

EB 5 TEA Designation: Rural vs Urban Guide

A comprehensive guide from EB5 Attorneys

A Targeted Employment Area (TEA) designation determines how much an EB 5 investor must commit and how quickly a visa number becomes available. Rural TEAs receive 20% of annual EB 5 visas, high unemployment urban TEAs receive 10%, and infrastructure projects receive 2% (INA 203(b)(5)(B)(ii), as amended by the EB 5 Reform and Integrity Act of 2022). Choosing the right TEA category affects both the required capital outlay and the investor's place in the visa queue.

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What Is a Targeted Employment Area?

A Targeted Employment Area is a geographic zone that meets specific economic criteria under INA section 203(b)(5)(B)(ii) and 8 CFR 204.6(e). TEAs exist to direct foreign investment capital toward regions where economic stimulus is most needed. An EB 5 project located in a valid TEA qualifies for the reduced minimum investment of \$800,000 rather than the standard \$1,050,000, a \$250,000 difference that meaningfully changes the financial profile of the investment.

Before the EB 5 Reform and Integrity Act (RIA) of 2022, individual states could designate TEAs by submitting letters confirming that a project area met the unemployment threshold. Under the RIA, USCIS now makes all TEA determinations directly. This change removed the variability that existed when different states applied different methodologies to the same federal standard. Investors and project sponsors submit TEA designation requests to USCIS, which evaluates Census tract data and Bureau of Labor Statistics unemployment figures to confirm or deny TEA status.

The practical consequence of this centralization is that investors can no longer rely on a state governor's letter as proof of TEA qualification. Instead, USCIS reviews the underlying data independently and may reach a different conclusion than a state would have under the old system. Project sponsors should secure a formal TEA determination from USCIS before marketing the project to investors.

Rural TEA: Definition and Visa Set Aside

A rural TEA is any area that falls outside a metropolitan statistical area (MSA) and outside any city or town with a population of 20,000 or more, as determined by the most recent decennial Census. This definition is codified at INA 203(b)(5)(C)(ii)(I).

Rural TEA projects are the most advantaged category under the RIA. Congress reserved 20% of all annual EB 5 visas for investors in rural TEA projects. As of April 2026, the rural set aside queue has remained current for all countries of chargeability since March 2022, meaning that rural TEA investors from traditionally backlogged countries such as China, India, and Vietnam face no additional wait beyond standard USCIS processing times.

The rural designation is binary: a project site either falls within an MSA boundary or it does not, and the population of the nearest city or town either exceeds 20,000 or it does not. There is no discretionary judgment involved. USCIS verifies these facts against Census Bureau geographic boundary files and population counts. Investors should confirm that the project site, not just the regional center's headquarters, meets the rural definition. A regional center may be designated to operate across an entire state, but the TEA determination applies to the specific location where the new commercial enterprise deploys capital and creates jobs.

The popularity of rural TEA projects has increased substantially since 2022 because of the visa availability advantage. Developers have responded by structuring new EB 5 offerings in qualifying rural locations, particularly in hospitality, senior living, manufacturing, and agricultural processing.

High Unemployment TEA: Census Tract Methodology

A high unemployment TEA is an area where the weighted average unemployment rate is at least 150% of the national average (INA 203(b)(5)(C)(ii)(II)). USCIS determines high unemployment TEA status using Census tract level data from the Bureau of Labor Statistics and the American Community Survey.

Under the RIA methodology, the project sponsor identifies the Census tract where the new commercial enterprise's principal place of business is located. If that single tract's unemployment rate equals or exceeds 150% of the national average, the area qualifies as a high unemployment TEA. If the single tract does not meet the threshold on its own, the sponsor may include directly adjacent Census tracts and calculate a weighted average unemployment rate across the combined area. "Directly adjacent" means tracts that share a common boundary; tracts connected only at a single point (corner adjacency) may not qualify depending on USCIS interpretation.

The weighted average calculation uses the civilian labor force of each included tract as the weight. A tract with a large labor force contributes more to the weighted average than a tract with a small labor force. This prevents sponsors from cherry picking small, high unemployment tracts to artificially inflate the combined rate.

High unemployment TEA projects receive a 10% set aside of annual EB 5 visas. This set aside has also remained current since March 2022, though the pipeline of investors in this category is larger than the rural category, making future retrogression possible as filing volumes increase. Investors should discuss visa availability projections with their immigration counsel before filing.

