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"Creating Jobs Through Investments"

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VIA 1st CLASS MAIL AND EMAIL

February 20, 2014

The Honorable Senator Tom A. Coburn, M.D.
 United States Senate

RE: Requested Information on the EB-5 Regional Center Program

Dear Senator Coburn:

On behalf of the Association to Invest In the USA (IIUSA), thank you for your interest in the EB-5 Regional Center Program (the “Program”) and your effort to understand its current function and contribution to the United States. IIUSA is a non-profit, membership-based industry trade association representing 146 federally designated EB-5 Regional Centers across the country serving 42 states/territories. IIUSA’s mission is to make the EB-5 Regional Center Program a permanent and successful part of U.S. economic development policy through advocacy, education, industry development, and research.

In response to your February 12th letter, enclosed is a significant amount of information about the EB-5 Regional Center industry. There are three sections to this letter with Appendices A-L attached, providing: (1) background information on the Program’s history and how it works; (2) responses to the specific questions in your letter; and (3) reasons to support the Program so it can continue to drive U.S. capital investment and create American jobs at no cost to the taxpayer.

I. Background

Congress created the EB-5 program in 1990 to benefit the U.S. economy by attracting investments from qualified foreign investors. Under the Program, each investor must prove that at least ten new jobs were created or saved as a result of the EB-5 investment, which must be a minimum of \$1 million, or \$500,000 if the funds are invested in certain high-unemployment or rural areas.

More than 25 countries, including Australia, Portugal, Spain, and the United Kingdom, use similar programs to attract foreign investments. The American program is more stringent than

many others, requiring substantial risk for investors in terms of their financial investment, job creation requirements, and immigration status. Specifically:

- Investments made through the U.S. EB-5 Program must be “at risk.” There is no guaranteed financial return or return of principal capital.
- If their application is approved by USCIS, EB-5 investors receive a conditional immigrant visa (*i.e.*, “green card”) that is valid for two years. To receive a permanent green card, these investors must demonstrate that the legally required economic benefits flowing from their investments have been achieved.

Annually, the EB-5 Program accounts for less than one percent of the total number of visas issued by the U.S. Throughout the process, EB-5 investors are subject to the same background checks and national security screenings as applicants in any other immigrant visa category, and their ability to eventually apply for citizenship is subject to the same criteria as other green card holders. Like any other investment vehicle, EB-5 investment funds are subject to U.S. securities and anti-fraud laws and regulations.

In 1992, Congress enhanced the economic impact of the EB-5 Program by permitting the designation of Regional Centers to pool EB-5 capital from multiple foreign investors for investment in USCIS-approved economic development projects within a defined geographic region. Today, about 95 percent of all EB-5 capital is raised and invested in affiliation with Regional Centers (and over 95 percent of that capital is raised in affiliation with IIUSA’s Regional Center members). Regional Centers maximize the program’s job creation benefits by facilitating the investment of significant amounts of capital in large-scale projects, often in coordination with regional economic development agencies that use the EB-5 funds to leverage additional domestic capital.

Regional Centers use standard economic analysis models, including those developed by the U.S. Department of Commerce (*i.e.*, RIMS II), to demonstrate that job creation targets required by law have been achieved.¹ Each EB-5 applicant investing in a Regional Center project must create at least ten direct, indirect or induced jobs for U.S. workers. All investment offerings made by EB-5 Regional Centers are subject to U.S. securities laws, enforced by state securities regulators and the U.S. Securities & Exchange Commission (SEC).

Existing federally-designated Regional Centers include entities that are publicly owned and operated by state economic development agencies as well as public-private partnerships and private sector companies. A Regional Center obtains its designation by submitting a detailed application to USCIS. The application (submitted on Form I-924, Application for Regional Center under the Immigrant Investor Pilot Program) must state the kinds of businesses that will receive capital from investors, the jobs that will be created directly or indirectly as a result of the investment of capital, and the other positive economic impacts that will result from the

¹ For more information on the RIMS II economic model maintained by the Bureau of Economic Analysis at the U.S. Department of Commerce, see: <https://www.bea.gov/regional/rims/rimsii/>.

investment of capital.² Regional Centers then compete with one another for investment capital in the marketplace.

