(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

DATE: SEP 13 2012 OFFICE: VERMONT SERVICE CENTER FILE

IN RE: Petitioner:
Beneficiary:

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, Vermont Service Center, approved the employment-based immigrant visa petition. The director subsequently revoked the approval of the petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner describes itself as a construction company. It seeks to employ the beneficiary permanently in the United States as a cement mason. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).[1]

The petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the U.S. Department of Labor (DOL).

The director issued a Notice of Intent to Revoke (NOIR) the approval of the petition after learning that the individual who assisted the petitioner in the labor certification process, had been convicted for immigration fraud. The NOIR instructed the petitioner to submit evidence of its ability to pay the proffered wage and of the beneficiary's claimed employment experience.

The AAO notes that the NOIR was properly issued pursuant to *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988) and *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987). Both cases held that a notice of intent to revoke a visa petition is properly issued for "good and sufficient cause" when the evidence of record at the time of issuance, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The director's NOIR sufficiently detailed the evidence of the record, pointing out specific grounds that would warrant a denial if unexplained and unrebutted. The NOIR was thus properly issued for good and sufficient cause.

The petitioner's response to the NOIR did not contain the requested transcripts of its and the beneficiary's tax returns, or documentation to confirm the claimed experience.

The director issued a Notice of Revocation (NOR), concluding that the petitioner failed to establish its ability to pay the proffered wage and that the beneficiary possessed the required experience for the offered experience.

Therefore, at issue in this case is whether or not the petitioner has established its ability to pay the proffered wage and whether the beneficiary possessed the required experience for the offered position as of the priority date.

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[1] Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

The record shows that the appeal is properly filed and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

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

The petitioner submitted documentation on appeal. The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.[2]

The regulation at 8 C.F.R. § 204.5(g)(2) states in pertinent part:

> *Ability of prospective employer to pay wage.* Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements.

The petitioner must demonstrate the continuing ability to pay the proffered wage beginning on the priority date, which is the date the Form ETA 750, Application for Alien Employment Certification, was accepted for processing by any office within the employment system of the DOL. *See* 8 C.F.R. § 204.5(d). The petitioner must also demonstrate that, on the priority date, the beneficiary had the qualifications stated on its Form ETA 750, Application for Alien Employment Certification, as certified by the DOL and submitted with the instant petition. *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Acting Reg'l Comm'r 1977).

Here, the Form ETA 750 was accepted on April 30, 2001. The proffered wage as stated on the Form ETA 750 is $15.00 per hour ($30,600 per year), plus 5 hours of overtime per week at $22.50 per hour ($5,850 per year), for a total proffered wage of $36,450 per year. The Form ETA 750 states that the position requires two years of experience as a cement mason, and the beneficiary must have the ability to work overtime.

The evidence in the record of proceeding shows that the petitioner is structured as a C corporation. On the petition, the petitioner did not state when it was established, its gross annual income, or the number of workers it currently employs. According to the tax returns in the record, the petitioner's fiscal year runs from April 1 through March 31. On the Form ETA 750B, signed by the beneficiary on April 27, 2001, the beneficiary claimed to have worked for the petitioner since November 1999.

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[2] The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 8 C.F.R. § 103.2(a)(1). The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

The petitioner must establish that its job offer to the beneficiary is a realistic one. Because the filing of an ETA 750 labor certification application establishes a priority date for any immigrant petition later based on the ETA 750, the petitioner must establish that the job offer was realistic as of the priority date and that the offer remained realistic for each year thereafter, until the beneficiary obtains lawful permanent residence. The petitioner's ability to pay the proffered wage is an essential element in evaluating whether a job offer is realistic. *See Matter of Great Wall*, 16 I&N Dec. 142 (Acting Reg'l Comm'r 1977); *see also* 8 C.F.R. § 204.5(g)(2). In evaluating whether a job offer is realistic, United States Citizenship and Immigration Services (USCIS) requires the petitioner to demonstrate financial resources sufficient to pay the beneficiary's proffered wages, although the totality of the circumstances affecting the petitioning business will be considered if the evidence warrants such consideration. *See Matter of Sonegawa*, 12 I&N Dec. 612 (Reg'l Comm'r 1967).

In determining the petitioner's ability to pay the proffered wage during a given period, USCIS will first examine whether the petitioner employed and paid the beneficiary during that period. If the petitioner establishes by documentary evidence that it employed the beneficiary at a salary equal to or greater than the proffered wage, the evidence will be considered *prima facie* proof of the petitioner's ability to pay the proffered wage. In the instant case, the petitioner submitted the following:

- W-2 Forms issued to the beneficiary by the petitioner from 2001 through 2006 under Social Security number
- W-2 Form issued to the beneficiary by the petitioner for 2007 using Social Security number
- Transcripts from the Internal Revenue Service of the beneficiary's tax returns for 2004 through 2006 showing the beneficiary's Social Security number of
- Transcripts from the Internal Revenue Service of the beneficiary's tax returns for 2006 through 2008 showing the beneficiary's Social Security number of

The tax return transcripts for 2007 and 2008 are the only two that show the petitioner as the payer of the beneficiary's wages. Additionally, a search of public records indicates that the social security number indicated on the beneficiary's 2001 through 2006 W-2 forms may not belong to the beneficiary. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591. Therefore, none of the wages shown on the W-2 forms or income tax return transcripts will considered towards the petitioner's ability to pay the proffered wage.

