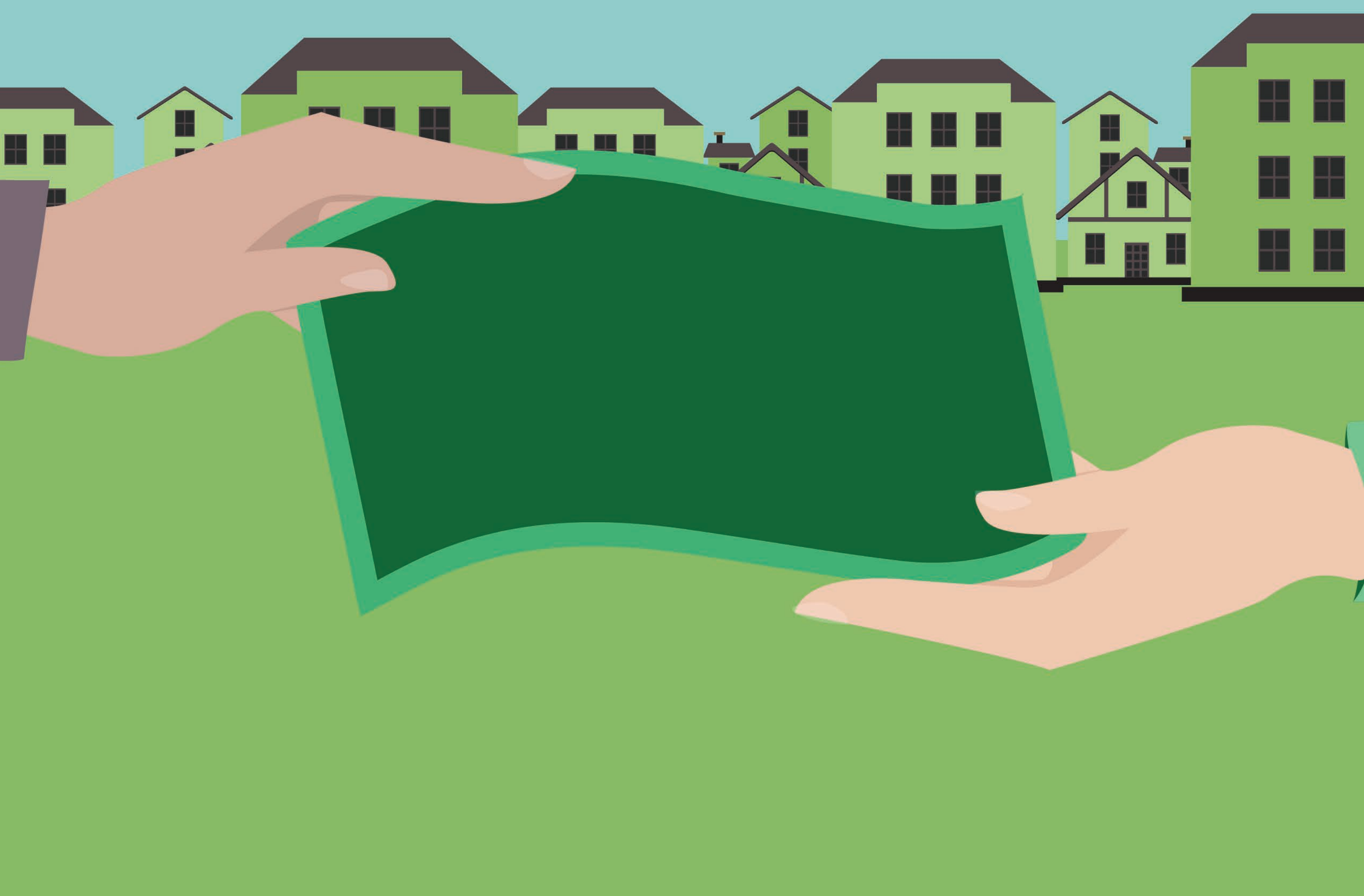
THE EB-5 VISA PROGRAM FOR IMMIGRANT INVESTORS

Audrey Singer
THE BROOKINGS INSTITUTION



COVER STORY

A U.S. visa program can benefit lower-income communities by providing a green card for foreign investment in development that otherwise might not be funded.

The EB-5 visa program was designed to provide green cards to foreign nationals who invest in economic development in the United States, especially in lower-income areas. Understanding of the program is still evolving, with more communities trying to tap what they see as a potential source of inexpensive, patient capital.

