



U.S. Citizenship  
and Immigration  
Services

HQSCOPS 70/6.1.2-C

Joop Bollen  
Director  
South Dakota International Business Institute  
711 East Wells Ave  
Pierre, South Dakota 57501-3369

Dear Mr. Bollen:

Re: South Dakota Regional Center, Amendment-III-revised:

**BACKGROUND:**

Pursuant to Section 610 of the Appropriations Act of 1993, on April 8, 2004, the South Dakota International Business Institute Dairy Economic Development Region (SDIBI/DEDR) was approved and designated as a regional center by U.S. Citizenship and Immigration Services (USCIS) for the purpose of attracting immigrant investor capital into 12 counties in eastern South Dakota, for animal dairy farm and animal heifer ranch operations. On December 24, 2004 the SDIBI/DEDR Regional Center requested approval of an amendment (Amendment-I) to expand its geographic area of coverage by an additional 33 counties across eastern South Dakota and to revise its business plan to allow for pooled investments through limited partnerships into large dairy and heifer operations, and to eliminate its self-imposed minimum of 51 % alien investor ownership in a newly established commercial dairy or heifer operation. On June 13, 2005, USCIS approved the SDIBI/DEDR Regional Center Amendment-I.

On December 12, 2006, USCIS approved the South Dakota SDIBI/DEDR Regional Center's proposal for a second amendment (Amendment-II) to its business plan to enable the following commercial activity additions, and to augment its approved job creation multipliers as follows:

1. To amend the SDIBI/DEDR business plan to include meat processing and packing operations.<sup>1</sup>
2. To amend the SDIBI/DEDR business plan to include dairy processing, beef cattle, and other animal feedlots.<sup>2</sup>

---

<sup>1</sup> These operations would utilize a weighted average RIMS-II indirect job creation multiplier of 3.49 for the areas within the geographic boundaries of the SDIBI DEDR Regional Center.

3. To amend the SDIBVDEDR business plan by eliminating the SDIBVDEDR Regional Center's self-imposed numeric thresholds of 300 dairy cows and/or 3000 heifers per foreign investor, and setting no numerical herd size minimum or maximum for dairy cows, heifers, and/or animal feedlot operations.

On November 8, 2007 the SDIBVDEDR Regional Center submitted a proposal for a third amendment (Amendment-III) seeking:

1. To expand its geographic area of coverage by adding an additional eighteen (18) contiguous counties within South Dakota.
2. To add eleven (11) additional target industry economic clusters.
3. To apply a RIMS-II final demand multiplier for indirect job creation applicable to the added target industry clusters by combining EB-5 and domestic investment capital.
4. To change the name of the Regional Center to "South Dakota Regional Center" (SDRC).
5. That USCIS review and recognize a Memorandum of Understanding between the South Dakota International Business Institute (SOIBI) and SDRC, Incorporated.

On December 4, 2007, USCIS issued a Request for Evidence (RFE) seeking clarification and additional data relating to the proposed additional target industry economic clusters and the operational structure for an amended South Dakota Regional Center.

#### **DECISION:**

Based on its review and analysis of the initial Amendment-III proposal, and the DEDR's supplemental response to the RFE, which modified its initial request from 11 down to 7 additional target industries, uscrs approves Amendment-III, updating the designation of the renamed South Dakota Regional Center (SDRC) as follows:

1. The geographic area of the SDRc encompasses all 63 contiguous counties within the State of South Dakota, excluding the cities of Rapid City (located within Pennington and Meade counties), Aberdeen (located within Brown County), and Watertown (located within Codington County).
2. To add the following seven (7) new target industry economic clusters to the scope of SDRC business investment:
  - a. Utilities ( Includes Electric Power Generation From Wind Mills);
  - b. Machinery Manufacturing (Includes General Manufacturing of Machinery and Equipment);
  - c. Food, Beverage and Tobacco Manufacturing (Includes Wineries);

---

<sup>2</sup> Such operation would utilize a weighted average RIMS-II indirect job creation multiplier of 2.66 for the areas within the geographic boundaries of the SDIBI/DEDR Regional Center.

