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U.S. Citizenship  
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FILE: SRC 02 063 50972 Office: TEXAS SERVICE CENTER Date: **NOV 15 2005**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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

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, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO remanded the matter to the director for further consideration. The director again denied the petition and certified her decision to the AAO. The director's decision will be affirmed. The petition will be denied.

The petitioner is a helicopter flight school, which also sells and rents helicopters. It seeks classification of the beneficiary as a flight instructor for a period of two years. The director determined that the training consists primarily of on-the-job training. In addition, the director stated that the beneficiary already possesses substantial training and expertise in the proposed field of training.

The matter was remanded to the director because she based her decision on a matter for which she had not issued a request for additional evidence and for which there was no evidence in the record.

Upon remand, the director issued a request for additional evidence. The petitioner did not respond to this request. If the requested "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).

Following notice of certification to the AAO, neither counsel nor the petitioner submitted any additional evidence; therefore, the record is complete.

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

**ORDER:** The director's January 28, 2005 decision is affirmed. The petition is denied.