



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Kevin Johns, Director  
Economic Development Department

**DATE:** May 22, 2014

**RE:** Recommendation regarding EB-5 Program

On November 21, 2013, you approved Resolution No. 20131121-059 directing the City Manager to work with stakeholders to evaluate opportunities for the City to benefit from an EB-5 Program and to bring recommendations back to Council. On February 19, 2014, I reported that the Economic Development Department was working with the Legal Department and the Greenberg-Traurig law firm to review all options. At that time, I requested additional time to complete our evaluation and develop recommendations.

Both the Legal Department and Greenberg-Traurig have concluded their review of EB-5 Program options and have provided legal guidance to the department in this regard. For an overview of the Federal EB-5 program, please see the attached presentation, "The EB-5 Immigrant Investor Visa Program Overview."

Based on the legal guidance and our own research, the department recommends the following course of action to implement a City of Austin pilot EB-5 Program:

1. Issue a Request for Information (RFI) to Regional Centers to gather information on experience, capability, capacity, and success.
2. Select a Regional Center for a preferred pilot partnership based on an analysis of the information received and interviews conducted.
3. Allow the selected Regional Center to market City-affiliated projects for the EB-5 Program. In exchange, City-affiliated projects stand to receive EB-5 Program financing. Additionally, the City will receive a fee from each EB-5 Program transaction.

The above course of action for a City EB-5 Program was reviewed and approved by the Mayor's EB-5 working group of stakeholders.

A pilot partnership with an existing EB-5 Regional Center will allow the City to realize public benefits such as increasing foreign direct investment, job creation, and financing City-affiliated projects without undue costs.

The proposed approach has the following additional advantages:

- Limited financial and reputational risk
- Limited legal liability
- Speed of implementation
- Leverages private sector's expertise in finance, due diligence, securities law, and immigration law
- Revenue generated from transaction fees

The department plans to begin implementation of the recommended course of action immediately with the goal of establishing a pilot partnership with a Regional Center by late Summer 2014.

xc: Marc A. Ott, City Manager  
Sue Edwards, Assistant City Manager

Attachment: EB-5 Immigrant Investor Visa Program Overview Presentation

# THE EB-5 IMMIGRANT INVESTOR PROGRAM OVERVIEW

Report to Mayor and Council  
Economic Development Department  
May 22, 2014

# WHAT IS EB-5?

- An employment-based visa program through the U.S. Citizenship and Immigration Service
- Allows foreign nationals investing **\$1 million** into the United States to receive a green card if their investment creates **10 direct jobs** within two years
  - Indirect jobs may be counted if investing through a Regional Center
  - Qualifying investment level drops to \$500,000 if investing in a Targeted Employment Area
- Spouses and dependent family members under age **21** are also eligible to receive green cards
- Must invest in a **new commercial enterprise**
- Investment must be at risk

# HISTORY OF EB-5 PROGRAM

- Established by the Immigration and Nationality Act of 1990
- Intended to stimulate the economy through job creation and capital investment by foreign investors
- Not heavily used in early years of the program, has gained increasing popularity since the recession of 2008



## Approved EB-5 Regional Centers



# TARGETED EMPLOYMENT AREAS

- A targeted employment area (TEA) is an area that, at the time of investment, is a rural area or an area experiencing unemployment of at least **150 percent** of the national average rate.
- If investing in a TEA, qualifying investment amount = **\$500,000** instead of **\$1 million**
- State governments certify that the geographic or political subdivision meets the unemployment rate necessary to qualify as a TEA under EB-5 regulations.
  - In most states, a statewide agency certifies TEAs.
  - In Texas, the following entities have been designated to certify TEAs:
    - Local mayors
    - County judges
    - May jointly designate TEAs if the TEA is within the boundaries of contiguous jurisdictions

# REGIONAL CENTERS

- **What is a Regional Center?**
  - “Any economic entity, public or private, which is involved with the promotion of economic growth, improved regional productivity, job creation and increased domestic capital investment.”
- **Immigrant Investor Pilot Program created in 1992:**
  - Provided for investments affiliated with a Regional Center which could use a more expansive concept of job creation to include indirect jobs.
- **The EB-5 Regional Center Program has been extended until September 30, 2015.**
- **There are currently 480 approved Regional Centers in the U.S. as of April 1, 2014.**

# APPLICATION PROCESS

- **EB-5 Investor files I-526 to demonstrate:**
  - Qualifying investment into a new commercial enterprise.
  - That the investor will be actively involved in the management of the enterprise.
  - The enterprise will create at least **10** full-time jobs.
  - If investing with an RC, that the investment was made in accordance with the RC's business plan to be credited with the creation of jobs.
- **After I-526 approval, files I-485 to obtain conditional permanent resident status.**
- **Two years after admission to U.S. as conditional permanent resident, files I-829 to remove conditions (receive green card).**
  - **Must demonstrate that investment did occur and investment created or "will create within a reasonable time" 10 full-time jobs.**

