



U.S. Citizenship  
and Immigration  
Services

**JUN 01 2011**

DATE:

Eric Chelini  
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Oakland, CA 94611

Application: Request to Amend Designation as a Regional Center  
Applicant(s): Eric Chelini

Re: San Francisco Bay Area Regional Center  
RCW1034150046 (formerly W09004070)

Pursuant to Section 610 of the Appropriations Act of 1993, as amended, the San Francisco Bay Area Regional Center ("SFBARC"), previously FFC-East Bay Regional Center, was approved and designated as a regional center to participate in the Immigrant Investor Pilot Program on October 7, 2009. In a written request, dated November 22, 2010, the SFBARC submitted an amendment to U.S. Citizenship and Immigration Services (USCIS) seeking to change its initial approval and designation as a regional center under the Immigrant Investor Pilot Program.

This notice is to update and amend the project from an exemplar investment project to an actual investment project. USCIS approved the above amendment for SFBARC on May 16, 2011. In that amendment, the notice mentioned the approval of an exemplar project, titled Vertebral Technologies, Inc. ("VTI") as an investment project for SFBARC and its request to seek 30 investors to invest in the new commercial enterprise. Vertebral Technologies, Inc., is approved as an actual project, as described below:

1. Vertebral Technologies Inc. ("VTI") is a highly specialized surgical implant developer and manufacturer, primarily engaged in the production of spinal implants for interbody fusion surgeries. VTI currently has a location in Minnetonka, MN, but is seeking to expand to new facilities in San Jose, California. VTI's unique approach focuses on a modular implant that can be customized to a patient's specific needs, using a standardized set of parts.....
2. VTI will be located in Santa Clara County, California, home to Silicon Valley and a burgeoning technology sector. It will target customers in the surrounding cities of Cupertino, Gilroy, Palo Alto, Mountain View, Santa Clara, San Jose and Sunnyvale as well as major metropolitan areas in neighboring counties including Berkeley, Oakland and San Francisco.

As explained in the original approval notice, the capital investment project that is identified in the business plan in the Form I-526 petition must serve as the basis for determining at the Form I-829 stage whether the requisite capital investment has been sustained throughout the alien's two year period of conditional

residency. In addition, the Form I-829 must show that the business plan for the actual project submitted with the I-526 petition was carried out and that at least ten jobs per investor for qualified employees were created as a result of the investment in that project.

The business plan in the Form I-526 petition may not be materially changed after the petition is filed. For example, an investment in Company A by the I-526 investor may not be changed to Company B for a different project prior to filing the I-829 petition even if both companies are in the same kind of business. Immigrant investors who are confronted with such a situation should consult with competent legal counsel to determine the appropriate course of action.

**GEOGRAPHIC AREA:**

The SFBARC shall have a geographic scope which includes the counties of Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara and Solano. Aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for commercial enterprises located within the approved Regional Center area. The geographic focus of this area may contain some Targeted Employment Areas (“TEAs”) as defined in 8 CFR 204.6(e). Therefore, the minimum capital investment threshold for any individual immigrant investment into an approved commercial enterprise throughout the Regional Center shall be not less than \$500,000, if the investment target is located within a, or \$1,000,000 if it is located outside of a TEA. No debt arrangement will be acceptable unless it is secured by assets owned by the alien entrepreneur. A full capital investment must be made and placed at risk.

For any alien requesting the reduced threshold of \$500,000 based upon an investment in a TEA, the alien must establish through the submission of the required evidence in 8 CFR 204.6(j)(6) at the time of filing of the I-526 petition that either the investment will be made in a TEA designated area or was in a TEA designated area at the time of the alien’s initial investment into the enterprise.

**FOCUS OF INVESTMENT ACTIVITY:**

As depicted in the economic model, the general proposal, business plan and associated economic analysis, the Regional Center will engage in the following economic activities: equity funding of or third party loans to enterprises engaged in real estate construction renovation and management; construction and development of infrastructures; design, development and operation of manufacturing facilities; and design, development for support services for specialized software and/or hardware; and preliminary funding for biotechnology development.