The national average unemployment rate used for the 150% calculation is published by the Bureau of Labor Statistics. As of early 2026, the national unemployment rate has hovered in the range of 3.8% to 4.2%, placing the 150% threshold at approximately 5.7% to 6.3%. Census tracts in urban cores, post industrial areas, and economically distressed neighborhoods frequently meet this threshold.

Infrastructure TEA Projects

The RIA created a third set aside category for infrastructure projects, reserving 2% of annual EB 5 visas for investments in qualifying infrastructure development. Infrastructure projects include transportation systems, water treatment facilities, power generation, broadband deployment, and similar public works or public benefit construction.

The infrastructure set aside is the smallest of the three reserved categories, and relatively few EB 5 projects have been structured as infrastructure investments as of April 2026. The regulatory guidance on what qualifies as an infrastructure project remains less developed than guidance for rural and high unemployment TEAs. Investors considering infrastructure projects should verify that USCIS has confirmed the project's eligibility for the set aside and that the project sponsor can demonstrate a track record of infrastructure development.

Infrastructure TEA investments may or may not require the reduced \$800,000 minimum. If the infrastructure project is also located in a rural or high unemployment TEA, the reduced threshold applies. If the infrastructure project is in a non TEA location, the standard \$1,050,000 minimum applies, but the investor still benefits from the 2% set aside for visa queue purposes.

Unreserved Category and Per Country Backlogs

The remaining 68% of annual EB 5 visas are unreserved. These visas are subject to per country limits under INA section 202, which caps any single country at approximately 7% of total employment based visas. For investors from China (mainland), India, and Vietnam, the unreserved category has historically experienced retrogression, meaning more approved petitions exist than available visa numbers. Retrogression creates multi year waits between I 526E approval and visa availability.

The set aside categories operate independently of the per country cap system. This is the primary reason investors from backlogged countries choose rural, high unemployment, or infrastructure TEA projects. An Indian investor filing in the unreserved category as of April 2026 may face a wait of several years for a visa number. The same investor filing in the rural TEA set aside category could have a visa number available immediately upon I 526E approval.

Investors who initially file in the unreserved category cannot simply transfer to a set aside category later. The TEA designation and set aside eligibility are determined at the time of filing based on the specific project. Changing projects after filing requires a new I 526E petition. This makes the initial project selection decision particularly consequential for investors from backlogged countries.

How TEA Status Is Verified

Under the RIA, TEA determination is a USCIS function. Project sponsors or their counsel submit a request for TEA designation using supporting data from the Census Bureau and Bureau of Labor Statistics. USCIS reviews the submission and issues a determination letter confirming or denying TEA status for the specific project location.

For rural TEA verification, USCIS cross references the project address against Census Bureau geographic files defining MSA boundaries and city/town population counts. The determination is generally straightforward because it relies on objective geographic and population data.

For high unemployment TEA verification, USCIS reviews the Census tract data, adjacency claims, labor force figures, and weighted average unemployment calculations. This review is more involved because it requires data analysis and because sponsors sometimes propose tract combinations that USCIS may find unpersuasive.

TEA status can change over time. A Census tract that qualifies as high unemployment in one year may not qualify in the following year if economic conditions improve. However, TEA status is generally locked at the time the investor files the I 526E petition. If the TEA designation was valid when the petition was filed, subsequent changes in unemployment rates do not retroactively disqualify the investment. Investors should ensure their counsel confirms TEA validity at or near the filing date and includes the determination documentation in the I 526E petition.

Choosing Between TEA Categories

The choice of TEA category is primarily a visa availability decision. Investors from countries without significant backlogs (most of Europe, Latin America outside of Brazil, Africa, and Oceania) face current visa dates in all categories, including unreserved. For these investors, the TEA decision is purely a financial one: rural or high unemployment TEA projects require \$800,000, while non TEA projects require \$1,050,000.

For investors from China, India, Vietnam, and other countries approaching or experiencing retrogression, the TEA category selection has both financial and timing implications. Rural TEA projects offer the strongest visa availability advantage (20% set aside) combined with the reduced investment threshold. High unemployment TEA projects offer a smaller but still meaningful set aside (10%) with the same reduced threshold. Infrastructure projects offer the smallest set aside (2%) and may or may not qualify for the reduced threshold depending on location.

