

## REGIONAL CENTER EB-5 BUSINESS PLANS

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### 1.0 Business Plan Requirements

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[6 USCIS-PM G \(November 30, 2016\) Chapter 2\(D\)](#) specifies that any petitioner who has not already met the EB-5 employment-creation requirement must submit a business plan with his or her I-526 Immigrant Petition by Alien Entrepreneur.

#### 5. Evidence of Job Creation

To show that a new commercial enterprise will create not fewer than 10 full-time positions for qualifying employees, an immigrant investor must submit the following evidence:

- Documentation consisting of photocopies of relevant tax records, Employment Eligibility Verification (Form I-9), or other similar documents for 10 qualifying employees, if such employees have already been hired; or
- A copy of a comprehensive business plan showing that, due to the nature and projected size of the new commercial enterprise, the need for not fewer than 10 qualifying employees will result within the next 2 years and the approximate dates employees will be hired.

The 2-year period is deemed to begin 6 months after adjudication of Form I-526. The business plan filed with the immigrant petition should reasonably demonstrate that the requisite number of jobs will be created by the end of this 2-year period.

In the case of a troubled business, a comprehensive business plan must accompany the other required evidentiary documents.

In the case of a new commercial enterprise within a regional center, the direct or indirect job creation may be demonstrated by the types of documents identified in this section along with reasonable methodologies. If a regional center immigrant investor seeks to rely on jobs that will be created to satisfy the job creation requirement, a comprehensive business plan is required.

Quoting from the precedent decision [Matter of Ho, 6 USCIS-PM G Chapter 2\(B\)](#) lays out the requirements for a comprehensive business plan.

#### B. Comprehensive Business Plan

A comprehensive business plan should contain, at a minimum, a description of the business, its products or services (or both), and its objectives. The plan should contain a market analysis, including the names of competing businesses and their relative strengths and weaknesses, a comparison of the competition's products and pricing structures, and a description of the target market and prospective customers of the new commercial enterprise. The plan should list the required permits and licenses obtained. If applicable, it should describe the manufacturing or production process, the materials required, and the supply sources. The plan should detail any contracts executed for the supply of materials or the distribution of products. It should discuss the marketing strategy of the business, including pricing, advertising, and servicing. The plan should set forth the business's organizational structure and its personnel's experience. It should explain the business's staffing requirements and contain a timetable for hiring, as well as job descriptions for all positions. It should contain sales, cost, and income projections and detail the basis of such projections.

Most importantly, the business plan must be credible.

USCIS reviews business plans in their totality. An officer must determine if it is more likely than not that the business plan is comprehensive and credible. A business plan is not required to contain all of the detailed elements, but the more details the business plan contains, the more likely it is that the plan will be considered comprehensive and credible.

## 2.0 Program Requirements

The EB-5 business plan functions to help show that the petitioner satisfies EB-5 program requirements. As stated in [6 USCIS-PM G](#), “the immigrant investor category requires three main elements: (1) an investment of capital, (2) in a new commercial enterprise, (3) which creates jobs.”

**Table 2-1. Regional Center EB-5 Requirements and Business Plan Content**

<b>Core EB-5 requirement</b>	<b>EB-5 requirement detail</b>	<b>Business plan content to help demonstrate eligibility</b>
<i>Investment of capital</i>	<ul style="list-style-type: none"> <li>The investment is a contribution of capital (capital can mean cash or other contributions of financial value, but cannot be a loan from the immigrant investor to the new commercial enterprise)</li> <li>The capital is “at risk” in the enterprise, viz. deployed in an active business with a risk of loss and chance of gain, and with no guaranteed return to the immigrant investor</li> <li>The full amount of EB-5 investment is made available to the business most closely responsible for creating employment</li> <li>The investment amount is at least \$1,000,000, or at least \$500,000 in a Targeted Employment Area</li> </ul>	<ul style="list-style-type: none"> <li>Describe the amount and terms of EB-5 investment</li> <li>Illustrate the flow of capital from the EB-5 investor through the new commercial enterprise to the job-creating enterprise(s)</li> <li>Provide a budget that projects how the full amount of investment will be used by the job-creating enterprises</li> <li>Emphasize evidence of business activity</li> <li>Identify the location of business activity</li> </ul>
<i>New commercial enterprise</i>	<ul style="list-style-type: none"> <li>The enterprise receiving EB-5 equity investment is new and is engaged in on-going, lawful, for-profit, commercial activity</li> <li>The enterprise receiving EB-5 investment comprises a single entity or a holding company and its wholly-owned subsidiaries</li> <li>The “new commercial enterprise” may use EB-5 investor funds to fund loans or equity investments in separate job-creating enterprises</li> </ul>	<ul style="list-style-type: none"> <li>Identify the new commercial enterprise and job-creating enterprise(s) and explain the commercial, job-creating activity in which they are engaged</li> <li>Describe the new commercial enterprise in a way that satisfies the EB-5 policy definitions for “new,” “commercial,” and “enterprise”</li> </ul>
<i>Creates jobs</i>	<ul style="list-style-type: none"> <li>The enterprise creates at least 10 full-time positions for qualifying employees per EB-5 investment (which requirement may be met by direct or indirect job creation, with indirect job creation demonstrated by reasonable economic methodologies)</li> <li>Job creation means creation of new positions, unless the job-creating enterprise qualifies as a troubled business, which can also count preserved jobs</li> <li>Job creation occurs within 2.5 years of I-526 approval</li> </ul>	<ul style="list-style-type: none"> <li>Summarize the job creation calculated by economic impact analysis, and identify inputs to the economic model</li> <li>Support the reasonableness of economic model inputs (i.e. explain and support the project cost and revenue estimates)</li> <li>Provide a schedule that indicates when job-creating activities will occur</li> </ul>

### 3.0 Business Plan Content

A successful EB-5 business plan has content that helps to support EB-5 eligibility and to satisfy the definition of a “comprehensive business plan” from the precedent decision *Matter of Ho*.

