



**U.S. Citizenship  
and Immigration  
Services**

Date: FEB 05 2013

Roger C. Hobbs  
C/O Yellowstone Montana Regional Center, LLC  
201 W Main Street, Suite 300  
Missoula, MT 59802

Application: I-924, Application for Regional Center Under the Immigrant Investor Pilot Program  
Applicant: Roger C. Hobbs

Re: Yellowstone Montana Regional Center, LLC  
RCW1111050198 / RC ID1111050198

Pursuant to Section 610 of the Appropriations Act of 1993, as amended, on April 20, 2011, Yellowstone Montana Regional Center, LLC submitted an Application For Regional Center Under the Immigrant Investor Pilot Program (Form I-924 Application) with U.S. Citizenship and Immigration Services (USCIS) seeking to designate the entity, Yellowstone Montana Regional Center, LLC, as a Regional Center under the Immigrant Investor Pilot Program.

USCIS hereby designates Yellowstone Montana Regional Center, LLC as a Regional Center within the Immigrant Investor Pilot Program as described below:

**I. Geographic Area**

The Yellowstone Montana Regional Center, LLC shall have a geographic scope which includes:

Name of State	Counties
Montana	Missoula and Ravalli

**II. Focus of Investment Activity**

The Regional Center request is based on a business plan for a hypothetical project involving the construction and operation of a hotel in Missoula, Montana.

As depicted in the business plan and associated economic analysis that was submitted in support of the application, the Regional Center will engage in the following economic activity: loans to 3<sup>rd</sup> party enterprises.

The Regional Center shall focus on offering EB-5 compliant capital investment opportunities in the following two (02) target industry economic categories:

NAICS	Industry Category
7211	Traveler Accommodation
236220	Commercial and Institutional Building Construction

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 category.

### **III. Employment Creation**

The regional center application is approved based on a business plan of a hypothetical project which utilizes RIMS II to establish indirect job creation.

A review of the supporting economic impact analysis applying RIMS II model is found to be reasonable based on the business plan presented. The project involves the construction and operations of a 125-room upscale hotel in Missoula, Ohio. Indirect job calculation is based on construction expenditures and revenues of the hotel

### **IV. Guidelines for Individual Immigrant Investors Visa Petition (Form I-526 Petition)**

In its application, the regional center requested that the business plan be reviewed for consideration as a hypothetical project.

For clarification, a hypothetical or actual project is one that does not meet established Form I-526 eligibility requirements. Additionally, it is a project whose business plan is not in compliance with Matter of Ho, 22 I. & N. Dec. 206, Assoc. Comm'r 1998. To be considered Matter of Ho compliant, a business plan must be comprehensive and sufficiently detailed to permit the Service to reasonably conclude that the enterprise has the potential to meet the job-creation requirements.

In this case, the record does not satisfy these requirements. As such, USCIS cannot approve the project on the present Form I-924 approval notice.

Consequently, when an investor/petitioner files his or her I-526 petition they must include sufficient details concerning the project they will fund to establish that it meets EB-5 eligibility requirements and that the business plan is Matter of Ho compliant such that the requisite number of qualifying positions will be created within two and one-half years after approval of the Form I-526.

Each Form I-526 Petition submitted subsequent to this approval notice must address all the requirements for an individual immigrant investor petition as well as demonstrate that it is associated with the Regional Center. In order to do so the petitioner, should submit as supporting evidence the following documentation:

1. A copy of this letter, the Regional Center approval and designation.
2. A Matter of Ho-compliant business plan for the capital investment opportunity described in the Form I-526 Petition.
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 generally 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. Copies of the following organizational documents that USCIS has reviewed and found to be EB-5 compliant in principle:
  - a. Subscription Agreement; (Draft submitted 04/20/11)
  - b. Limited Partnership Agreement; and (Draft submitted 04/20/11)
  - c. Escrow Agreement. (Draft submitted 04/20/11)

The regional center may elect to use this organizational documentation for the capital investment opportunities that it chooses to promote as long as it makes no material change to the documentation.

#### **V. Designee's Responsibilities Inherent in Conduct of the Regional Center**

As provided in 8 CFR 204.6(m)(6), to ensure that the regional center continues to meet the requirements of section 610(a) of the Appropriations Act, a regional center must provide USCIS with updated information to demonstrate the regional center is continuing to promote economic growth, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area. Such information must be submitted to USCIS on an annual basis, on a cumulative basis, and/or as otherwise requested by USCIS. Yellowstone Montana Regional Center, LLC must monitor all investment activities under the sponsorship of the Regional Center and to maintain records in order to provide the information required on the Form I-924A Supplement to Form I-924 (Form I-924A Supplement). Form I-924A, Supplement to Form I-924 Application 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 year 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 designation of the regional center.

Note: Regional centers that remain designated for participation in the pilot program as of September 30<sup>th</sup> of a calendar year are required to file Form I-924A Supplement in that year. The I-924A Supplement with the required supporting documentation must be filed on or before December 29<sup>th</sup> of the same calendar year.

The Regional Center designation is non-transferable, as any changes in management of the Regional center will require the approval of an amendment to the approved Regional Center designation.

