentation by promoters.

Miscellaneous Considerations

USCIS should confirm that filing the Form I-956K is sufficient to enable the promoter activities to commence and should provide an effective date for Form I-956K registration, which is 30 days after finalization.

Conclusion

We appreciate the opportunity to comment on the Form I-956K and look forward to a continuing dialogue with DHS on this important matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Ronald Klasko". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

H. Ronald Klasko, Esq.
Klasko Immigration Law Partners, LLP