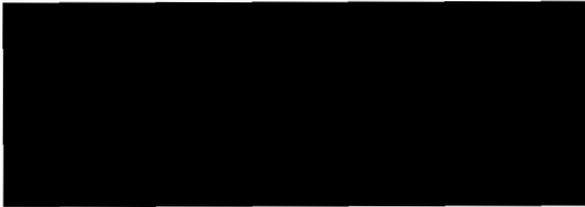




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FILE: [REDACTED]
EAC 04 137 50015

Office: VERMONT SERVICE CENTER

Date: MAR 07 2007

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter subsequently came before the Administrative Appeals Office (AAO) on appeal. The AAO reviewed the record and remanded the matter back to the director for further consideration. The director denied the petition due to abandonment and certified the decision to the AAO for review. The AAO will affirm the director's decision.

The petitioner was established in the Commonwealth of Puerto Rico and is engaged in construction. It seeks to employ the beneficiary as its general manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

On January 6, 2005, the director denied the petition concluding that the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity. The petitioner subsequently appealed the director's decision disputing the propriety of the director's decision.

After reviewing the record in its entirety, the AAO specifically cited the initial evidence that was missing from the instant record and concluded that such missing initial evidence warranted the issuance of a request for additional evidence (RFE). *See* 8 C.F.R. § 103.2(b)(8). Accordingly, the case was remanded with specific instructions to issue an RFE in an effort to elicit the evidence and information necessary in order to make a determination as to the petitioner's eligibility.

In response, the director complied with the AAO's instructions by properly issuing an RFE on March 29, 2006. The petitioner was allowed the regulatory 12 weeks in which to provide a response. Based on the petitioner's failure to provide a response to the RFE, the director issued a denial based on abandonment, pursuant to 8 C.F.R. § 103.2(b)(13).

The director correctly informed the petitioner that no appeal would lie from the decision. The AAO will affirm the director's decision to deny the petition based on abandonment.

ORDER: The director's decision dated September 18, 2006 is affirmed.