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

Sincerely,

A handwritten signature in black ink, appearing to read "D. Renaud", with a long horizontal flourish extending to the right.

Daniel M. Renaud  
Acting Director, California Service Center

Cc: James A. Bowditch, Esq.

Enclosure:      EB-5 Information Sheet

**EB-5 Information Sheet to Assist in Filing an Immigrant Petition for Alien Entrepreneur (Form I-526)**  
**Based on an Approved Regional Center**

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

Each Form I-526 filed by a petitioner in order to receive classification as an immigrant investor pursuant to INA § 203(b)(5) must establish satisfaction of the various statutory and regulatory requirements. In each case associated with participation in an approved regional center, each Form I-526 must also present evidence demonstrating eligibility for adjudication pursuant to Section 610 of Public Law 102-395. Such supporting evidence of qualifying regional center participation includes the following:

5. A copy of the Regional Center approval and designation letter including all subsequent amendment approval letters (if applicable).
6. A business plan for the capital investment opportunity described in the Form I-526, which complies with Matter of Ho, 22 I&N 206 (Assoc. Comm. 1998).
7. The job creation methodology required in Title 8 Code of Federal Regulations (8 C.F.R.) § 204.6(j)(4)(iii), as contained in the most recent 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.

**Minimum Capital Investment Requirement for Immigrant Investors**

Aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file a Form I-526 with USCIS for capital investments in new commercial enterprises located within the approved geographic area and affiliated with the Regional Center.

The Regional Center may focus on economic activities in an area that is ultimately determined to qualify as a Targeted Employment Area (TEA), either as a rural area or an area of high unemployment as defined in 8 C.F.R. § 204.6(e). The area must qualify as a TEA at the time of the individual alien investor's capital investment or at the time of filing of his or her Form I-526. TEA determinations are part of the adjudication of the Form I-526, not in the adjudication of Regional Center applications.

The minimum capital investment threshold for any EB-5 capital investment into an approved commercial enterprise throughout the Regional Center shall be not less than \$500,000, if the investment project is located within a TEA, or \$1,000,000 if it is located outside of a TEA.

For any alien requesting the reduced threshold of \$500,000 based upon an investment in a TEA, the alien must establish at the time of filing of the Form I-526 that either the investment will be made in a TEA designated area or was made in a TEA designated area at the time of the alien's initial investment into the enterprise.

## 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 C.F.R. § 204.6, and 8 C.F.R. § 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 capital investment. The determination whether the alien investor has met the job creation requirements will be established by a review of the required evidence pursuant to 8 C.F.R. §§ 204.6(j) and 216.6(a)(4) (for Form I-526 and Form I-829, respectively).

The capital investment and job creation activities outlined in the Form I-526 (and Form I-829 as applicable) must fall within the parameters of the final economic analysis submitted as part of the previously approved Regional Center designation. (This includes applicable indirect job creation model(s) and multipliers provided they are incorporated within the previously approved Regional Center application designation).

The immigrant investor must also present evidence at the time of filing the Form I-829 that they performed the activities described in their previously approved Form I-526. Similarly, these activities must be based on the approved Regional Center methodology for demonstrating job creation.

An individual immigrant investor's Form I-526 should include the same comprehensive business plan that was submitted with the application for Regional Center Designation (Form I-924) and/or any amendment to the Regional Center designation as might apply to the Form I-526. Please note that if the same business plan presented for the Regional Center designation has changed in any respect at the time the Form I-526 is filed, any new, amended or updated business plan upon which the Form I-526 relies must be submitted as supporting evidence. Such business plan remains subject to the requirement of being *Matter of Ho* compliant and should satisfy the following parameters:

- A comprehensive detailed business plan with supporting financial, marketing and related data and analysis providing a reasonable basis for projecting creation of indirect and/or induced jobs to be achieved/realized within two years pursuant to 8 C.F.R. § 204.6(j)(4)(B) and reasonable methodologies pursuant to 8 C.F.R. § 204.6(m)(7)(ii).

If the business plan submitted with an immigrant investor's Form I-526 is the exact same as the one submitted with the application for regional center designation, and USCIS grants such regional center designation, USCIS will give deference to that particular business plan and the specific economic analysis from which the job creation estimates were derived<sup>1</sup>. It should be emphasized that if the business plan and/or the economic analysis presented in the application for regional center designation has changed by the time applicants file a Form I-526, USCIS must review any applicable new, amended, or updated business plan and/or economic analysis to determine if it meets EB-5 program requirements. USCIS will not be able to extend deference from

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<sup>1</sup> See EB-5 Operational Guidance Memorandum, OG-602.06-001. Our deference policy provides generally that a prior favorable decision will be relied upon in later proceedings unless the facts underlying the prior decision have materially changed, there is evidence of fraud or misrepresentation in the record of proceedings, or the previously favorable decision is determined to be legally deficient.

a previously reviewed business plan and/or economic analysis to any new, amended, or updated business plan and/or economic analysis.

Finally, the immigrant investor must also keep in mind that the Form I-829 is based on the petitioner's previously approved Form I-526. This previously approved Form I-526 will have provided a detailed business plan supported by an economic analysis based on reasonable methodologies.