# WHO ARE EB-5 INVESTORS?

| Region of Origin          | EB-5 Preference Visas Issued |
|---------------------------|------------------------------|
| Asia                      | 6,966                        |
| Europe                    | 150                          |
| South America             | 54                           |
| Africa                    | 55                           |
| North America & Caribbean | 84                           |
| Oceania                   | 3                            |

# WHO ARE EB-5 INVESTORS?

| Country of Origin    | EB-5 Preference Visas Issued |
|----------------------|------------------------------|
| China- Mainland Born | 6,250                        |
| South Korea          | 309                          |
| China- Taiwan Born   | 113                          |
| Iran                 | 82                           |
| Japan                | 70                           |
| Mexico               | 63                           |
| UK                   | 52                           |
| Russia               | 39                           |
| Venezuela            | 35                           |
| Vietnam              | 33                           |
| Egypt                | 22                           |
| India                | 35                           |
| Canada               | 20                           |
| Nigeria              | 17                           |
| Hong Kong            | 16                           |

# TYPES OF EB-5 INVESTMENT (FY13)

|                         | Individual EB-5 (\$1M investment) | Individual EB-5 In TEA (\$500,000 investment) | Regional Center EB-5 (\$1M investment) | Regional Center EB-5 In TEA (\$500,000 investment) | Total EB-5 |
|-------------------------|-----------------------------------|---|--|--|------------|
| Preference Visas Issued | 104                               | 69  | 4                                      | 7,135  | 7,312      |

# REGIONAL CENTERS COVERING AUSTIN

- Civitas Texas Regional Center
- Great Southwest Regional Center LLC
- Gulf States Regional Center LLC
- Live in America- Texas Regional Center LLC
- Texas Urban Triangle Regional Center LLC
- US Freedom Capital – Texas LLC

# CITY INVOLVEMENT IN EB-5

- Currently, the Economic Development Department (EDD) works with the City Demographer and Mayor's Office to designate TEAs for EB-5 investment
- EDD also maintains a website with information about investing in Austin through this program:  
<http://austintexas.gov/eb-5>
- Government involvement in a Regional Center or EB-5 project is generally viewed favorably by potential EB-5 investors
- Resolution #20131121-059 directed the City Manager to work with stakeholders to evaluate opportunities for the City to benefit from EB-5 and to bring recommendations back to Council.

# MAYOR'S EB-5 WORKING GROUP ON SUSTAINABLE DEVELOPMENT

- In September 2012, Mayor Leffingwell established a working group to examine opportunities for the City of Austin within the EB-5 Program.
- In May 2013, the group issued the following recommendations:
  - Short-Term Recommendation:
    - Issue RFI to gather information from existing USCIS approved EB-5 Regional Centers
    - Issue RFP to establish working agreements with existing Regional Centers that meet the City of Austin requirements for association.
  - Long-Term Recommendation :
    - Create a non-profit to file for USCIS EB-5 Regional Center Application
    - Non-profit will issue RFP to designate EB-5 Regional Center Manager

# ECONOMIC DEVELOPMENT DEPARTMENT RECOMMENDATIONS

- The Economic Development Department recommends that the City pursue a partnership with an existing Regional Center. The Mayor's Working Group unanimously approved this recommendation.
- Advantages of this approach:
  - Limited financial and reputational risk
  - Limited legal liability
  - Speed of implementation: USCIS approval for new regional center could take 9-18 months
  - Leverages private sector's expertise in finance, due diligence, securities law, and immigration law
  - City can generate revenue from transaction fees
  - Allows City to realize public benefits such as increasing foreign direct investment, job creation, and financing City projects without undue costs

# NEXT STEPS

- 1. Issue a Request for Information (RFI) to Regional Centers to gather information on experience, capability, capacity, and success.**
- 2. Select a Regional Center for a preferred partnership based on an analysis of the information received and interviews conducted.**
- 3. Allow the selected Regional Center to market City-affiliated projects for the EB-5 Program. In exchange, City-affiliated projects stand to receive EB-5 Program financing. Additionally, the City will receive a fee from each EB-5 Program transaction.**

# ADDITIONAL RESOURCES

- [U.S. Citizenship and Immigration Services EB-5 Website](#)
- [Association to Invest in the USA \(IIUSA\)- EB-5 Regional Center Trade Association](#)
- [Brookings Institution Report: “Improving the EB-5 Investor Visa Program”](#)
- [City of Austin EB-5 Webpage](#)

**THANK YOU!**