U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

K1

[redacted]

DATE: DEC 0 4 2012 Office: CALIFORNIA SERVICE CENTER FILE: [redacted]

IN RE: Applicant: [redacted]

PETITION: Proposal for Designation as a Regional Center Pursuant to Section 610(c) of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 103-121, 106 Stat. 1874 (1992).

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the proposal for designation as a regional center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant seeks designation as a regional center pursuant to section 610(c) of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, 106 Stat. 1874 (1992), as amended by section 116 of Pub. L. No. 105-119, 111 Stat. 2440 (1997); section 402 of Pub. L. No. 106-396, 114 Stat. 1637 (2000) and section 11037 of Pub. L. No. 107-273, 116 Stat. 1758 (2002). The applicant filed the proposal on November 22, 2010.[1]

The applicant seeks approval of an extremely vague proposal that covers 10 broad industrial categories over a geographic area that includes [redacted] of the State of North Carolina. The director determined the applicant failed to meet the regulatory requirements outlined for regional centers, including those related to funds committed to the regional center, verifiable detail of indirect job creation, and a discussion of the positive impacts of the regional center on the regional or national economy. On appeal, the applicant submits a brief and asserts that the director erred because the evidentiary requirements are over burdensome and not supported by law.

In addition, counsel, on behalf of the applicant, requests oral argument. An applicant must explain in writing specifically why oral argument is necessary. 8 C.F.R. § 103.3(b)(1). Oral argument is limited to cases in which cause is shown. An applicant or the applicant's counsel must show that a case involves unique facts or issues of law that cannot be adequately addressed in writing. In this case, all issues are adequately addressed in writing and counsel has shown insufficient cause for oral argument. Therefore, the applicant's request for oral argument is denied.

The AAO finds that the director properly relied on the pertinent regulations and affirms the director's findings.

I. THE LAW

Section 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(5), as amended by Pub. L. No. 107-273, 116 Stat. 1758 (2002), provides classification to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise in which the alien has invested or is actively investing the requisite amount of capital and which will benefit the United States economy and created full-time employment for no fewer than 10 qualified workers.

Section 610 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, as amended, provides for a specific number of visas to implement a pilot program involving regional centers in the United States. Subparagraph (a) of this section provides for designation of regional centers based on "a general proposal for the promotion of economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment." A regional center applicant must explain how the regional

[1] Effective November 23, 2010, U.S. Citizenship and Immigration Services designated the Form I-924 for filing a regional center proposal.

center "shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones." Subparagraph (c) provides that aliens admitted under the pilot program may rely on "reasonable methodologies for determining the number of jobs created by the pilot program, including such jobs which are estimated to have been created indirectly through revenues generated from increased exports, improved regional productivity, job creation, or increased domestic capital investment resulting from the pilot program."

The regulation at 8 C.F.R. § 204.6(m)(3) addresses requirements for regional center proposals:

> *Requirements for regional centers.* Each regional center wishing to participate in the Immigrant Investor Pilot Program shall submit a proposal to the Assistant Commissioner for Adjudications, which:
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> (i) Clearly describes how the regional center focuses on a geographical region of the United States, and how it will promote economic growth through increased export sales, improved regional productivity, job creation, and increased domestic capital investment;
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> (ii) Provides in verifiable detail how jobs will be created indirectly through increased exports;
>
> (iii) Provides a detailed statement regarding the amount and source of capital which has been committed to the regional center, as well as a description of the promotional efforts taken and planned by the sponsors of the regional center;
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> (iv) Contains a detailed prediction regarding the manner in which the regional center will have a positive impact on the regional or national economy in general as reflected by such factors as increased household earnings, greater demand for business services, utilities, maintenance and repair, and construction both within and without the regional center; and
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> (v) Is supported by economically or statistically valid forecasting tools, including, but not limited to, feasibility studies, analyses of foreign and domestic markets for the goods or services to be exported, and/or multiplier tables.

II. PROCEDURAL AND FACTUAL BACKGROUND

The initial proposal requested designation as a regional center to cover [redacted] in North Carolina. In addition, the application merely lists, using the North American Industry Classification System (NAICS) codes, 14 broad areas of industry identified by two digit numbers. Most of the identified categories of industry can be further broken down into several sub-categories identified by three digit numbers, which themselves reflect broad categories of industry. The proposal failed to

include any discussion of each area of industry and current funding in [redacted] as well as any explanation of how the regional center would invest in these industries.

