

‘National interest’ in EB-5: what it means—and what it doesn’t

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Some EB-5 projects promote themselves as being of “national interest,” but investors need to understand that this term has a very specific meaning in U.S. immigration—and in EB-5, it doesn’t work the way many think.

“There is no national interest component of EB-5,” said EB-5 lawyer [Ron Klasko](#) of Klasko Immigration Law Partners. Unlike the EB-2 National Interest Waiver, the [EB-5 visa program](#) has no built-in national interest provision.

However, USCIS does have the authority to expedite immigration petitions that promote certain government priorities. “Projects can request an expedite based on USCIS criteria,” said [Jennifer Hermansky](#), of Greenberg Traurig, chair of AILA’s National EB-5 Committee. “One such request is for government interests, including cases identified as urgent due to public interest, public safety, national interest, or national security.”

Expedite requests are not guaranteed approvals

Regional centers and developers can request USCIS for an expedited review of their EB-5 project arguing national interest when they file the I-956F petition for project approval. It is not a separate filing.

However, obtaining this request’s acceptance does not automatically guarantee project approval. It means the petition gets processed faster. In the case of EB-5 projects that get this treatment, it “puts such EB-5 projects at the front of the line,” said Gil Michel-

Garcia, Executive VP & General Counsel of EValution Energy.

However, [Steve Smith](#), founder and CEO of EB-5 Coast to Coast, emphasizes that this differs from the priority processing of Rural, High-Unemployment, or Infrastructure set-aside categories established under [the Reform and Integrity Act \(RIA\) of 2022](#).

To succeed, an expedited review request based on national interest must be supported by a compelling case in the [I-956F petition](#), which will secure USCIS approval for an EB-5 project, along with all other [EB-5 requirements](#). A strong justification typically involves an endorsement from a federal agency. “Such projects are typically driven by a letter of support from a federal agency,” said Sherman Baldwin, CEO of LCR Capital Partners.

Where national interest arguments are stronger

Critical minerals are increasingly being positioned as national interest cases. “Securing a domestic supply of rare earth and critical minerals is a top national priority for the US today,” Baldwin said. He cautions that “it’s hard to make the case for a hotel, a luxury condominium, or a multifamily unit to be in the national interest.”

Health-related initiatives have also entered the EB-5 space. EB-5 Coast to Coast has received USCIS approval for projects addressing the opioid crisis, which both Presidents Biden and Trump have identified as a national priority.

Investor expectations after RIA

Baldwin noted that some investors in LCR Capital Partners’ expedited project saw quick [I-526 approvals](#), but only because the project qualified for the Rural set-aside priority.

USCIS rarely expedites I-526 petitions on national interest grounds since RIA’s passage. “They simply issued a letter denying expedited processing when the investor requested it for their I-526E petition,” Smith said.

While USCIS still allows expedited reviews in special circumstances, the fact that a project received a national interest–based accelerated processing for its I-956F does not guarantee the same speed for investors’ petitions.

Calls for a clearer Standard

Baldwin believes USCIS should refine the EB-5 project review process. “We view national interest projects as an important future direction for the EB-5 program. The government should consider how to direct foreign investment in a manner that aligns with and supports national priorities for the U.S.”

Michel-Garcia adds that automatic expedited treatment for qualifying national interest projects could allow quicker raising of funds, accelerate financing and buildout of supply chains, and boost economic growth, “at no additional cost to taxpayers.”

For EB-5 investors, the takeaway is clear: while national interest arguments can help certain projects get to the front of the line, they don't replace the EB-5 program's strict legal and investment requirements, nor do they ensure faster or easier approval of individual petitions.

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