

## USCIS Proposes Rule to Increase Minimum EB-5 Investments

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### Intro:

Mr. Andrew Cuevas, Esq., is the President of Cuevas, Garcia & Torres, P.A., and Vantage Property Title Company. Cuevas, Garcia & Torres, P.A., provides legal services in the areas of Community Association Law, Corporate Law, Real Estate law, and Business Immigration, including title insurance services through Vantage Property Title Company. If you have any questions regarding this article or any other questions, you may contact Mr. Cuevas at (305) 461-9500 or via e-mail at [acuevas@cuevaslaw.com](mailto:acuevas@cuevaslaw.com). If you are interested in reading previous newsletters, please visit [www.cuevaslaw.com](http://www.cuevaslaw.com), select the icon for **Newsletters**, and then choose the area of law you are interested in.

### USCIS Proposes Rule to Increase Minimum EB-5 Investments

The Department of Immigration (USCIS) created the fifth category of employment called EB-5 in 1990. Through the (EB-5) Visa a foreigner may obtain the United States Residency with the investment of US\$1,000,000.00 (owning your own business) or an investment of US\$500,000.00 (investing in an existing business qualified as a Regional Center). Both categories of investment are excellent options for foreign investors that seek the opportunity to live and work in the United States without having to open their own business (in the case of Regional Center applications). However, the law is quite possibly going to change substantially to adjust for inflation and may eliminate the chances for certain foreign investors who want to live in the United States.

The United States Citizenship and Immigration Services (USCIS) is proposing changes to the EB-5 Immigrant Investor Program which allows individuals to be eligible to apply for lawful permanent residence in the United States if they make the necessary investments in a commercial enterprise in the United States and create 10 permanent full-time jobs for qualified U.S. workers.

USCIS proposes to:

- 1) Increase the minimum investment amounts for standard EB-5 petitioners from \$1 million to \$1.8 million.
- 2) Increase the minimum investment amounts for EB-5 petitioners in a Targeted Employment Area (TEA) from \$500,000 to \$1.35 million (Regional Center investments).
- 3) Reform the adjudication of TEA designations to DHS/USCIS directly, as opposed to states making this decision.

In this Notice of Proposed Rulemaking (NPRM), USCIS is specifically seeking feedback on the numbers of small entities that could be affected by this rule, the compliance costs of this rule for these entities, and any possible regulatory alternatives that may minimize these costs. USCIS has also released an Advanced Notice of Proposed Rulemaking for the EB-5 Program, seeking more information and data from EB-5 petitioners and regional centers.

This change in the minimum investment requirement may affect many small businesses that seek to utilize the EB-5 program to raise capital for their investments. However, the change may be considered appropriate by some who feel that the \$500,000 established in 1990 should now be increased. The significant benefit of the EB-5 program for developers is that it allows Developers access to large amounts of capital for their development projects at a relatively low cost. Many developers accept investors with the contractual obligation of returning the invested funds in five or six years but solely paying 0.5% or 1% in interest. It is a win/win for developers as well as for the economy because this type of investments has facilitated many developments which in turn create substantial employment in the United States.

At this point, there has solely be a proposed Rule change, but nothing has been finalized. We will keep you informed.

*This article is solely a partial explanation of all the issues related to the topic of this newsletter, and is not to be considered legal advice. Persons interested in obtaining more information on the EB-5 Visa Program should consult with their legal counsel to obtain explanations of all issues addressed herein.*