The application also outlined that the proposed regional center entity, [redacted] is structured as a wholly-owned corporation of the Economic Development Commission o[redacted] a North Carolina non-profit corporation. The applicant submitted a copy of an unexecuted Articles of Incorporation and the initial corporate bylaws for [redacted] In addition, the original proposal includes general information documents regarding the scope and focus of [redacted] but did not include any corporate documents regarding that entity or any funding agreement between [redacted] and [redacted]

Initially in the application, the applicant did not include any analysis or economic modeling of actual or hypothetical investment projects in any of the 14 industries. Instead, the applicant submitted a copy of U.S. Dep't of Commerce, *Regional Multipliers, A User Handbook for the Regional Input-Output Modeling System (RIMS II)* (3d ed. 1997). The handbook is a publication that serves as a general usage reference item and does not function as an analytical tool for an actual or a hypothetical project contemplated by [redacted] The initial proposal merely concludes that the Regional Center is a new entity but that "the parent company, Directors and Officers of the Regional Center possess decades of experience in sourcing investment opportunities, analyzing business opportunities, advising businesses, promoting [redacted] investment opportunities, and financing the same."

On July 21, 2011, the director issued a request for additional evidence (RFE). In the RFE, the director requested that the applicant include documentation identifying the principal of the regional center, as well as his legal capacity to sign documents on behalf of [redacted] and a dated, executed letter from said principal requesting the regional center designation.

The director further stated in the RFE that the initial target industries were too general to convey a meaningful description of the target industries in which the regional center seeks to invest or alternatively, a revised list of more specific industry categories. Furthermore, the director requested documentation to meet the requirements relating to the regional center's operational plan, the amount and source of the regional center's operating capital, verifiable detail regarding how jobs will be indirectly created, regional or national impact on the economy, and show how [redacted] will fulfill its oversight responsibility.

In response, the applicant submitted, among other documents, additional [redacted] corporate documents, a document titled, [redacted] *Operational Plan and Econometric Modeling*, and economic impact analyses for projects by Google and Iluka Resources Ltd (Iluka). While the document asserts that the regional center will apply the Regional Input-Output Modeling System RIMSII, the "modeling" report submitted does not, in fact, apply RIMS II to any hypothetical or actual project.

The director, in the December 9, 2011 denial determined that the applicant failed to submit detailed statements regarding funds committed to the regional center pursuant to 8 C.F.R. § 204.6(m)(3)(iii). The director indicated that a statement attesting that $4.3 million for development purposes is made available on an annual basis to the region indefinitely is insufficient under the regulation. Similarly, the director found that the applicant failed to submit verifiable details regarding job creation in both the initial application and in the response to the RFE, as well as any actual or hypothetical business plans relating to associated projects in each of the industry categories in which the regional center may invest. Moreover, the director found that the applicant failed to satisfy the requirements for showing impact on the regional or national economy, as outlined in 8 C.F.R. § 204.6(m)(3)(iv).

On appeal, counsel, on behalf of the applicant, asserts that the director, in issuing the RFE, applies standards that are not appropriate to a regional center adjudication process. Counsel further asserts that the applicant has complied fully with the requirements as articulated by applicable law. Specifically, the applicant maintains that the fact that [redacted] will be sharing resources with [redacted] combined with the explanation that $4.3 million will be made available on an annual basis to the regional center satisfies the requirements relating to amount and source of funds. As for the requirements relating to verifiable details regarding job creation, counsel maintains that business plans are not necessary and can satisfy the requirement, in part, by stating that [redacted] will use the RIMS II methodology. Finally, counsel maintains that submitting evidence of similar investments showing to have benefitted the region is sufficient to satisfy the regulatory language relating to regional or national economic impact.

III. ANALYSIS

A. Proper Standard

While the statute provides that a proposal may be based on "general predictions," the statute also explains that those predictions must be contained in a proposal that addresses "the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result of such capital investments, and the other positive economic effects such capital investments will have." Section 610(a) of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, as amended.