Overview

Interest in the federal EB-5 immigrant investor visa program surged as the Great Recession made traditional bank financing more difficult to access. Although the program was created as part of the 1990 Immigration Act, it has come into focus more recently as developers have begun exploring EB-5 funding for new projects. Foreign nationals must invest $1 million in a U.S. business (or $500,000 in low-income, distressed areas) and create or preserve at least 10 jobs.[1] In exchange, the immigrant investor receives a green card or permanent residency.[2]

The majority of EB-5 investments are administered through regional centers, which pool investments and are authorized by U.S. Citizenship and Immigration Services (USCIS) to develop projects. Regional centers are usually private entities, but some are run by states or municipalities, and others are public-private partnerships, often involving regional economic development organizations. The program prioritizes investments in areas of high unemployment by reducing the threshold from $1 million to $500,000 if the investment is located in a "targeted employment area" (TEA). TEAs are geographic areas that are either rural or experiencing an unemployment rate of at least 150 percent of the national average.[3]

The scale of the program is small relative to the entire permanent-resident admissions policy. Less than 1 percent of all green cards go to EB-5 investors annually. Up to 10,000 visas are available each year to investors and immediate family members, but as recently as 2007 only 800 visas were used. By 2013, the total was moving toward 7,000. Some high-profile fraud cases among regional centers marred the program's reputation and highlighted vulnerabilities both for immigrant investors and for overall success. Despite the scale of the program and the harmful cases, projects that make use of EB-5 funding do have the potential to benefit communities by providing local job opportunities, both short and long term. So far, EB-5 financing has been used for projects that include large commercial-property developments, assisted-living facilities, and manufacturing plants.

Reaching for Goals

A central purpose of the program is to aid regional economic development, especially in distressed areas. The majority of investments currently are in TEAs. But how well does the program achieve its goal of benefiting such areas? There are questions around job creation that are worth exploring. Do communities benefit from EB-5 in the form of more jobs or better jobs? Are they long-term jobs? Do workers in targeted communities benefit, or do others from outside the community get the jobs?

Without much reliable data to assess program performance, it is not clear that it is meeting its goals. There are several possible reasons. First, although the EB-5 goals parallel those of regional and local economic development organizations, most such entities do not use EB-5. Furthermore, there are no incentives in the program to encourage partnerships or coordination. Nevertheless, some of the biggest successes include partnerships between regional centers and economic development organizations or municipalities, such as the Philadelphia Industrial Development Corporation, the City of Dallas Regional Center, and CMB Regional Export in San Bernardino. Partnering with economic development agencies that have a stake in their communities makes sense.

Second, although the TEA provision is set up to help communities that need economic stimulation, there is no guarantee that they get it. At the very least, the EB-5 program requirements ensure that at least 10 jobs are created or preserved for every investment of $500,000 for at least two years. For a $250 million project with 20 percent EB-5 financing, for example, $50 million would be required to demonstrate that 1,000 new jobs were generated or preserved. Many new projects, particularly in real estate (and most projects are in real estate), should easily meet the job-creation requirements.

However, over time, the number of direct and indirect jobs generated by an EB-5 project will likely change. Many initial jobs will be related to the construction of the project itself. Depending on the nature of the enterprise (for example, mixed-use commercial, independent-care facility, manufacturing), the number of jobs may shrink (construction) or grow (expanded services or retail).

Third, there is nothing in the program that stipulates that the jobs go to residents of the TEAs. Is it likely that most of the new or

Channeling Foreign Direct Investment to the Inner City through EB-5

Kim Zeuli
INITIATIVE FOR A COMPETITIVE INNER CITY

The federal government's EB-5 Immigrant Investor Program is a tool that cities could use to attract new sources of capital to underserved neighborhoods. The Initiative for a Competitive Inner City (ICIC) spent a year analyzing the economic development potential of the program and recently released "Increasing Economic Opportunity in Distressed Urban Communities with EB-5."

The EB-5 program has the potential to direct $5 billion to $10 billion annually to inner cities and other underserved areas. Its job-creation requirement means it also has the potential to generate 100,000 jobs annually. ICIC's research identified 178 EB-5 projects nationwide, finding that most of the jobs initially created by EB-5 capital were linked to construction for real estate projects. Although construction jobs end, the projects ultimately enable businesses and organizations with more-permanent jobs to come in.

Entrepreneurs may also use EB-5 direct investments to start new businesses. E3 Investment Group, for example, created the E3 Cargo Trucking Company in Indianapolis. The company is structured as a partnership between E3 Investment Group and EB-5 investors. Each investor makes a $500,000 investment into the partnership, which finances the purchase and operation of trucks. In addition to the truck drivers, the company will hire people for administrative positions. But more research is needed to fully understand the quantity and quality of jobs being created by EB-5 investment.