South Dakota Regional Center, Amendment-III Page 3

- d. Petroleum and Coal Products Manufacturing (Includes Oil Refineries);
- e. Chemical Manufacturing (Includes Phannaceutical, Medicine, Ethanol, Bio-diesel and Biomass Manufacturing);
- f. Professional, Scientific, and Technical Services (Includes Computer Services, Research and Development in Biotechnology and Life Sciences);
- g. Amusement, Gambling, and Recreation.

3. Use of RIMS-II Final Demand Multipliers in determining indirect job creation relating to the seven (7) target industry economic clusters identified above in 2 a -f.

A summarization of the approved RIMS Code and Final Demand Employment Multipliers in connection with Amendment III per Million dollars invested follows:

Utilities	RIMS6	5.4309
Machinery Manufacturing	RIMS 12	11.7661
Food, Beverage, and Tobacco Manufacturing	RIMS 19	15.3910
Petroleum and Coal Products Manufacturing	RIMS 24	8.0073
Chemical Manufacturing	RIMS 25	9.4151
Professional, Scientific, and Technical Services	RIMS 47	12.8610
Amusement, Gambling, and Recreation	RIMS 56	29.7830

#### **FOCUS OF INVESTMENT ACTIVITY AND CAPITAL INVESTMENT THRESHOLD:**

The updated and expanded USCIS-approved focus of the SDRC geographic area, business plan, economic analysis and job creation is to generate EB-5 inunigrant investor capital for the following eleven (11) target industry activities:

- 1 Animal dairy farm operations--per *April 8, 2004 initial approval and designation*;
- 2 Animal heifer ranch operations--per *April 8, 2004 initial approval and designation*;
- 3 Animal feedlot operations--added per *December j 2, 2006 Amendment-II approval*;
- 4 Meat processing and packing operations--added per *December 12, 2006 Amendment-II approval*;
- 5 Utilities ( Includes Electric Power Generation From Wind Mills)--added per *June 24, 2008 Amendment-III*);
- 6 Machinery Manufacturing (Includes General Manufacturing of Machinery and Equipment)-added per *June 24, 2008 Amendment-III*);
- 7 Food, Beverage and Tobacco Manufacturing (Includes Wineries)--added per *June 24, 2008 Amendment-III*);
- 8 Petroleum and Coal Products Manufacturing (Includes Oil Refineries)--added per *June 24, 2008 Amendment-III*);
- 9 Chemical Manufacturing (Includes Phannaceutical, Medicine, Ethanol, Bio-diesel and Biomass Manufacturing)--added per *June 24, 2008 Amendment-III*);
- 10 Professional, Scientific, and Technical Services (Includes Computer Services, Research and Development in Biotechnology and Life Sciences)--added per *June 24, 2008 Amendmen tIII*);

II. Amusement, Gambling, and Recreation--added per June 24, 2008 Amendment-III.

As such, aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for investments made into new commercial enterprises within the eleven (11) target industry clusters listed above which are located within the SDRC area comprised of all 63 contiguous counties within the State of South Dakota, excluding the cities of Rapid City (located within Pennington and Meade counties), Aberdeen (located within Brown County), and Watertown (located within Codington County), that have been determined to qualify as a "Rural Area" as set forth in 8 CFR 204.6(e). Therefore, the minimum capital investment threshold for any individual immigrant investment into a new commercial enterprise through the SDRC shall be not less than \$500,000.

**EMPLOYMENT CREATION AND/OR PRESERVATION:**

Alien entrepreneurs who file petitions for commercial enterprises located in the SDRC area must fulfill all of the requirements set forth in 8 CFR 204.6, except that the petition need not show that the new commercial enterprises created ten new jobs indirectly as a result of the alien entrepreneur's investment. This determination has been established by way of USCIS' acceptance of the final economic analysis that is contained as part of the approved SDRC Amendment-III and its indirect job creation model and multipliers contained within the final approved SDRC application and package, as amended.

In addition, wherever job creation or preservation of existing jobs is claimed based on a multiplier rooted in underlying new "direct jobs" (or preservation of existing direct jobs in a troubled business) in support of an immigrant investor's individual 1-526 petition affiliated with the SDRC, then:

To be credited with projected creation of new "direct" jobs for "qualifying employees" upon filing the 1-526 petition, the petition must be supported by a comprehensive detailed business plan and supporting financial, marketing and related data and analysis providing a reasonable basis for projecting creation of any new direct jobs for "qualifying employees" to be achieved/realized within two years pursuant to 8 CFR 204.6(j)(4)(B).