The regulation at 8 C.F.R. § 204.6(m)(3) sets out the requirements for regional center applications. Specifically, the regulation at 8 C.F.R. § 204.6(m)(3)(ii) requires the applicant to provide "verifiable" detail as to how the jobs will be created. *See also* Adjudication of EB-5 Regional Center Proposals and Affiliated Form I-526 and Form I-829, Donald Neufeld, AD09-38, Dec. 11, 2009 at 9 (The regional center applicant must provide "[a] detailed description of how EB5 capital investment . . . will create qualifying EB5 jobs.)" The applicant cites no legal authority that expressly overturns this regulation, other than the statutory amendment that expanded the original focus beyond exports. Section 402 of Pub. L. No. 106-396, 114 Stat. 1637 (2000). USCIS is bound by its own regulations absent a showing that an authority has expressly struck down or overturned a particular regulation. *See Bahramizadeh v. U.S. I.N.S.*, 717 F.2d 1170, 1173 (7th Cir. 1983) citing *Pearce v. Director, Office of Wkrs. Compensation*, 647 F.2d 716, 726 (7th Cir. 1981).

In promulgating the regulation at 8 C.F.R. § 204.6(m), legacy Immigration and Naturalization Service (INS), now USCIS, concluded that the intent of Congress in enacting section 610(a) of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, as amended, was to obtain empirical evidence of the effectiveness of the regional center concept in promoting economic growth. 58 Fed. Reg. 44606, 44607 (Aug. 24, 1993). USCIS has been encouraged to accept any projections previously submitted at the regional center stage when adjudicating the Form I-526 petitions filed by individual alien investors provided that there has been no material change and absent fraud.

Addressing all concerns at the regional center stage will increase the likelihood of job creation and, absent a material change, that the aliens who invest in the project will not only be able to obtain conditional permanent resident status but also demonstrate compliance with the requirements to remove conditions on their status through the success of their investment in the regional center. While USCIS recognizes that the applicant cannot guarantee the proposed regional center's success, it is (1) not in the interest of USCIS or the aliens who invest in a regional center or (2) consistent with Congressional intent to improve regional productivity to approve a regional center whose proposal is not based on a reasonable economic analysis or verifiable detail.

As noted by counsel on appeal, the proper standard of proof for evaluating these requirements is preponderance of the evidence. The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010) citing *Matter of E-M-,* 20 I&N Dec. 77, 79-80 (Comm'r 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.* The AAO will evaluate the evidence under this standard.

Much of the applicant's challenge on appeal regarding the appropriate legal standard is based on a DRAFT USCIS Policy Memorandum, PM-602-XXXX and the American Immigration Lawyers' Association (AILA) comments relating to that document. The AAO observes that the referenced draft memorandum on its face prominently notes: "This draft does not constitute agency policy in any way or for any purpose." As such, it has no legal effect and USCIS is not bound to any of the contents therein. Counsel also fails to explain why annotating comments provided by an unrelated third party are binding on USCIS. Ultimately, as discussed below, much of the documentation is neither relevant nor probative. Thus, it cannot serve to meet the applicant's burden of proof. Moreover, the record also contains credibility issues relating to the "available budget" for the regional center.

B. Questions Presented

As an initial matter, in the appeal brief, counsel poses a lengthy series of questions that relate to the individual denial grounds in the director's decision. It is unclear from the manner of presentation whether these questions serve merely as a device to further elucidate the legal challenges to each of the director's grounds of denial, or whether the questions are meant as direct inquiries, thereby soliciting a direct response from the AAO for each posed question. If the questions are meant as direct inquiries, the AAO observes that the burden of proof in these proceedings remains entirely with the party seeking the petitioned benefit. Section 291 of the Act, 8 U.S.C. § 1361. Therefore, it is incumbent upon the applicant to show that the regional center proposal fully satisfies the requirements of 8 C.F.R. § 204.6(m)(3), and the AAO need not respond to a series of hypothetical questions that appear to have arisen as a result of the individuated challenges the applicant faced in attempting to satisfy the regulation. The AAO's role is to function as the appellate level adjudicator in these proceedings, not as a consultant. *See* 8 C.F.R. §§ 103.3(a)(1)(iv), 204.6(m)(4).