Capital investments made by IIUSA members have supported many successful economic development projects, including:

- Redevelopment of a closed Air Force base in Southern California into a vital commercial area, including a distribution center and regional airport;
- Development of assisted and retirement living communities in Washington State, creating 800 jobs and serving approximately 500 seniors in 265 residences;
- Expansion of a dairy farm operations in rural Iowa;
- The transformation of the closed Navy Yard in Philadelphia into a dynamic, multi-use development now home to 130 companies and 10,000 employees;
- Restoration of a historic building in Seattle, creating a modern hotel that employs almost 100 people and serves over 100,000 hotel guests annually;
- Expansion of a one season ski-resort in rural Vermont into a thriving four season vacation destination; and
- Rehabilitation of a 100-year-old building into a hotel that created 161 jobs while kick-starting the revitalization of a historic Dallas neighborhood.

These are but a few examples of many success stories in diverse communities across America, in a diverse set of industries, where the EB-5 Program is delivering on its promise of capital formation and job creation for the U.S. at no cost to the U.S. taxpayer.³ In supporting the success of our Regional Center members, an integral part of IIUSA's mission is to support this kind of economic development and job creation.

II. Response to Specific Requests

IIUSA is a voluntary organization of Regional Centers, related entities, and persons with a wide range of activities and arrangements that do not conform to standard, across the board answers. Nevertheless, we have provided information below in response to your specific questions which we hope will be helpful.

² For more information about Form I-924, see: <http://www.uscis.gov/i-924>.

³ The last time the U.S. Congressional Budget Office (CBO) officially “scored” a five year reauthorization of the Program in 2008, it was given a “neutral” score – meaning that user fees cover the costs of administering the Program. See: <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/92xx/doc9244/hr5569.pdf>

Much of the information being requested by your office is captured on Form I-924A and is therefore on file at U.S. Citizenship and Immigration Services (USCIS). Regional Centers are required to file this form annually to report their activities. A blank copy of the form is attached as Appendix A for your reference.⁴ It is important to note that our members may consider specific information included on Form I-924A to be proprietary and confidential, and to our knowledge USCIS has treated it so in responding to Freedom of Information Act (FOIA) requests for it.

- **A list of IIUSA's member Regional Centers, including the address of the Regional Center and any corporate officers;**

IIUSA Regional Center members are published on IIUSA's web site at www.iiusa.org/en/regional-center-members. A printout is also attached as Appendix B. IIUSA does not maintain a comprehensive list of its members' corporate officers. Member Regional Centers choose which of its officers, employees or agents will participate in IIUSA activities on their behalf. The IIUSA website provides links to the websites of those Regional Center members who have chosen to publish them.

Furthermore, the IIUSA website lists the following information about each Regional Center member so long as that information is on file with IIUSA:

- Mailing Address;
- Email Address;
- Phone Number;
- Approval Date;
- States Served;
- Approved Geographic Boundaries;
- Approved Industry Sectors (often down to the North American Industry Classification System (NAICS) code);
- Member Since Date; and
- Parent Company (if applicable), which is hyperlinked to the website of that "Parent Company" if such a website is on file.

⁴ For more information of Form I-924A, see: <http://www.uscis.gov/i-924a>.

Furthermore, visitors to the IIUSA website can use various filter tools (below the map) to search for Regional Centers that:

- serve specific states;
- were approved during a certain timeframe; and/or
- have reported I-526/I-829 approvals on Form I-924A since its implementation as the mechanism for Regional Center annual reporting in 2011 (see Appendix A for a blank Form I-924A).

Our Regional Center Members Interactive Map relies on data that is either shared voluntarily by members or obtained from USCIS through FOIA requests.

- **The total annual amount of investment and number of individuals by country of origin making investments through your member Regional Centers;**

Each Regional Center is required to submit annual reports to USCIS using Form I-924A. The USCIS FAQ (attached as Appendix C) concerning the information sought in I-924A reflects that USCIS only expects those reports to include funds that have been released to the “new commercial enterprise.”⁵ Members may consider specific information proprietary and confidential, and to our knowledge USCIS has treated it so in responding to FOIA requests for it.

Using comprehensive datasets of I-526 and I-829 approval/denial statistics for each Regional Center in the country for fiscal years 2010-2012, IIUSA commissioned two separate economic impact studies to examine the benefits of the EB-5 Program. The first covers fiscal years (FY) 2010-2011 (since the first I-924A filings in 2011 covered the previous two FY) and a follow up study covering FY2012. In addition to tracking the impact by geography down to the state level, a breakdown of the “new commercial enterprises” and “job creating enterprises” that Regional Centers fund throughout the year, along with NAICS to track industry sector impacts, adds further context to the data. The studies were performed by IMPLAN Group, LLC – the creators of the IMpact PLANning (“IMPLAN”) econometric model that is widely used to measure and forecast economic impact. The studies were peer-reviewed by university economists affiliated with the Association for University Business Economic Research (AUBER).

