

Choosing an EB-5 Service Provider: Top 10 Questions for Investors



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ABOUT THE EB-5 PROGRAM

People come to the United States from around the world for many reasons, with liberty, religious freedom, economic opportunity and quality education among the most important. For some who wish to settle in the U.S. permanently, the EB-5 visa program is an excellent path to that all-important “green card” that offers legal residency and a path to naturalized U.S. citizenship, if desired.

The U.S. Congress created the EB-5 program (EB stands for Employment-Based) with a goal of stimulating the U.S. economy through job creation and investment by foreign entrepreneurs, who in turn receive visas for themselves, their spouses and unmarried children under the age of 21.

Once specific conditions have been met, those visas can lead to green cards and even citizenship.

Since its inception in 1990, the EB-5 program has attracted at least \$4.2 billion in investments, created at least 77,150 jobs and provided more than 44,400 visas to the United States.

The program has grown tremendously, particularly in the past few years. The number of petitions received by the United States Citizenship and Immigration Service (USCIS), which administers the program, increased 636% from 2010 to 2015 and more than doubled in the last two years. That's 14,373 petitions in 2015 alone.

While the EB-5 visa program offers a great opportunity to the appropriate investor, it is a complicated process, involving immigration law, Homeland Security, Securities and Exchange Commission (SEC) regulations, and evaluation of business plans and potential for investment projects that are often in the highly regulated and specialized area of real estate development.

Any investment in a foreign enterprise is a complex decision involving many economic and legal factors. How can investors, who may live thousands of miles away from the United States, know that a business project is sound and that their investment will be well managed? How will they be sure that the project is correctly tracking the number of jobs created? What geographical area is best for the investment? Once the application has been approved and the EB-5 visas received, where will the investor and his or her family live? What schools are best for the children? How will the family understand and adapt to a new culture, climate and social structure?

For assistance with these questions and more, smart investors interested in the EB-5 program often choose an independent EB-5 service provider to work through the process with them. The EB-5 visa program is a very intricate process, with procedures and potential pitfalls that are not always well defined. The process usually proceeds more easily and quickly with guidance from an independent EB-5 service provider, who becomes the investor's trusted partner, smoothing the way and helping to protect the EB-5 investment.

While many EB-5 service providers offer one or more individual services to investors, very few offer the full range of services investors need to be successful. It's important to research carefully and choose wisely. This white paper is intended to assist investors in that selection, so that they understand the importance of opting for an independent EB-5 service provider as opposed to a service provider that only offers a few of the services needed for success.



TOP 10 QUESTIONS

Choosing the right EB-5 service provider can be key to success in obtaining an EB-5 visa for investors and their eligible family members, as well as resulting in a profitable investment. Here are 10 essential questions to ask before signing a contract for services, and what to look for in the answers.

1. What do I need to do to receive EB-5 visas for myself and my family?

In order to qualify for an EB-5 visa, an investor must:

- Invest a minimum of \$500,000 in an approved project
- Create at least 10 new full-time jobs through the approved project within two years

It seems simple and investing in a project in the United States is generally considered to have solid potential for success. After all, the United States has a relatively safe and secure economy. But the process itself has several stages, each of which needs to be carefully managed:

- a) Find and select a compliant EB-5 investment opportunity
- b) Place required funds in escrow
- c) File Form I-526 and supporting documentation with USCIS
- d) Once approved, file Form I-485 and supporting documentation with USCIS
- e) Receive conditional green card(s)
- f) Monitor investment project to ensure continued compliance
- g) File Form I-829 and supporting documentation with USCIS exactly one year and 275 days after the conditional green card was issued

While it is possible for investors to manage the entire process themselves, a misstep could jeopardize visa status, attainment of the permanent green card or even the return of the investment.

2. Is the firm I'm considering working with fully compliant?

Every investor wants to work with an EB-5 service provider that is fully compliant with all laws and regulations so as to safeguard the investment and encourage a positive outcome. The U.S. Department of Homeland Security regulates U.S. immigration through the USCIS, which works as needed with the Securities and Exchange Commission (SEC), the Financial Crimes Enforcement Network (FINCEN), the Financial Industry Regulatory Authority (FINRA), and even the FBI and U.S. Department of Justice, to help protect your investment.