To be credited for preserving/maintaining pre-existing direct jobs for "qualified employees" within the SDRC for a "troubled business" as defined at 8 CFR 204.6(e), the individual 1-526 petition must be supported by probative evidence of the number of full time (35 hours per week) qualified employees whose positions shall be preserved/maintained throughout the alien's period of conditional residency. Such evidence may include copies of quarterly state employment tax reports, Forms W-2, Forms 1-9, and any other pertinent employment records sufficient to demonstrate the number of "direct" qualifying pre-existing full time jobs in the specified troubled business which have been preserved/maintained, and any other pertinent employment records sufficient to demonstrate the number of employees before the investment.

For purposes of an alien investor's filing of a subsequent 1-829 petition to remove the conditions wherein the investment through the SDRC in an enterprise for which the initial 1-526 petition approval involved the creation of new direct jobs or the creation of new indirect jobs based on a multiplier tied to underlying new direct jobs, then to support the full number of direct and indirect new jobs being claimed at that point, an alien's subsequent 1-829 petition will need to be supported by probative evidence of the

number of new direct full time (35 hours per week) jobs for qualified employees whose positions have been created as a result of the alien's investment. Such evidence may include copies of quarterly state employment tax reports, Forms W-2, Forms 1-9, and any other pertinent employment records sufficient to demonstrate the number of qualified employees whose jobs were created directly.

Each individual petition, to demonstrate that it is associated with the SDRC, in conjunction with addressing all the requirements for an individual alien investor petition, shall also contain as supporting evidence relating to this regional center designation, the following:

- 1 A copy of this letter of the amended approval and designation.
- 2 A copy of the approved regional center narrative proposal and business plan, and the approved amendments.
- 3 A copy of the approved job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in the SDRC amended regional center economic analysis which has been approved by USCIS, which reflects that investment by an individual alien investor of at least \$500,000 will generate full-time employment positions, either directly or indirectly, for not fewer than ten (10) U.S. workers.
- 4 A signed legally executed and certified copy of the limited partnership agreement between the new commercial enterprise and the alien investor.
- 5 A signed legally executed copy of the Memorandum of Understanding between the South Dakota International Business Institute and SDRC, Incorporated.

The designation by the uscrs of the SDRC as a regional center does not reflect any determination on the merits of individual petitions filed by alien entrepreneurs under the Immigrant Investor Pilot Program. All petitions for alien investors who invest within the SDRC will be adjudicated by the USCIS on a case-by-case basis and each petition must be fully documented.

From the date of this letter until September 30, 2008, the individual investor petitions through the SDRC must be submitted to the Texas Service Center. Effective October 1, 2008, the individual investor petitions through the SDRC must be submitted to the California Service Center.

**DESIGNEE'S RESPONSIBILITIES INHERENT IN CONDUCT OF THE SOUTH DAKOTA REGIONAL CENTER (SDRC):**

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 on a quarterly basis in

order to report to USCIS upon request the following year to date information for each Federal Fiscal Year<sup>3</sup>, commencing with the initial year as follows:

1. Provide the principal authorized official and point of contact of the regional center responsible for the normal operation, management and administration of the regional center.
2. Be prepared to explain how you are administering the regional center and how you will be actively engaged in supporting a due diligence screening of its alien investors' lawful source of capital and the alien investor's ability to fully invest the requisite amount of capital.
3. Be prepared to explain the following:
  - a. How the regional center is actively engaged in the evaluation, oversight and follow up on any proposed commercial activities that will be utilized by alien investors.
  - b. How the regional center is actively engaged in the ongoing monitoring, evaluation, oversight and follow up on any investor commercial activity affiliated through the regional center that will be utilized by alien investors in order to create direct and/or indirect jobs through qualifying EB-5 capital investments into commercial enterprises within the regional center.
4. Be prepared to provide:
  - a. the name, date of birth, petition receipt number, and alien registration number (if one has been assigned by USCIS) of each principal alien investor who has made an investment and has filed an EB-5/I-526 Petition with USCIS, specifying whether:
    - i. the petition was filed,
    - ii. was approved,
    - iii. denied, or
    - iv. withdrawn by the petitioner, together with the date(s) of such event.
  - b. The total number of visas represented in each case for the principal alien investor identified in 4.a. above, plus his/her dependents (spouse and children) for whom immigrant status is sought or has been granted.
  - c. The country of nationality of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - d. The U.S. city and state of residence (or intended residence) of each alien investor who has made an investment and filed an EB-5/I-526 petition with USCIS.
  - e. For each alien investor listed in item 4.a., above, identify the following:
    - i. the date(s) of investment in the commercial enterprise;