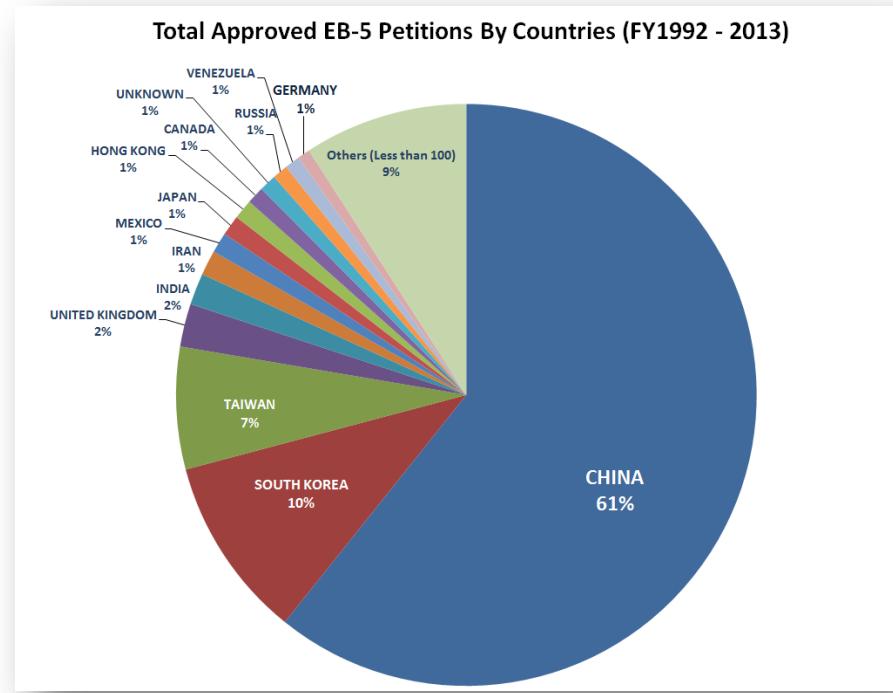
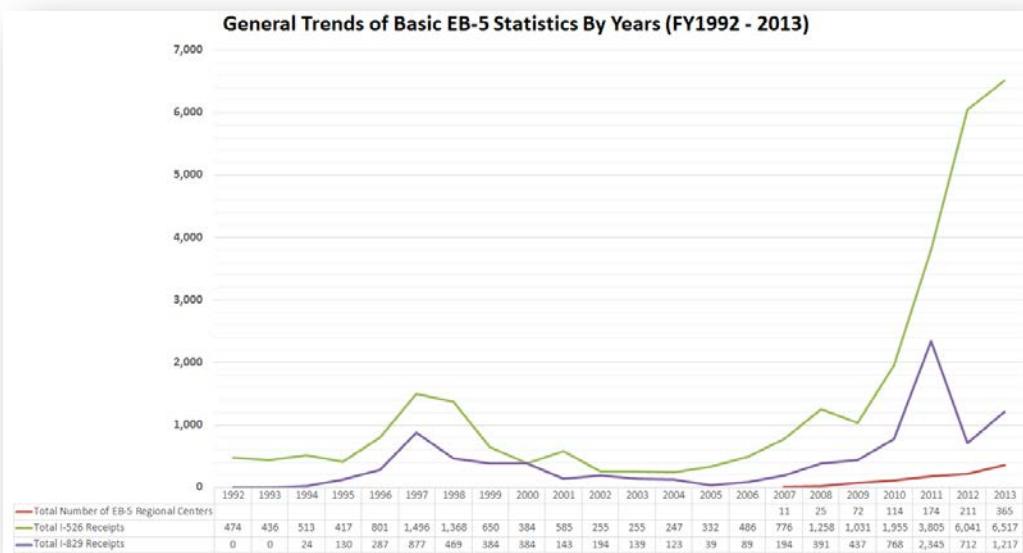
The FY2010-2011 study found that the Program contributed over \$2.6 billion to gross domestic product (GDP), supported over 33,000 American jobs, and generated over \$564 million federal/state/local tax revenue. Industries benefiting the most included construction, food service, wholesale trade, real estate, financial services, legal services, architecture/engineering, and healthcare. A full copy of the study is attached as Appendix D.