Investors should discuss with their attorney the projected visa wait times for each category, the quality and track record of available projects in each category, the geographic location preferences (rural areas may be less convenient for investors who plan to reside near the project), and the overall risk profile of the investment. The fastest visa queue does not necessarily correspond to the best investment opportunity. The attorney's role is to help the investor weigh immigration advantages against investment quality and personal preferences.

Common TEA Pitfalls and How to Avoid Them

Several issues arise repeatedly in TEA related EB 5 filings. The most common is reliance on outdated TEA data. Because unemployment rates fluctuate and Census data is periodically updated, a TEA determination obtained two years before filing may no longer be valid. Investors should insist on a current TEA determination at or near the time of their I 526E filing.

Another pitfall is confusion between the regional center's geographic scope and the project's TEA status. A regional center may be designated to operate across an entire state, but that does not mean every location within the state qualifies as a TEA. The TEA determination is project specific, tied to the Census tracts where the new commercial enterprise conducts business and creates jobs.

Gerrymandering of Census tracts is a third concern. Some project sponsors have historically combined non contiguous tracts or included tracts with no genuine connection to the project in order to inflate the weighted average unemployment rate. USCIS under the RIA applies stricter scrutiny to tract combinations, and submissions that appear to manipulate the data risk denial. Investors should verify that their project's TEA claim uses only the tract where the principal place of business is located and directly adjacent tracts, consistent with the regulatory framework.

Finally, some investors assume that TEA status affects only the investment amount and overlook the visa set aside advantage. For investors from backlogged countries, the set aside is often more valuable than the \$250,000 reduction in required capital. A thorough attorney analysis considers both dimensions before recommending a project.

Frequently Asked Questions

1. What is the difference between a rural TEA and a high unemployment TEA?

A rural TEA is defined by geography: the project must be located outside any metropolitan statistical area and outside any city or town with a population of 20,000 or more (INA 203(b)(5)(C)(ii)(I)). A high unemployment TEA is defined by economics: the weighted average unemployment rate of the Census tract (and directly adjacent tracts, if needed) must equal or exceed 150% of the national average (INA 203(b)(5)(C)(ii)(II)). Both qualify for the reduced \$800,000 investment minimum, but they receive different visa set asides: 20% for rural and 10% for high unemployment.

2. Who determines TEA status under current law?

USCIS makes all TEA determinations under the EB 5 Reform and Integrity Act of 2022. Before March 2022, individual states could issue TEA designation letters, but that authority was removed by the RIA. Project sponsors or their attorneys now submit TEA designation requests directly to USCIS with supporting Census and labor data. USCIS evaluates the data independently and issues a determination letter.

3. Can TEA status change after I file my I 526E?

TEA status is generally evaluated as of the date the I 526E petition is filed. If the project area qualified as a TEA at the time of filing, a subsequent change in unemployment rates or Census data does not retroactively disqualify the investment. However, if the project area's TEA status was revoked or found invalid before filing, the investor cannot claim TEA benefits. Investors should confirm TEA validity close to their intended filing date.

4. Does every EB 5 project need to be in a TEA?

No. Non TEA projects are permitted but require the higher \$1,050,000 investment minimum. Non TEA projects fall into the unreserved visa category (68% of annual visas), which is subject to per country limits and potential retrogression. For investors from countries without backlogs, a non TEA project may be perfectly suitable. For investors from China, India, or Vietnam, the combination of higher investment cost and longer visa waits makes non TEA projects less attractive.

5. How do visa set asides work for TEA investors?

Congress reserved specific percentages of annual EB 5 visas for each TEA category under the RIA: 20% for rural TEAs, 10% for high unemployment TEAs, and 2% for infrastructure projects. These set aside visas operate in separate queues from the unreserved category and are not subject to per country limits. As of April 2026, all three set aside categories have remained current (no retrogression) since March 2022, giving TEA investors a significant timing advantage over unreserved category investors from backlogged countries.

6. What data does USCIS use to calculate unemployment for TEA purposes?

USCIS uses Census tract level unemployment data from the American Community Survey and the Bureau of Labor Statistics. The calculation involves identifying the Census tract where the project's principal place of business is located, determining whether that tract alone meets the 150% threshold, and if not, calculating a weighted average using directly adjacent tracts. The weighting is based on the civilian labor force in each tract.

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