C. Amount and Source of Capital

As noted earlier, the regulation at 8 C.F.R. § 204.6(m)(3) outlines the requirements for regional center proposals. In relevant part, 8 C.F.R. § 204.6(m)(3)(iii) requires that an applicant for a regional center provide: "[A] detailed statement regarding the amount and source of capital which has been committed to the regional center, as well as a description of the promotional efforts taken and planned by the sponsors of the regional center." The director determined that the applicant failed to provide any information relating to the amount and source of capital, which has been committed to the proposed regional center, in compliance with the relevant regulatory provision. On appeal, counsel asserts that the applicant is a non-profit entity organized by an existing economic development department of county government and that it has provided "in-kind commitment" of whatever resources would be required to operate the regional center. Furthermore, counsel asserts that providing a specific dollar amount is not mandated by law and such a mandate adversely impacts the requisite flexibility of the pilot program.

As an initial matter, the assertion that the "[a]ppellant is a non-profit entity organized by an existing economic development department of a county government" is incorrect. The record reflects that the entity before the AAO requesting approval of a regional center proposal is [redacted] not [redacted] There is nothing in the submitted organizing or corporate documents of [redacted] showing that the corporation is a non-profit entity or that it is a part of an economic development department of a county government. While the submitted documents of [redacted] show that it is a wholly-owned subsidiary of [redacted] and that the two entities will share board members, the applicant has not submitted any corporate documents of [redacted] or other evidence that documents the details of the relationship between [redacted] and [redacted] as well as the relationship between [redacted] and the economic development department of [redacted] Most notably, the applicant has failed to show how [redacted] obtains its annual appropriations for economic development purposes, how much of the of the annual appropriations amount the [redacted] can expect from the county, and the amount and the process for how those funds would then be made available to [redacted]

Not every regional center proposal would require such extensive documentation showing the pathway of how funds made available at the county level would flow into the regional center. However, in this instance [redacted] *proposes to meet the requirements under 8 C.F.R. § 204.6(m)(3)(iii)* by stating that it will share resources with [redacted] which receives some portion of the $4.3 million allegedly appropriated to the county for economic development purposes. In the RFE response, the applicant states that: "The 2011 appropriation for economic development purposes was roughly $4.3 Million (as set forth at Tab 5)." At Tab 5, the applicant submits two documents with the general heading "[redacted] – one for 2011 and one for 2012. Under the general heading of "ECONOMIC DEVELOPMENT," the 2011 revised budget shows an amount of $369,417 and the 2012 revised budget shows an amount of $370,996. In 2011, the "available budget" remaining after actual costs is $4,307.61, not $4.3 million. There is no indication that the numbers, which include cents, are listed in thousands of dollars. Given the applicant's claimed expertise with [redacted] this major discrepancy seriously diminishes the applicant's credibility. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988). Even if the budget amount was in line with the $4.3 million figure, that fact alone would not have been particularly helpful to the applicant as it would only have shown that those funds were available at the county level. There is nothing in the record to show how and how much of the county funds ultimately will get allocated to [redacted] For example, there is no executed or proposed agreement between [redacted] and [redacted] Consequently, the applicant has failed to satisfy the requirement of the statute regarding the source of capital.

The plain language of the regulation requires a regional center proposal to state the committed amount of capital notwithstanding the applicant's assertion that the law does not require it. The regulation plainly requires "a statement regarding the amount and source of capital." 8 C.F.R. § 204.6(m)(3)(iii). The analysis above addressed the source of capital. As for the amount of capital, the applicant has failed to provide a meaningful and credible analysis to substantiate the claim that despite the presence of the phrase "amount of capital" in the regulation, providing a specified dollar amount is not mandated by law.

In maintaining that no specified amount of capital need be committed to [redacted] projects, the applicant is requesting USCIS to accept pure speculation with respect to its funding. The applicant has plainly failed to satisfy the regulatory language under 8 C.F.R. § 204.6(m)(3)(iii) requiring a *detailed* statement regarding the amount and source of capital which has been committed to the regional center (emphasis added). The applicant in this instance has not substantiated the claim that the law does not require that a specified amount be committed to a regional center project or projects. To the extent that the applicant raises concerns with respect to maintaining the flexibility to invest in various future projects, the newly designated Form I-924 provides a box for a regional center to amend its designation as a center contemplates new projects and industries, which allows for future flexibility.

