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**EB-5 Investment Diligence Questions**

**How to Use This List of Questions**

On the following pages, you’ll find the full list of questions with example answers. The “best answer” to each question indicates low risk, while the “worst answer” means high risk. The answers you receive from an EB-5 project will likely fall somewhere in between “best” and “worst.”

Keep in mind that the answers given are for real estate projects accepting an EB-5 loan. If a project you are considering is not a real estate project or is seeking an EB-5 equity investment, these questions will need to be modified.

On the last page of this document, you’ll find the list of questions by itself and without answers. You can simply copy this list of questions into an email to send to an EB-5 project’s sponsor or regional center. If the project’s sponsor or regional center refuses to respond to you in writing and address these questions – that is a major red flag.

If you have any questions or need help finding a low-risk EB-5 investment project, please don’t hesitate to [schedule a call](https://go.oncehub.com/samsilverman2). We are happy to help.

**Questions by Category with Best and Worst Answers**

**Questions about the Project Developer:**

How many similar real estate development projects does the developer have experience completing, and over what time frame?

Best Answer: The developer has a 25+ year track record of successfully completing projects. The developer has successfully developed billions of dollars of real estate in the same asset class.

Worst Answer: The developer is new and has no track record to review.

Has the developer ever failed to complete a project, including EB-5 projects?

Best Answer: The developer has completed every project it has started.

Worst Answer: The developer has never completed a project at the same scale or in the same geographic area as the one being considered for investment.

How much financing has the developer obtained and from what sources? Has the developer ever failed to repay similar financing on prior projects?

Best Answer: The developer has secured billions of dollars in financing, which has either been fully repaid or is in good standing.

Worst Answer: The developer has defaulted on loans or failed to repay investors in the past or the developer has no history securing or repaying financing.

How many of the developer’s EB-5 projects has USCIS approved?

Best Answer: The developer has successfully completed more than 10 EB-5 projects and has a 100% USCIS project approval rate.

Worst Answer: The developer has one or more past projects that USCIS has rejected or the developer has minimal experience with the EB-5 program.

How many of the developer’s prior real estate development projects have used EB-5 financing, and over what time frame? Were they successful at creating enough jobs for all EB-5 investors?

Best Answer: The developer has used EB-5 program financing successfully for more than 10 years. All prior EB-5 projects have either successfully completed development or are on track, with all EB-5 jobs already created or on track.

Worst Answer: The developer has limited or no experience with the requirements of the EB-5 program to ensure that EB-5 investors qualify for both temporary and permanent Green Cards. The developer has not successfully used EB-5 financing for any prior projects.

**Questions about the EB-5 Investment:**

Is the EB-5 project located in a Targeted Employment Area (TEA)? If yes, is it in a rural or high-unemployment TEA?

Best Answer: The EB-5 project qualifies as a rural TEA, which is advantageous for investors because they will receive priority processing and have access to a 20% visa set-aside, especially important for EB-5 investors born in higher-volume countries including India and China.

Worst Answer: The EB-5 project does not qualify as a rural TEA or an urban high-unemployment TEA. For investors from some countries, such as Canada and Germany, the set-aside visas may not matter. However, faster processing with a rural TEA project is always preferred.

What escrow policies are in place to protect EB-5 investors?

Best Answer: EB-5 investor funds are placed in a fully FDIC insured escrow account until the EB-5 investor’s I-526E petition receipt notice has been received and the project’s I-956F petition has been filed.

Worst Answer: EB-5 investor funds are not being placed in escrow or are in an escrow account that is not fully FDIC insured.

What is the duration of the EB-5 investment loan?

Best Answer: The term of the EB-5 loan is a clearly defined fixed period that begins when an EB-5 investor’s funds are invested in the project and is not contingent on any other events.

Worst Answer: The EB-5 loan term is not defined, and the start date for the term of the EB-5 loan depends on events outside the control of the investor, such as I-526E approvals or a minimum number of investors joining the project.

How will the EB-5 loan be repaid, and is repayment directly secured by collateral and/or a repayment guaranty from a well-capitalized and diversified guarantor company?

Best Answer: The EB-5 loan is secured by a separate, well-capitalized, diversified holding company with sufficient liquidity and a significant percentage of net equity, ensuring that the EB-5 loan is well secured throughout the entire investment duration.

Worst Answer: The EB-5 loan is entirely unsecured and/or repayment depends solely on a refinancing event years in the future that is entirely dependent on (i) future cash flows from the rental of apartment and/or hotel units and (ii) future interest rates and capital markets liquidity.

**Questions about Project Feasibility:**

What is the project’s current construction status, including any permits or approvals obtained?

Best Answer: Construction is well under way, and all necessary permits and approvals have been obtained.

Worst Answer: Construction has not started and not all permits and approvals are in place.

Does the project target a financially strong demographic with high demand for the project's asset class?

Best Answer: The project’s target demographic is a large, growing population segment and is among the wealthiest population segment in the United States.

Worst Answer: The project has no clear target demographic or the target demographic is niche, seasonal, small, and/or shrinking.