The Regional Center focus remains the same for offering EB-5 capital investment opportunities into new commercial enterprises in the following target industry economic categories:

- |                 |                     |
|-----------------|---------------------|
| 1. NAICS 621    | Health Care;        |
| 2. NAICS 5417   | Biotechnology;      |
| 3. NAICS 237130 | Alternative Energy; |
| 4. NAICS 541614 | Logistics           |
| 5. NAICS 311    | Food Manufacturing; |
| 6. NAICS 5415   | Digital Arts;       |
| 7. NAICS 339113 | Manufacturing; and  |
| 8. NAICS 531112 | Real Estate         |

Note: If any investment opportunities arise that are beyond the scope of the approved industry categories, then an amendment would be required to add that categories.

**EMPLOYMENT CREATION**

Immigrant investors who file petitions for capital investments in new commercial enterprises located within and affiliated with the Regional Center area must fulfill all of the requirements set forth in INA 203(b)(5), 8 CFR 204.6, and 8 CFR 216.6, except that the petition need not show that the new commercial enterprises created ten new jobs directly as a result of the immigrant investor’s investment. The determination whether the alien investor has met the job creation requirements will be established by a review of the required initial evidence at 8 CFR 204.6(j) and 8 CFR 216.6(a)(4) for the Form I-526 and Form I-829 petitions, respectively. The capital investment and job creation activities outlined in the individual petitions must fall within the bounds of the final economic analysis that is contained as part of the approved amendment to the Regional Center and its indirect job creation model and multipliers contained within the final approved Regional Center application package. The immigrant investor must show at the time of removal of conditions that they performed the activities described in the I-526 petition, and the activities must be based on the approved regional center methodology for demonstrating job creation.

The job creation methodology approved with this amendment has been established by the use of the RIMS II model and each \$1,000,000 investment in the project.

**Additional Guidelines for individual Immigrant Investors Visa Petition (I-526)**

Each individual petition, in order to demonstrate that it is associated with the Regional Center, in conjunction with addressing all the requirements for an individual immigrant investor petition, shall also contain as supporting evidence relating to this project and the Regional Center designation, as follows:

1. A copy of this letter, the Regional Center approval and designation.
2. A copy of the USCIS approved Regional Center narrative proposal and business plan.
3. A copy of the job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in the final Regional Center economic analysis which has been approved by USCIS, which reflects that investment by an individual immigrant investor will create not fewer than ten (10) full-time employment positions, either directly or indirectly, per immigrant investor.
4. A legally executed copy of the USCIS approved:
  - a. Private Placement Memorandum (submitted November 22, 2010)
  - b. Subscription Agreement (submitted November 22, 2010)
  - c. Limited Partnership Agreement; and (submitted November 22, 2010)
  - d. Escrow Agreement. (submitted May 3, 2011)

Note: Each petition must also include any other evidence that is relevant to the proposed project, such as, licenses and permits, building contracts, operating agreements, advisory agreements, etc.

**DESIGNEE’S RESPONSIBILITIES INHERENT IN CONDUCT OF THE REGIONAL CENTER:**

The law, as reflected in the regulations at 8 CFR 204.6(m)(6), requires that an approved Regional Center in order to maintain the validity of its approval and designation must continue to meet the statutory requirements of the Immigrant Investor Pilot Program by serving the purpose of promoting economic growth, including increased export sales (where applicable), improved regional productivity, job creation, and increased domestic capital investment. Therefore, in order for USCIS to determine whether your Regional Center is in compliance with the above cited regulation, and in order to continue to operate as a USCIS approved and designated Regional Center, your administration, oversight, and management of your

Regional Center shall be such as to monitor all investment activities under the sponsorship of your Regional Center and to maintain records, data and information in order to provide the information required on the Form I-924A supplement. Form I-924A, Supplement to Form I-924 is available in the “Forms” section on the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Effective November 23, 2010, the failure to timely file a Form I-924A Supplement for each fiscal years in which the regional center has been designated for participation in the Immigrant Investor Pilot Program will result in the issuance of an intent to terminate the participation of the regional center in the Pilot Program, which may ultimately result in the termination of the approval and designation of the regional center.

The requirement for the filing of Form I-924A Supplement commences in fiscal year 2011. Each regional center that remains designated for participation in the pilot program as of September 30, 2011, must submit the Form I-924A Supplement with the required supporting documentation on or before December 29, 2011.

If you have any questions concerning the Regional Center approval and designation under the Immigrant Investor Pilot Program, please contact the USCIS by Email at [USCIS.ImmigrantInvestorProgram@dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@dhs.gov).

Sincerely,



Rosemary Langley Melville  
Director  
California Service Center

cc: Carolyn S. Lee, Esq.