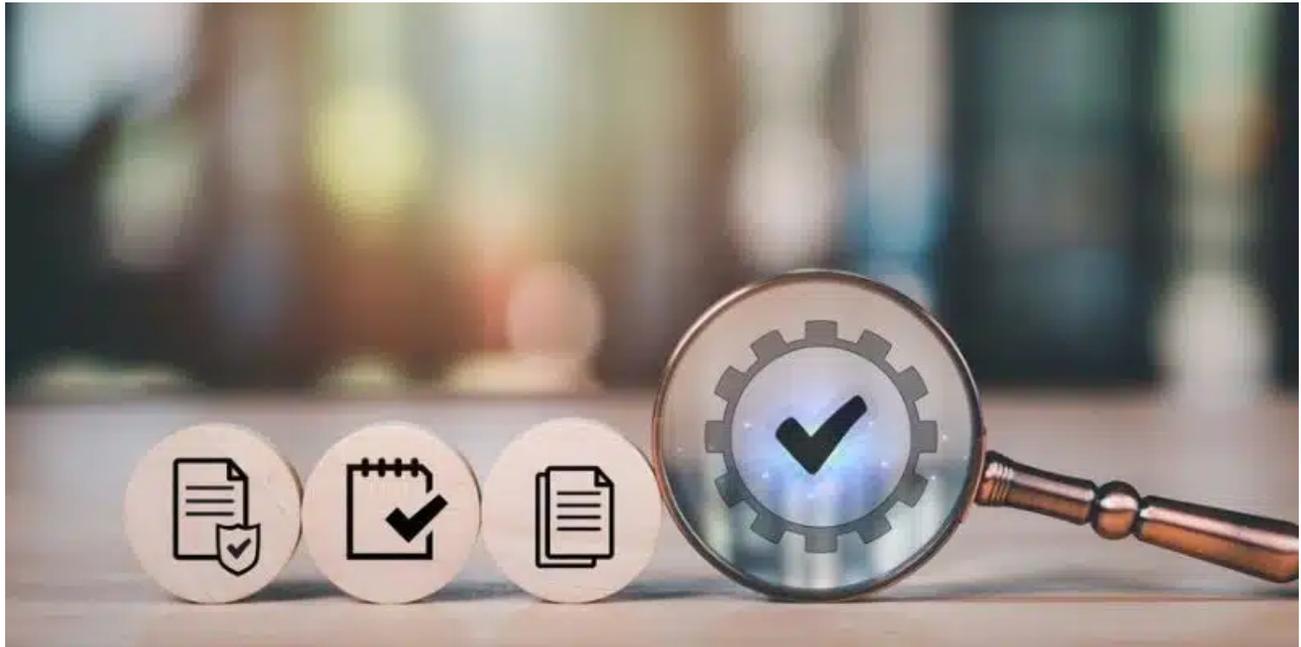


EB-5 Regional Centers prepare for auditing process to start next week

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By Marta Lillo

In just a few days, the USCIS will formally begin auditing designated EB-5 Regional Centers, during which they must provide all information and updates requested for verification, such as books, ledgers, records, and any other documentation kept under the Immigration and Nationality Act (INA).

The process officially begins on Apr. 23. Although the EB-5 industry has been aware of this mandatory process since RIA was passed in 2022, USCIS announced on Apr. 9 the procedure it will follow, mainly the timetable and the application of Generally Accepted Government Auditing Standards (GAGAS).

The audit will begin with a notification letter sent to regional centers formally requesting information, followed by fieldwork and in-person/virtual visits to their offices. The timeline could vary depending on issues presented during the process and the institution's responses to requests.

The audit is expected to require large amounts of documentation as the Audit Team will review applications, certifications, and associated records; public records and information on the regional center constitution; and any other supporting documentation regarding EB-

5-related operations.

Provided there are no delays or failure to consent to the audit, the process would end with a closeout memo detailing the procedure followed and a final audit results report.

Sherman Baldwin, CEO of LCR Capital Partners, explains that the process could vary depending how active the Regional Center is. “While all RCs need to have clear processes and systems in place, for a dormant RC, the most significant activity is paying its integrity fee and completing the annual filing. For RCs with active projects, we expect a full review of our documentation and processes, as well as spot checks as is typical in a CPA audit.”

Although the USCIS established frequently asked questions about the audit, regional centers will welcome further information.

“Any guidance on how the agency will decide the level of audit, such as if it will be based on investor activity or number of projects, would be helpful as we prepare. Also, like many other companies in the EB-5 industry, we manage multiple regional centers. If there are standard request lists for information or documentation, it would help us prepare and be efficient with the USCIS auditors’ time,” Sherman adds.

In a webinar, Carolyn Lee, an EB-5 attorney and founder of Carolyn Lee PLLC, cautioned about unanswered questions that USCIS must address, such as the content of the request for information, whether audits and site visits will be separate or together, how GAGAS pertains to RC operations and audits, whether regional centers will access the record created by the audit, and whether there will be a venue to challenge the scope or results of the audit.

Kyle Walker, CEO of Green Card Fund, adds “it’s encouraging to see the USCIS move forward with the audit requirements of the 2022 EB-5 RIA. While the recent guidance is a welcome step forward, much more detail is needed from USCIS as the regulatory body. I remain encouraged by the introduction H.R.2770 – EB-5 Regional Center Program Advisory Committee Authorization Act by Congressmen Stanton [D-AZ-4] and Fitzpatrick [R-PA-1]. The bill aims to establish an Advisory Committee between USCIS and the industry to talk through the details of important issues such as Regional Center audits. Greater clarity around USCIS implementation of the RIA will only enhance the best practices and outcomes of the industry.”

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