When is the project expected to be profitable?

Best Answer: The project is already profitable, and the assumptions on which its success depends have already occurred and been proven. The project has already completed several sales and/or constructions of units similar to those being offered for investment.

Worst Answer: The project has not realized any revenue to date and is not profitable. Additionally, the underlying assumptions for the project to be successful, such as rental rates or occupancy, were prepared several years ago and are unlikely to be true when construction is completed, and the project actually enters the market. The project may have faced significant delays, increased construction costs, or changes in market trends that make it less economically feasible.

How many EB-5 jobs have been created and how many must be created for all EB-5 investors to meet the EB-5 job creation requirement?

Best Answer: The project has already created more than enough jobs for every EB-5 investor in the project to meet the EB-5 job creation requirement to receive a permanent Green Card.

Worst Answer: The project has not yet created any jobs.

Can you provide financial statements for the project development company and any guarantor entity?

Best Answer: The project sponsor is happy to provide financial statements for the project development company and guarantor company, and these documents show that both entities are financially strong with significant assets and net equity that far exceed the total principal EB-5 loan.

Worst Answer: The project sponsor is unwilling to provide financial statements for the project development company, or the financial statements show that the project development company has few assets and minimal or negative net equity. No separate guarantor company is securing the repayment of the EB-5 investment or the guarantor company has few assets and minimal or negative net equity.

Is the project a new concept or in an area without direct comparables?

Best Answer: The project is a proven concept in an area showing high demand with strong comparables.

Worst Answer: The project is a new concept and cannot provide any comparable data to support projected sales/revenues.

**Questions about Project** **Financing:**

Has the project secured senior financing, and is it already using a loan facility from an institutional lender, such as a national bank?

Best Answer: The project has an executed senior loan agreement from a national bank, and senior loan funds have already been advanced to the project development company.

Worst Answer: The project does not yet have a senior loan in place or has only a non-binding term sheet with many contingent requirements.

Can you provide a copy of the executed senior loan agreement?

Best Answer: The project sponsor is happy to provide a copy of the executed senior loan agreement and the senior loan is from a strong institutional lender.

Worst Answer: The project sponsor is unwilling to provide a copy of the executed senior loan agreement or no such agreement exists; a non-binding term sheet with contingent requirements means the loan does not exist and may never exist.

**Questions about Conflicts of Interest:**

Are the developer and the EB-5 investment fund or “new commercial enterprise” controlled by the same person(s)? Does the EB-5 project development company qualify as an “affiliated job-creating entity”?

Best Answer: The EB-5 investment fund is entirely independent from the developer. The project development company is not considered an “affiliated job creating entity” under EB-5 program rules.

Worst Answer: The EB-5 investment fund and the developer or project development group are all controlled by the same parties, creating a clear conflict of interest. The project development company is an “affiliated job creating entity” under EB-5 program rules.

Are the regional center and the developer or project development company controlled by the same person(s)?

Best Answer: The regional center sponsoring the project is 100% independent from the developer and project development company.

Worst Answer: The regional center sponsoring the project is not independent from the developer and the project development company, creating a clear conflict of interest that materially increases both the financial and immigration risk for EB-5 investors.

**Questions by Category to Send to EB-5 Project Sponsors and Regional Centers**

**Questions about the Project Developer:**

* How many similar real estate development projects does the developer have experience completing, and over what time frame?
* Has the developer ever failed to complete a project, including EB-5 projects?
* How much financing has the developer obtained and from what sources? Has the developer ever failed to repay similar financing on prior projects?
* How many of the developer’s EB-5 projects has USCIS approved?
* How many of the developer’s prior real estate development projects have used EB-5 financing, and over what time frame? Were they successful at creating enough jobs for all EB-5 investors?

**Questions about the EB-5 Investment:**

* Is the EB-5 projected located in a Targeted Employment Area (TEA)? If yes, is it in a rural or high-unemployment TEA?
* What escrow policies are in place to protect EB-5 investors?
* What is the duration of the EB-5 investment loan?
* How will the EB-5 loan be repaid, and is repayment directly secured by collateral and/or a repayment guaranty from a well-capitalized and diversified guarantor company?

**Questions about Project Feasibility:**

* What is the project’s current construction status, including any permits or approvals obtained?
* Does the project target a financially strong demographic with high demand for the project's asset class?
* When is the project expected to be profitable?
* How many EB-5 jobs have been created and how many must be created for all EB-5 investors to meet the EB-5 job creation requirement?
* Can you provide financial statements for the project development company and any guarantor company?
* Is the project a new concept or in an area without direct comparables?

**Questions about Project** **Financing:**

* Has the project secured senior financing, and is it already using a loan facility from an institutional lender, such as a national bank?
* Can you provide a copy of the executed senior loan agreement?

**Questions about Conflicts of Interest:**

* Are the developer and the EB-5 investment fund or “new commercial enterprise” controlled by the same person(s)? Does the EB-5 project development company qualify as an “affiliated job-creating entity”?
* Are the regional center and the developer or project development company controlled by the same person(s)?