U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: JUN 25 2008
SRC 07 800 22988

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

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.

Marin Johnson

2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an international bank. It seeks to employ the beneficiary permanently in the United States as a senior credit policy risk analyst pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). In pertinent part, section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. The director determined that the petitioner had not complied with the instructions for electronic filing by submitting supporting documentation, including the application for permanent employment certification, within seven business days of the date the visa petition was electronically filed.

On appeal, counsel asserts that the supporting documentation was submitted concurrently with the supporting documentation for the beneficiary's Form I-485, Application to Register Permanent Residence or Adjust Status. The petitioner submits a FedEx receipt showing that the documents were shipped to the service center on August 10, 2007 and copies of the materials submitted.

The petition was electronically filed on July 26, 2007. Seven business days after that date is August 6, 2007. The FedEx receipt submitted on appeal is evidence that the petitioner submitted the supporting documentation, but not until more than seven business days after electronically filing the petition.

As stated by the director, the regulation at 8 C.F.R. § 103.2(a)(1) provides that the instructions for filing applications and petitions are "incorporated into the particular section of the regulations in this chapter requiring its submission." As further stated by the director, the instructions for electronic filing provide that if the petitioner does not submit the required initial evidence in the requisite time period, the petitioner "will not establish a basis for eligibility and we may deny your petition or application." The petitioner did not submit the required initial evidence within seven business days from the date of electronic filing. Thus, the petitioner did not establish a basis for eligibility and the director did not err in denying the petition.

As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met its burden.

ORDER: The appeal is dismissed.