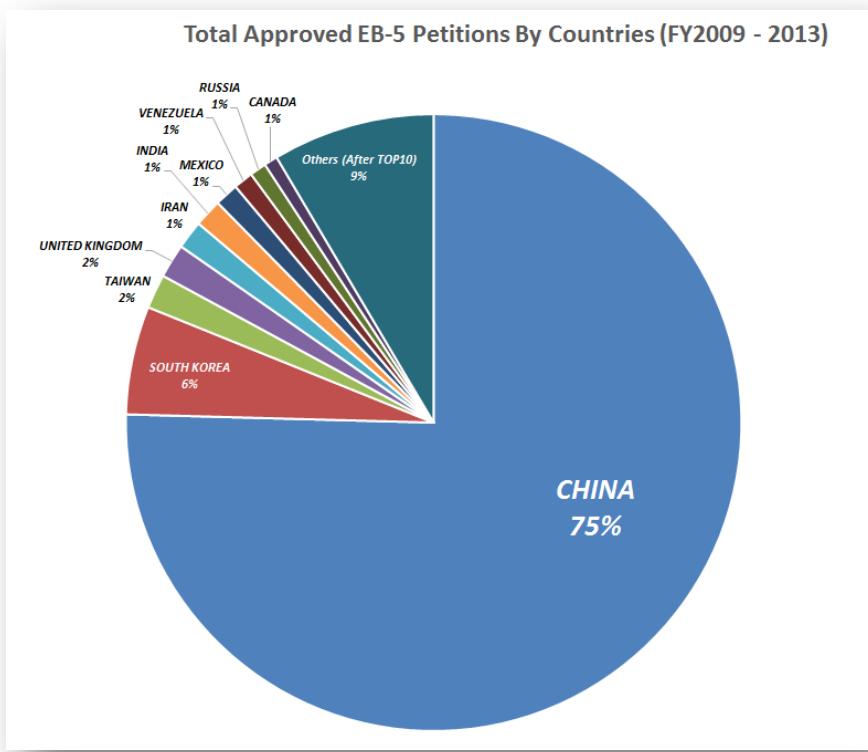
⁵ To view the December 2011 USCIS Q&A guidance on Form I-924A, see:
<http://www.uscis.gov/forms/questions-and-answers-form-i-924a>.

The FY2012 study, a full copy of which is attached as Appendix E, found that the Program's economic impact increased dramatically over the previous two years by contributing more than \$3.39 billion to U.S. GDP, supporting over 42,000 U.S. jobs, and generating over \$712 million in federal/state/local tax revenue. This is more than a two-fold increase from the average annual impact result reported in 2011. Other key findings of the 2012 study include:

- Investment represents the largest component of EB-5 spending, with approximately \$1.8 billion invested by EB-5 Regional Center investors. These investments contributed \$2.5 billion to U.S. GDP and supported 33,134 American jobs.
- Over 85 percent of EB-5 investment capital – \$1.55 billion – was invested in the construction sector. Other sectors seeing EB-5 investments include chemical manufacturing, mining, manufacturing and power generation.
- Pennsylvania, New York, California and Illinois top the list of states with the largest levels of investment, and these saw the largest investment impacts. For example, The EB-5 Program supported more than 8,000 jobs in California alone.
- Household spending by EB-5 investors and their families contributed approximately \$383 million to US GDP and supported more than 4,700 jobs in 2012. The economic impact of household spending represents a permanent impact on the U.S. economy, as these families maintain spending patterns year after year.
- Spending on EB-5 related immigration services contributed approximately \$477 million to U.S. GDP and supported nearly 5,000 jobs in 2012. These expenditures include spending on flights, moving services, cars, investment and legal services, and government fees.

The initial data for FY2013 suggests another record-breaking year for investor demand and economic impact, with 6,500+ I-526 petitions received compared to 6,000+ in FY2012. While we do not have information on the demographic makeup of each Regional Center member's investors, IIUSA has analyzed I-526 approval data in aggregate and by country of origin from 1992-2013. The analysis is summarized in the graphs and charts below, many of which have other data included to provide context.





- Any analysis of the number of jobs created by your member Regional Centers and a description of those jobs;**

See the preceding section. Please note that members may consider specific information proprietary and confidential, and to our knowledge USCIS has treated it so in responding to FOIA requests for it. The USCIS FAQ guidance (attached as Appendix C) concerning the information sought in Form I-924A (attached as Appendix A) reflects that USCIS only expects those reports to reflect the creation of ten jobs per EB-5 investor for whom form I-829 has been approved, while also acknowledging it likely underrepresents the actual job creation, including indirect impacts, resulting from the Program.

