



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **SEP 13 2012**

OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
 Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
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 as abandoned.

The petitioner describes itself as an auto repair business, and seeks to employ the beneficiary permanently in the United States as an automobile mechanic pursuant to sections 203(b)(3)(A)(i) and (ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i) and (ii). As required by statute, a labor certification accompanied the petition.

Upon reviewing the petition, the director determined that the petitioner failed to establish it had the ability to pay the proffered wage from the priority date until the beneficiary obtains lawful permanent residence pursuant to the regulation at 8 C.F.R. § 204.5(g)(2).

The AAO issued a request for evidence (RFE) on June 14, 2012 concerning the petitioner's ability to pay the proffered wage.¹ The AAO solicited additional evidence of the petitioner's annual reports, federal tax returns, or audited financial statements, along with any Forms W-2 or 1099 issued to the beneficiary. The AAO also requested any evidence the petitioner would like considered under *Matter of Sonogawa*, 12 I&N Dec. 612 (Reg'l Comm'r 1967).

The AAO specifically alerted the petitioner that failure to respond to the RFE would result in dismissal since the AAO could not substantively adjudicate the appeal without the information requested. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). Further, since the petitioner failed to respond to this office's request for additional evidence, the appeal will be dismissed as abandoned. *See* 8 C.F.R. § 103.2(b)(13)(i).

Because the petitioner failed to respond to the RFE, the AAO is dismissing the appeal.

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 met that burden.

ORDER: The appeal is dismissed as abandoned.

¹ The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).