All EB-5 service providers must understand EB-5 regulations so that they can advise you properly. The firm should work with an SEC-licensed broker and a reputable immigration attorney, either as partners or staff members.

The EB-5 service provider should have a fully compliant formula for calculating creation of the number of jobs as a result of the investment, which is required for the removal of conditions on the green card. The firm should be able to show what its proven methodology is for calculating job creation, and should provide for a “buffer” of perhaps 30 percent over the minimum requirement of 10 jobs as added safety.



3. What is your firm's institutional approach?

You should look for an EB-5 service provider that embraces an institutional approach focused on clear processes and on each individual investor's needs, as well as on transparency in all their interactions with you. Investor-focused service providers also offer full disclosure of all financial arrangements, both for the investment and the service fee. You have the right to see how your investment is being spent.

The EB-5 service provider should be able to work with you in your native language, assist with any services you need as you settle in the United States (such as housing or schools) and keep you constantly and fully aware of the status of your investment project and the immigration approval process.

Being truly investor-focused means that the services offered by the service provider should just be beginning when the contract is signed and the funds are transferred.

4. What special services do you offer to assist my family and me in getting settled in the United States?

Many EB-5 service providers are more focused on the EB-5 investment project than on the investor. They may even focus on financial strategy and tracking job creation. However, most don't offer the full range of services you may need. For this reason, it is preferable to work with an independent EB-5 service provider who is truly committed to you and your family throughout the entire process.

The investor focus of a reputable EB-5 service provider should include having someone dedicated to working with you on any issues that may arise. The firm should offer assistance with whatever you may need to get settled in your new country, including housing and real estate, banking, financial advising, transportation, insurance, medical care, moving and relocation services, schools for your children or finding employment.

5. What is your experience with the EB-5 visa program?

While the EB-5 program was created more than 25 years ago, it has grown tremendously over the past eight years. According to the USCIS, 642 I-526 immigrant petitions (the status specific for EB-5 investors) were approved 2008, while seven years later, 8,756 such petitions were approved. In the first years of the program, there were few EB-5 projects and fewer EB-5 investors. With the proliferation of both project opportunities and investors, the importance of having expert guidance has increased. For this reason, investors are unlikely to find service providers with more than five years of specific EB-5 experience. Certainly investors should look for providers with at least three years of experience.

Equally important, a reputable EB-5 service provider should offer a record of EB-5 project success and a broad array of services for investors.

It is an advantage if the EB-5 service provider has experience in financial services. A service provider with a financial services background may be able to create alternative capital structures to enhance a project's potential for success, benefitting both the project and its investors. The firm should ensure that project financing is structured so that it is reasonably safeguarded to be a low-risk investment. After all, your exit strategy and the



return of your investment, in addition to receipt of permanent green cards for you and your family, is the goal of the EB-5 program.

Experience within the service provider's own firm can and should be enhanced by partners who are experts in their own fields – attorneys, business management professionals and transactional specialists, to add breadth and depth to the range of services offered to investors.

6. What regional centers do you work with?

Regional centers are geographically focused. Many EB-5 service providers only work with one regional center. However, one important advantage of choosing an independent EB-5 service provider is that it has the flexibility to work with whichever regional center is managing the investment project chosen for you. This ensures that the best investment project is selected for each individual investor's needs from a broad range of eligible projects, rather than being restricted to one geographical area.

An independent service provider works with several different regional centers, selecting them based on the investment projects it recommends to investors, as well as the regional center's track record and reputation. The provider's process should be to first identify possible EB-5 investment projects, then research and perform all due diligence to vet those projects and finally to choose the appropriate regional center.

The regional center becomes the manager of the funds once the investment has been approved. However, you should ask whether the EB-5 service provider also oversees the regional center's activities through project completion. Does the firm ensure that there is a hold-back structure in place for the escrow funds? That the hold-back structure is in compliance with immigration requirements? That there is sufficient financial oversight, investment transparency and immigration reporting capability? This helps to protect your investment.

Not all EB-5 projects are equal in terms of quality and risk. A reputable independent EB-5 service provider becomes your partner in evaluating, selecting and overseeing your investment.