---

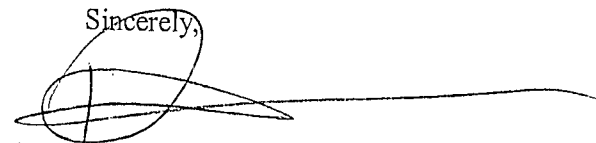
<sup>3</sup> A Federal Fiscal Year runs for twelve consecutive months from October 1<sup>st</sup> to September 30<sup>th</sup>.

- ii. the amount(s) of investment in the commercial enterprise; and
  - iii. the date(s), nature, and amount(s) of any payment/remuneration/profit/return on investment made to the alien investor by the commercial enterprise and/or regional center from when the investment was initiated to the present.
5. Be prepared to identify/list each of the target industry categories of business activity within the geographic boundaries of your regional center that have:
  - a. received alien investors' capital, and in what aggregate amounts;
  - b. received non-EB-5 domestic capital that has been combined and invested together, specifying the separate aggregate amounts of the domestic investment capital;
  - c. of the total investor capital (alien and domestic) identified above in 5.a and 5.b, identify and list the following:
    - i. The name and address of each "direct" job creating commercial enterprise.
    - ii. The industry category for each indirect job creating investment activity.
6. Be prepared to provide:
  - a. The total aggregate number of approved EB-5 alien investor I-526 petitions per each Federal Fiscal Year to date made through your regional center.
  - b. The total aggregate number of approved EB-5 alien investor I-829 petitions per each Federal Fiscal Year to date through your regional center.
7. The total aggregate sum of EB-5 alien capital invested through your regional center for each Federal Fiscal Year to date since your approval and designation.
8. The combined total aggregate of "new" direct and/or indirect jobs created by EB-5 investors through your regional center for each Federal Fiscal Year to date since your approval and designation.
9. If applicable, the total aggregate of "preserved" or saved jobs by EB-5 alien investors into troubled businesses through your regional center for each Federal Fiscal Year to date since your approval and designation.
10. If for any given Federal Fiscal Year your regional center did or does not have investors to report, then provide:
  - a. a detailed written explanation for the inactivity,
  - b. a specific plan which specifies the budget, timelines, milestones and critical steps to:
    - i. actively promote your regional center program,
    - ii. identify and recruit legitimate and viable alien investors, and

- iii. a strategy to invest into job creating enterprises and/or investment activities within the regional center.
11. Regarding your website, if any, please be prepared to provide a hard copy which represents fully what your regional center has posted on its website, as well as providing your web address. Additionally, please provide a packet containing all of your regional center's hard copy promotional materials such as brochures, flyers, press articles, advertisements, etc.
  12. Finally, please be aware that it is incumbent on each USCIS approved and designated regional center, in order to remain in good standing, to notify the USCIS within 15 business days at USCIS.ImmigrantInvestorProgram@dhs.gov of any change of address or occurrence of any material change in:
    - the name and contact information of the responsible official and/or Point of Contact (POC) for the RC
    - the management and administration of the RC,
    - the RC structure,
    - the RC mailing address, web site address, email address, phone and fax number,
    - the scope of the RC operations and focus,
    - the RC business plan,
    - any new, reduced or expanded delegation of authority , MOU, agreement, contract, etc. with another party to represent or act on behalf of the RC,
    - the economic focus of the RC, or
    - any material change relating to your regional center's basis for its most recent designation and/or reaffirmation by USCIS.

If you have any questions concerning the BRC approval and designation under the Immigrant Investor Pilot Program, please contact USCIS by Email at USCIS.ImmigrantInvestorProgram@dhs.gov.

Sincerely,



for Barbara Q. Velarde  
Chief  
Service Center Operations

cc: Official File