Consequently, the AAO must conclude that the applicant in this instance failed to satisfy the requirements for a regional center proposal relating to the amount and source of funding under existing law and affirm the director's finding in this regard.

D. Impact on Regional or National Economy

The director determined that the applicant failed to satisfy the requirements under 8 C.F.R. § 204.6(m)(3)(iv). *On appeal, the applicant asserts that by providing information on the impact on the* regional or national economy that projects have had that are similar to the projects contemplated by the proposed regional center, the applicant has sufficiently met the requirement under the regulation. In pertinent part, the regulation states that a proposal must: "Contain[] a detailed prediction regarding the manner in which the regional center will have a positive impact on the regional or national economy in general. . . ." The regulation plainly requires a nexus between the proposed regional center and the impact that that specific regional center will have on the regional or national economy. The applicant asserts that the requirements have been met by providing "exemplar evidence" in the form of economic impact reports from a Google project in [redacted] and a Mineral Sands project that took place outside the designated geographical area of the proposed regional center. As those projects are not related to the proposed regional center, the necessary nexus demanded by the language of the regulation between the proposed regional center and the resulting regional or national economic impact, does not exist. Thus, the applicant's "exemplar evidence" cannot satisfy the requirement for providing a detailed prediction in which the proposed regional center will have a positive economic impact, as outlined in 8 C.F.R. § 204.6(m)(3)(iv). The director properly rejected the economic impact reports for projects that *are unrelated to the proposed regional center.*

In both the response to the RFE and in the appeal brief, the applicant suggests that much of the documentary evidence necessary to meet the requirements of the regulations are unavailable because [redacted] is a newly established entity and currently has not yet developed even a hypothetical project but that evidence relating to the types of projects that the regional center would like to consider prospectively is sufficient for purposes of 8 C.F.R. § 204.6(m)(3). The fact that [redacted] is newly established is not persuasive and does not absolve [redacted] from meeting regulatory requirements. The regulation at 8 C.F.R. § 103.2(b)(1) provides that an applicant or petitioner must establish eligibility "at the time of filing the application or petition." The regulation at 8 C.F.R. § 103.2(b)(12) provides that an application or petition "shall be denied where evidence submitted in response to a request for evidence does not establish filing eligibility at the time the application or petition was filed." *See also Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971); *Matter of Wing's Tea House,* 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977); *Matter of Great Wall,* 16 I&N Dec. 142, 144-145 (Act. Reg'l Comm'r 1977); *Matter of Izummi,* 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (citing *Matter of Bardouille, 18 I&N Dec. 114 (BIA 1981),* for the proposition that we cannot "consider facts that come into being only subsequent to the filing of a petition.") While the above cases involved immigrant petitions with priority dates, the AAO notes that this reasoning has been extended to nonimmigrant visa petitions, which do not have priority dates. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248, 249 (Reg'l Comm'r 1978). Ultimately, in order to be meritorious in fact, a petition must meet the statutory and regulatory requirements for approval as of the date it was filed. *Ogundipe v. Mukasey,* 541 F.3d 257, 261 (4th Cir. 2008).

The AAO is not basing the decision to uphold the director's ground of denial under 8 C.F.R. § 204.6(m)(3)(iv) on an assessment of whether or not the applicant submitted a reasonable economic analysis. Instead, the applicant has failed to submit any economic analysis for purposes of the

regulation, as described by 8 C.F.R. § 204.6(m)(3)(iv), and as such the applicant has failed to satisfy the plain language requirements of the regulation. Consequently, the AAO must affirm the director's decision in this regard.

E. Job Creation, Verifiable Details and Reasonable Methodology

The director found that the applicant neither addressed the issue of job creation in the regional center proposal nor provided in verifiable details how jobs will be created indirectly through the regional center's prospective investment activities, as required by 8 C.F.R. § 204.6(m)(3)(ii). The director also indicated that the creation of jobs needs to be supported by reasonable methodologies. The director further found that the applicant failed to submit a description or a business plan for each of the proposed industry categories for investment. On appeal, the applicant objects to the request to submit an actual or hypothetical business plan for each industry category and asserts that requiring submissions of business plans is unsupported by law. Moreover, the applicant asserts that a willingness to adopt an accepted job calculation methodology, documenting a working knowledge of the methodology, providing for transparency of operations, documenting a level of expertise with the legal fundamentals of the EB-5 program, and defining how investors will be solicited and vetted, is sufficient to meet all the requirements of the regulation.