7. How does your firm protect my investment?

An EB-5 service provider should be able to tell you in detail how it evaluates EB-5 projects, how it oversees the progress of the selected project and the use of the invested funds and how it tracks job creation and project completion.

Your service provider should perform thorough due diligence on prospective EB-5 projects. The firm should review: the project's business plan, including funding from all sources (not just EB-5 funding), timeline, job creation plan and anticipated exit strategy; the experience and track record for both developer/business owner and the regional center handling the project; and the economic report and the market study for the project location. Only then can the EB-5 service provider recommend low-risk projects appropriate to the investor's specific needs and interests.

The service provider should also oversee the project's progress and fund disbursement through the regional center so that there are strong third-party financial controls on your investment.



8. *What parts of the world do you serve?*

The EB-5 service provider should have offices or on-ground partners in the countries where most potential investors live: China, India, Argentina and Brazil, at a minimum, in addition to the United States. However, a good service provider should be able to serve an investor anywhere in the world. This can be accomplished via telephone, Skype, email and a secure website that allows investors to log in and see the status of their investment and their immigration status.

9. *How do I know that your company is fiscally responsible and financially sound?*

The EB-5 service provider you are considering should be willing to provide complete, detailed financial statements for its firm and should also offer a breakdown of how your fees are applied to expenses.

Another important indicator is to look at who is on their board of directors. Are the board members in the business or government worlds? More specifically, are they familiar with real estate development, business management, immigration? What about U.S. Homeland Security? Do they serve on other boards and if so, which ones? A good service provider should have a small but powerful board that includes members with various areas of expertise – government, business, law, accounting.

10. *How do you use partners to assist me?*

Partners allow the EB-5 service provider to offer needed skill sets to investors in the most economical fashion possible. The service provider should have solid working relationships with experts such as immigration attorneys, brokers and business analysts. You should be provided with names and background information for any partners the service provider uses. Each of these experts has an important role to play.

Without a lawyer's help, it's easy to make mistakes that can unnecessarily delay the processing of your application. An immigration attorney assists you in knowing what to expect and how to navigate through the technical challenges of a visa application.

A licensed investment broker is required to buy and sell securities in the United States. The broker ensures that information about the investment is accurately presented and the investment is properly registered.

Business analysts perform extensive due diligence on all investment opportunities prior to their being offered to investors. They assess the business model, business processes, systems and operations, marketing plan, key personnel and more. With this data, the EB-5 service provider can choose the strongest projects to offer its client investors.

Once you have chosen a service provider, it will work closely with you to coordinate the specialized activities of these partners, as well as all services needed to make the transition to permanent resident as smooth and easy as possible for you and your family.



CONCLUSION

The distinction between a standard EB-5 service provider and an independent EB-5 service provider is an important one. Standard service providers may be compliant and have reputable service partners as well as some measure of success. However, they offer just one or a few of the services you need to complete the entire EB-5 process successfully. This means you would need to work with several different service providers to accomplish your goals.

Only an independent EB-5 service provider becomes your trusted partner at all stages of the process and can offer all of these needed services:

- Thorough due diligence to evaluate EB-5 investments
- Ability to work with multiple regional centers in different U.S. geographical areas
- Monitoring of the selected EB-5 investment project to ensure continued compliance and third-party financial controls
- Filing of I-526, I-485 and I-829 forms with required documentation
- Proven, compliant methodology for measuring job creation results
- Ability to work with you in your native language
- SEC-licensed brokerage services
- Immigration attorney services
- Full disclosure of the firm's financial records and how your fee is applied
- Assistance with settling in the United States, including housing, schools, banking, insurance employment, moving, transportation, medical care and any other questions you may have.

NEXT STEPS

*If you think that the EB-5 program could be right for your family, you'll want to get started as soon as possible. Investors can perform a search on Google or another search engine to find service providers. Carefully examine their websites before contacting them. There are very few independent service providers that can offer the full range of services described above. My company, Nysa EB-5, is one that does. Our focus is on you and your success. I invite you to visit our website at nysaeb5.com to see for yourself. **Contact me directly when you are ready to talk about your options at 404.239.2222.***



USEFUL WEBSITES FOR THE INVESTOR

[United States Citizenship and Immigration Services](#)

[EB-5 investors](#)

[Invest In the USA](#)

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