Interest in the program has increased over the last decade, leading to a proliferation of new EB-5 regional centers. ICIC research found that every state has at least one regional center. Although some cities may not be adequately served by the local regional center, the biggest problem is a weak or nonexistent relationship between community and economic development organizations and EB-5 centers. Moreover, the regional centers find it increasingly challenging to develop a robust pipeline of suitable investment opportunities. Instead of investing in establishing new regional centers, which require significant start-up capital, cities should consider building EB-5 networks with community and economic development organizations, philanthropic organizations, and other key stakeholders that could develop strategic EB-5 priorities.

Last year there were more than 6,300 EB-5 applications, and that number is expected to come close to the program's 10,000-visa limit in 2014. Organizations like ICIC that focus on the inner city hope to see that the limited resources target transformative projects that support urban entrepreneurs and create high-quality jobs. Aligning EB-5 center priorities with economic and community development priorities will help move the program in the right direction. Additional policy changes are also critical. The EB-5 program needs to provide stronger incentives or modify its approval process to ensure that EB-5 capital is being used as originally intended—to support projects that would not have been funded otherwise, especially in parts of the country that need it most.

Kim Zeuli *is senior vice president and director of the research and advisory practice at ICIC, based in Boston. Contact her at kzeuli@icic.org.*

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preserved jobs go to residents? That would require a good match between jobs created and residents' skills. Nothing prevents the hiring of non-TEA residents for the jobs. Indeed it is likely that most of the workers are from outside the TEA. Thus, although economic benefits may accrue to the community in the medium or long term, there may not be an immediate boost.

Since the EB-5 program is intended to promote jobs and economic growth, especially in TEAs, it is fair to ask why more collaboration between regional economic development agencies and regional centers doesn't occur. Each partner stands to benefit from the other's expertise. Experienced regional centers have the knowledge of the complex visa program and how to get investments through the process. Economic development organizations know the local development context, have access to multiple funding streams and tax credits, and are well positioned to identify which projects are best for their communities.

Projects that make use of EB-5 funding have the potential to benefit communities by providing local job opportunities.

Toward Greater Community Impact

Unless regional centers or economic development entities attempt to measure the short- and long-term impacts and direct and indirect effects of EB-5 financing, it will continue to be difficult to assess the effects on communities that are supposed to benefit. However, there are a few ways that local leadership can proactively move investments in the right direction for a region.

First, it will take the participation of key municipal actors to use EB-5 financing for projects that offer good economic growth opportunities in low-income communities. Recently, a new regional center to be operated by the state of Michigan was set up—the second state-operated center, after Vermont's. Designation of the center marks an intentional strategy to improve economic development conditions in the distressed city of Detroit and beyond. As the new regional center proceeds, it should be evaluated thoroughly to improve understanding of the economic impact at the appropriate level of geography. In other words, the impact of any single EB-5-financed project should be first measured as it affects the immediate community.

Second, coordination between economic development organizations and regional centers would encourage development projects that are both strategic and regionally appropriate. It is more likely that new EB-5 development projects will sync better with economic targets if they involve local economic development organizations bringing homegrown goals to the table. Furthermore, economic development agencies might want to consider stipulating that a certain percentage of jobs go to local TEA residents, where feasible.

Third, tracking the economic impact of individual projects on local communities is valuable. Not only will regions develop a sense of the kind of impact that is possible through these kinds of partnerships, the projects can serve as models for other regions.

Finally, regional development professionals just getting into the EB-5 realm should educate themselves on how the program works in practice, the potential pitfalls, and the risks for both their projects and the immigrants they sponsor. Several existing models for creating effective partnerships can help development professionals understand the actors, agencies, and hazards of using EB-5 funds for regional economic development.

Audrey Singer *is a senior fellow at the Brookings Institution, based in Washington, DC. Contact her at ASinger@brookings.edu.*

Endnotes

[1] It appears that as long as the jobs exist at the time the immigrant applies to have conditions removed from the green card, the jobs requirement has been met. There are no criteria for the jobs lasting more than two years, a designated period that seems to vary in practice. See http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor.

[2] For more on the program, see the U.S. Citizenship and Immigration Services site, http://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor; Audrey Singer and Camille Galdes, "Improving the EB-5 Investor Visa Program: International Financing for U.S. Regional Economic Development" (report, Brookings Institution, Washington, DC, 2014), http://www.brookings.edu/research/reports/2014/02/05-eb-5-investor-visa-program-singer-galdes; and Kim Zeuli and Brian Hull, "Increasing Economic Opportunity in Distressed Urban Communities" (report, ICIC, Cambridge, Massachusetts, 2014).

[3] The rules about TEAs are vague. It appears that as long as a state official certifies the geography as meeting the threshold, then it gets approved. More study is needed.