U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

D2

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is an accounting firm that seeks to employ the beneficiary as an accountant pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

Noting that the record was deficient, the director requested additional evidence in support of the petition. The director stated that although the petitioner's response claimed to have enclosed a number of documents, Form DE-6, quarterly wage reports, tax returns, and a business organizational chart, there was no such evidence in the record. Therefore, on December 16, 2003, the director requested the evidence again. In response to the request, counsel stated that the petitioner appealed to CIS not to request this evidence because it was voluminous, confidential, and burdensome to produce. After the petitioner failed to submit all of the requested evidence, the director denied the petition for abandonment, citing 8 C.F.R. § 103.2(a)(11) and (14). If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13).

While the director advised the petitioner that it could file an appeal, 8 C.F.R. § 103.2(b)(15) provides:

> A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under § 103.5.

Therefore, this office has no jurisdiction over the instant appeal. Rather, 8 C.F.R. § 103.5(a)(2) provides that denials due to abandonment may be challenged in a motion to reopen before the office that rendered the decision based on limited arguments.

ORDER: The appeal is rejected.