- A description of any fees charged to EB-5 applicants or received by your member Regional Centers;**

IIUSA Regional Center members do not report this information to IIUSA. EB-5 investment offerings usually require investors to pay a “subscription” fee to cover costs of organizing, marketing, and administering various aspects of the offerings, which may include fees to Regional Centers for their services in evaluating and monitoring projects for EB-5 compliance, coordinating with investors for immigration filings, and reporting to USCIS in the annual Form I-924A and as otherwise may be required. These fees are entirely separate from the capital contributions to make sure that the minimum capital investments (\$500,000 or \$1 million per

investor at a minimum) are fully preserved and used in the U.S. job creating projects as required by USCIS policy.

- **The name and address of any individual or entities - foreign or domestic - used by your member Regional Centers to provide legal, accounting, recruiting, or consulting services and a description of the services provided; and,**

IIUSA member Regional Centers do not report to IIUSA their vendors of various services and may consider that information proprietary and confidential.

- **What steps IIUSA has taken to ensure its membership does not engage in unethical or unlawful activity.**

As a voluntary organization, IIUSA is not in a position to mandate specific conduct by its members. IIUSA has, however, compiled and published recommended various best practices for its members at: <http://www.iiusa.org/en/iiusa-approved-best-practices>. All of the following recommended practices are also attached as Appendix G:

- Recommended Best Practices for EB-5 Regional Centers;
- Suggested Best Practices for Dealing with Foreign Agents/Recruiters;
- Ethics and Professional Conduct Standards for EB-5 Regional Centers;
- Procedure for Filing Member Complaints and Details on Membership Sanctions Related to Violations of the Ethical and Professional Conduct Best Practices; and
- Best Practices in Getting to Know Potential EB-5 Investors (Know Your Customer "KYC").

IIUSA also regularly provides a wide array of educational offerings to members and the general public concerning legally compliant practices (see Appendix E for sample conference agendas from IIUSA events). IIUSA also publishes informative industry information to its blog 4-5 times a week at: www.iiusablog.org. In 2013, we launched a quarterly trade magazine, the *Regional Center Business Journal*, which is the industry's leading publication with an international distribution list of well over 1,000 stakeholders from across sectors. Digital viewing of each 2013 edition is available at: www.issuu.com/iiusa. Hard copies are also attached as Appendix F.

Lastly, IIUSA actively engages in public discourse to amplify the message of deterrence when USCIS, the U.S. Department of Justice, and/or the SEC have used laws already on the books to stop criminals from exploiting the Program. IIUSA welcomes this interagency collaboration to protect the integrity of the EB-5 Regional Center industry.

For example, in April 2013 IIUSA filed an amicus brief (attached as Appendix H) supporting SEC action to stop a nonmember Regional Center and developer from making misleading claims

about investment opportunities. As a result of the SEC's swift action, over \$150 million in investment capital was returned to EB-5 investors before it could be put to fraudulent use. IIUSA also encourages collaboration between the SEC and USCIS through public statements supporting joint public activities, such as the EB-5 stakeholder teleconference in April 2013 and an "Investor Alert" issued in October 2013 after the SEC announced a civil enforcement action against a nonmember Regional Center in McAllen, Texas. Attached as Appendices J-L are a summary of the April 2013 SEC/USCIS engagement, the October 2013 "Investor Alert," and IIUSA statement supporting the SEC action.

III. Conclusion

IIUSA thanks you for your interest in the EB-5 Regional Center Program. The information enclosed demonstrates the importance of the Program to regional economic development and job creation across the U.S. in both rural and urban communities, with a diverse set of industries finding ways to use the Program successfully. For example, in summer 2012 over 375 signatories from across various economic sectors signed an IIUSA-authored letter in support of the EB-5 Regional Center Program. In both 2012 and 2013, the U.S. Conference of Mayors adopted resolutions supporting the Program, recognizing the value of EB-5 investments to urban development projects.

This widely shared public benefit is the reason the Program has a history of strong bipartisan support. The most recent re-authorization in 2012 passed the Senate by unanimous vote and 412-3 in the House.⁶ The word "pilot" was also removed from the statute during this last re-authorization, a hopeful signal that after over 20 years in existence, Congress is ready to permanently authorize the Program.

We would be happy to answer any additional questions you may have. Thank you again for your interest and for your long tenure in public service of our great nation.

Sincerely,



Peter D. Joseph
Executive Director

⁶ Public Law 112-176.