**Table 3-1. Sample Business Plan Outline (Regional Center EB-5)**

<b>Business plan section</b>	<b>Key business plan content and objectives</b>
<i>Business Description</i>	<ul style="list-style-type: none"> <li>• Identify the “new commercial enterprise” and its objectives</li> <li>• Describe the business of the job-creating enterprise and its products and services</li> <li>• Identify the location of the job-creating enterprise</li> </ul>
<i>Structure and Management</i>	<ul style="list-style-type: none"> <li>• Describe the structure, formation, and ownership of the new commercial enterprise and job-creating enterprises</li> <li>• Illustrate the flow of capital from the EB-5 investor through the new commercial enterprise to the job-creating enterprise</li> <li>• Describe the personnel’s experience for the new commercial enterprise and job-creating enterprise</li> <li>• Identify the regional center sponsor and define its role</li> </ul>
<i>Development and Operations</i>	<ul style="list-style-type: none"> <li>• Provide a development schedule for the job-creating enterprise, which sets milestones and estimates the time before operations may commence</li> <li>• List the approvals, licenses, and permits required and received</li> <li>• If applicable, describe the manufacturing or production process, the materials required, and the supply sources</li> <li>• Identify any contracts executed for the supply of materials or the distribution of products</li> </ul>
<i>Market Analysis</i>	<ul style="list-style-type: none"> <li>• Describe the target market/prospective customers of the job-creating enterprise</li> <li>• Provide verifiable demographic and economic data for the market area</li> <li>• Provide verifiable industry data</li> <li>• Discuss demand drivers and trends</li> <li>• Name competing businesses and assess their relative strengths and weaknesses</li> <li>• Discuss the enterprise’s pricing strategy and compare its products and pricing with those of competitors</li> <li>• Discuss the marketing strategy of the business, including pricing, advertising, and servicing</li> </ul>
<i>Development Costs and Capital Sources</i>	<ul style="list-style-type: none"> <li>• Provide a budget that details the development costs for the job-creating enterprise, as well as evidence that the cost estimates are reasonable</li> <li>• Identify the amount, sources, and terms of capital to cover the development budget, and provide evidence of capital commitments</li> </ul>
<i>Financial Projections</i>	<ul style="list-style-type: none"> <li>• Provide income projections for the job-creating enterprise and explain income statement assumptions</li> <li>• Support projections with reference to verifiable third-party evidence, market analysis, and industry standards</li> <li>• Illustrate profit potential</li> </ul>
<i>Job Creation</i>	<ul style="list-style-type: none"> <li>• Summarize the job creation calculated by economic impact analysis, and identify inputs to the economic model</li> <li>• Support the reasonableness of economic model inputs (i.e. explain and support the project cost and revenue estimates)</li> <li>• Provide a schedule that indicates when job-creating activities will occur</li> <li>• Justify the expected EB-5 investment amount with reference to estimated job creation</li> </ul>

## 4.0 Business Plan Standards

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A successful EB-5 business plan demonstrates the job-creation potential of the new commercial enterprise. It is comprehensive, detailed, and credible.

### Shows Job Creation Potential

- *Need for job creation:* The plan demonstrates that the business is likely to generate the qualifying employment necessary for the petitioner to meet the EB-5 job-creation requirement. The plan supports the economist's job-creation calculations by helping to validate the inputs of the economic model. If the economic impact report will calculate job creation from expenditures and revenue, then the business plan should provide expenditure and revenue estimates and describe the logic, assumptions, corroborating evidence, and schedule behind the expenditure and revenue estimates.
- *Timing and Nexus:* The plan discusses the business timeline in such a way as to show (1) that the plan is mature and job creation is likely to occur in a timely and predictable manner (with the necessary number of positions created within two and a half years of I-526 approval), and (2) that EB-5 investment has a causal link to job creation.

### Comprehensive and Detailed

- *Business detail:* The plan provides the kind of detail that a typical investor or lender would want to see before making an investment decision, including a description of the business, a market analysis, a description of the organization and staffing requirements, and financial projections.
- *EB-5 compliance detail:* The plan is sufficiently detailed to allow readers to draw reasonable inferences about the proposal's compliance with EB-5 requirements.

### Credible

- *Credibility from evidence:* The plan does not just make assertions, but supports claims with reference to objective evidence. The plan is supported throughout by verifiable citations to reliable and up-to-date data sources and probative evidence.
- *Credibility from consistency:* The plan is internally consistent and, as much as possible, helps to reconcile (1) information presented in other parts of the petition, (2) information that readers may find when investigating the petition, and (3) actual subsequent performance of the business.
- *Credibility from presentation:* The plan is professionally written and attractively presented.