

BusinessWeek

FOCUS ON ENTERPRISE

August 04, 2011

The EB-5 Program: Create American Jobs, Get a Green Card

The visa program has pulled in \$1.5 billion and created 31,000 jobs. Now U.S. Citizenship and Immigration Services is pushing to streamline it

By Nick Leiber

After spending eight years and \$20 million in federal grants creating portable water purification systems, Seldon Technologies last year was ready to start selling its devices to the developing world. But bank credit and venture capital were tight, and the Windsor (Vt.) company couldn't raise the money it needed to launch production.

So co-founder Alan Cummings turned to a federal program that offers foreigners permanent U.S. residency if they invest in companies that create jobs. Cummings says he has already received "millions" and expects to secure a total of \$20 million from 40 foreign investors, "if not this year, next." He plans to hire 140 people. "It's been a lifeline to capital as we're trying to grow this business," says Cummings, 63.

Hundreds of small ventures across the U.S. are finding backers through the visa program, known as EB-5. The 21-year-old initiative makes 10,000 green cards available to foreigners who invest a minimum of \$500,000 in U.S. companies that create or preserve at least 10 jobs in the country. The U.S. Citizenship and Immigration Services estimates that EB-5 has attracted more than \$1.5 billion in investment since its inception, creating some 31,000 jobs. "This is a unique way for immigration to enhance the U.S. economy ... at no expense to the U.S. taxpayer," says Stephen Yale-Loehr, who teaches immigration law at Cornell Law School.

The primary conduit of investments for the EB-5 program, though, faces an uncertain future. About 90 percent of the money is funneled through private companies, known as regional centers, which match overseas investors with businesses in need of capital. These companies are authorized to participate in the program by legislation that expires every few years. They could be shut down if Congress fails to reenact the law by September 2012. Immigration Services data show that in the past five years regional centers were responsible for nearly 10,000 jobs and more than \$400 million in investment. In 2007 there were only 11 of them. Today there are 147, with 146 more seeking approval.

Because of the program's complexity, EB-5 uses less than half its annual quota of visas, meaning it is responsible for a small fraction of the 140,000 employment-based residency visas allotted to foreigners each year under a variety of programs. State Dept. data show that 1,885 people—about half of them from

China—got EB-5 visas in the 12 months through September 2010. In the six months through March 2011, the State Dept. estimates it issued more than 2,100 visas. Regional center directors say the number of applications has increased because it is so difficult for small businesses to get financing these days.

Taher Kameli, executive director of Chicagoland Foreign Investment Group, a center in Chicago, says interest typically flags in the year before the program comes up for renewal, as potential investors fear EB-5 may be canceled and they may not get a green card. “If Congress can extend the program this year, either make it permanent or extend it for a [longer] period of time, that would help the momentum that these regional centers have,” says Kameli. His center has helped 103 investors put \$51.5 million into six companies, including assisted living facilities and a medical equipment manufacturer.

In March, Senator Patrick Leahy (D-Vt.) introduced legislation to make the centers permanent, which he says “will provide entrepreneurs and investors with certainty and predictability.” Leahy also plans to introduce legislation this fall to give immigration authorities more oversight of the centers. Another proposal, the StartUp Visa Act of 2011, sponsored by Senator John Kerry (D-Mass.) and Representative Carolyn Maloney (D-N.Y.), would steer some of the unused visas from EB-5 to immigrant entrepreneurs who create at least three domestic jobs and land at least \$100,000 from qualified investors or show \$100,000 in revenue. The change “would attract additional talent by providing an allowance to young entrepreneurs with significant investment backing here in the United States,” Kerry wrote in an e-mail.

The EB-5 program hasn’t always been considered a success. In the 1990s it gained notoriety for companies that falsified job creation numbers. Now some critics say the regional centers, which charge investors \$30,000 to \$50,000, are misrepresenting their ability to help foreigners get residency. “There are so many regional centers now, and a number of business brokers in other countries are promising people things they simply can’t deliver,” says Anthony Korda, an immigration attorney in Naples, Fla. “[They’re] giving many investors a false idea of what’s to be expected,” says Korda, who last year obtained permanent residency via the EB-5 program. The London native is among 400 investors from 56 countries who have helped Vermont ski resort Jay Peak raise roughly \$200 million since 2006.

Regional centers often invest alongside the foreigners after vetting projects to be certain they will create enough jobs. And they ensure that paperwork is filled out correctly: Each deal requires hundreds of pages of documentation, and mistakes can mean that investors don’t get their green cards. From October 2004 through March 2011, immigration officials denied 500 petitions for permanent residency. “You’ve gotta get the right project,” says Tom Rosenfeld, president of CanAm Enterprises in New York, which runs regional centers in four states. “You get the wrong project and then these investors get screwed.”

Other critics say the officials administering the EB-5 program are too slow. It takes about six months for each of the two approvals investors need, according to Immigration Services. This fall the agency’s director, Alejandro Mayorkas, expects to hire more staffers to speed up decisions and to offer investors an option to pay \$1,200 to cut processing time to just 15 days on some projects. “Investors with this type of capital have options available to them,” says Mayorkas. “We think the program’s potential could be better realized if we as an agency move more quickly.”

The bottom line: A program giving foreigners green cards in return for investment in U.S. companies that create jobs has won \$1.5 billion.