Insofar as the applicant claims that the USCIS request to provide a business plan is unsupported by law, under 8 C.F.R. § 204.6(m)(3)(ii), an application for a regional center designation must include a proposal which: "Provides in verifiable detail how jobs will be created indirectly through increased exports." The language of this subsection essentially calls for a business plan. Moreover, the director called for a description or a business plan for each of the requested industry categories. The applicant in this instance failed to submit even a description relating to the industry categories. In the original November 22, 2011 application seeking designation as a regional center, the applicant identified 14 industry areas by two digit NAICS codes. In light of the large number of industry areas covered by 14 of the NAICS codes, which in turn encompass a series of 3 digit sub-categories, the director requested the applicant to clarify whether [redacted] will be engaging in all the sub-sections listed under a two-digit NAIC category or provide a revised list of categories that will be the focus of EB-5 investment sponsored through the regional center. In the RFE response, the applicant reduced the two digit categories from 14 to 10 and somewhat narrowed the scope of the categories at the three digit level. This reduction process, however, does not meaningfully reduce the scope of the potential areas of investment that [redacted] is seeking; the proposed scope of the proposal remains vague and unsupported by any hypothetical or actual project. Additionally, the reduced list, without a description or business plan, fails to meet the mandate for verifiable detail under the regulation.

The call for verifiable detail on how jobs will be created indirectly is required pursuant to 8 C.F.R. § 204.6(m)(3)(ii), while 8 C.F.R. § 204.6(m)(3)(v) describes the analytical tools the regional center must employ when making economic and job creation predictions. Specifically, that subsection requires that a regional center proposal: "Is supported by economically or statistically valid forecasting tools, including, but not limited to, feasibility studies, analyses of foreign and domestic markets for the goods or services to be exported, and/or multiplier tables." The applicant states that the county is familiar with the process of how and when to hire firms that can provide professional project impact

analyses, the applicant also has submitted background information on RIMS II methodology, and included an impact analysis for a project unrelated to the proposed regional center. The use of "exemplar evidence" that is wholly unrelated to the proposed regional center is insufficient to satisfy the language of the regulation for the reasons provided in the previous section. The county's familiarity with how to engage professionals who can provide impact analyses is entirely irrelevant and in previous sections, the AAO has already highlighted why even [redacted] parent corporation, [redacted] and the county cannot serve as surrogates for purposes of meeting the requirements of 8 C.F.R. § 204.6(m)(3). Furthermore, the plain language of the regulation states that a proposal must provide verifiable detail on how jobs will be created indirectly and that the process must be supported by economically or statistically valid forecasting tools. The applicant's alleged expertise is not a basis to waive those regulatory provisions. The regulation in no way indicates that it would be sufficient to merely describe a methodology and indicate a willingness to hire professionals that are familiar with that methodology or forecasting tool at a later time. Moreover, the Google analysis uses IMPLAN, not RIMS II, the methodology the applicant says it will use.

The inference raised in the appeal brief suggesting that an applicant for a regional designation could comply with the regulatory requirements – specifically with reference to providing verifiable detail of indirect job creation, which is supported by economically or statistically valid forecasting tools – by "merely replac[ing] the name "Google" in Attachment A with a foreign sounding individual's name, chang[ing] the industry name 10 different times (corresponding to industry categories requested), keep[ing] the direct jobs estimate at 210 worker, and mak[ing] other minor modifications; and thereby comply[ing] with a request that such a study be completed for each industry category (in each case, a RIMS II Direct Jobs Method analysis could be used to simply multiply 210 direct employees, ignoring construction jobs entirely, with the direct effects employment multiplier for that industry)" is not a good faith effort to comply with the requirements of USCIS regulations. Such an interpretation of the regulation is contradictory to its plain meaning and is not in the interest of USCIS or the aliens who invest in a regional center and inconsistent with Congressional intent to improve regional productivity to approve a regional center whose proposal is based on a reasonable economic analysis.

IV. SUMMARY

For the above stated reasons, considered both in sum and as separate grounds for denial, the proposal may not be approved.

ORDER: The appeal is dismissed and the request for oral argument is denied.