If the petitioner does not establish that it employed and paid the beneficiary an amount at least equal to the proffered wage during that period, USCIS will next examine the net income figure reflected on the petitioner's federal income tax return, without consideration of depreciation or other

expenses. *River Street Donuts, LLC v. Napolitano*, 558 F.3d 111 (1st Cir. 2009); *Taco Especial v. Napolitano*, 696 F. Supp. 2d 873 (E.D. Mich. 2010), *aff'd*, No. 10-1517 (6th Cir. filed Nov. 10, 2011). Reliance on federal income tax returns as a basis for determining a petitioner's ability to pay the proffered wage is well established by judicial precedent. *Elatos Restaurant Corp. v. Sava*, 632 F. Supp. 1049, 1054 (S.D.N.Y. 1986) (*citing Tongatapu Woodcraft Hawaii, Ltd. v. Feldman*, 736 F.2d 1305 (9th Cir. 1984)); *see also Chi-Feng Chang v. Thornburgh*, 719 F. Supp. 532 (N.D. Texas 1989); *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. 1080 (S.D.N.Y. 1985); *Ubeda v. Palmer*, 539 F. Supp. 647 (N.D. Ill. 1982), *aff'd*, 703 F.2d 571 (7th Cir. 1983). Reliance on the petitioner's gross sales and profits and wage expense is misplaced. Showing that the petitioner's gross sales and profits exceeded the proffered wage is insufficient. Similarly, showing that the petitioner paid wages in excess of the proffered wage is insufficient.

In *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. at 1084, the court held that the Immigration and Naturalization Service, now USCIS, had properly relied on the petitioner's net income figure, as stated on the petitioner's corporate income tax returns, rather than the petitioner's gross income. The court specifically rejected the argument that the Service should have considered income before expenses were paid rather than net income. *See Taco Especial v. Napolitano*, 696 F. Supp. 2d at 881 (gross profits overstate an employer's ability to pay because it ignores other necessary expenses).

With respect to depreciation, the court in *River Street Donuts* noted:

> The AAO recognized that a depreciation deduction is a systematic allocation of the cost of a tangible long-term asset and does not represent a specific cash expenditure during the year claimed. Furthermore, the AAO indicated that the allocation of the depreciation of a long-term asset could be spread out over the years or concentrated into a few depending on the petitioner's choice of accounting and depreciation methods. Nonetheless, the AAO explained that depreciation represents an actual cost of doing business, which could represent either the diminution in value of buildings and equipment or the accumulation of funds necessary to replace perishable equipment and buildings. Accordingly, the AAO stressed that even though amounts deducted for depreciation do not represent current use of cash, neither does it represent amounts available to pay wages.
>
> We find that the AAO has a rational explanation for its policy of not adding depreciation back to net income. Namely, that the amount spent on a long term tangible asset is a "real" expense.

*River Street Donuts* at 118. "[USCIS] and judicial precedent support the use of tax returns and the *net income figures* in determining petitioner's ability to pay. Plaintiffs' argument that these figures should be revised by the court by adding back depreciation is without support." *Chi-Feng Chang* at 537 (emphasis added).

For a C corporation, USCIS considers net income to be the figure shown on Line 28 of the Form 1120, U.S. Corporation Income Tax Return. The record before the AAO closed on November 6, 2009 with the receipt by the AAO of the petitioner's submissions on appeal. As of that date, the petitioner's fiscal year 2008 federal income tax return was due, but not submitted.[3] Therefore, the petitioner's income tax return for fiscal year 2007 is the most recent return available.

In the director's Notice of Intent to Revoke, the director requested the petitioner submit U.S. Internal Revenue Service (IRS) issued transcripts for 2001 through 2007, with all schedules and attachments, for the petitioner's corporation. The petitioner only submitted the first page of its tax return transcripts, with no schedules or attachments as requested by the director. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

If the petitioner's federal tax returns were to be considered sufficient evidence, the petitioner's tax return transcripts demonstrate its net income for fiscal years 2001 through 2007, as shown in the table below.

- In 2001, the Form 1120 transcript stated net income of $28,185 (for the period from April 1, 2001 to March 31, 2002).
- In 2002, the Form 1120 transcript stated net income of $18,932 (for the period from April 1, 2002 to March 31, 2003).
- In 2003, the Form 1120 transcript stated net income of $48,377 (for the period from April 1, 2003 to March 31, 2004).
- In 2004, the Form 1120 transcript stated net income of $5,077 (for the period from April 1, 2004 to March 31, 2005).
- In 2005, the Form 1120 transcript stated net income of $122,812 (for the period from April 1, 2005 to March 31, 2006).
- In 2006, the Form 1120 transcript stated net income of $507,754 (for the period from April 1, 2006 to March 31, 2007).
- In 2007, the Form 1120 transcript stated net income of $436,138 (for the period from April 1, 2007 to March 31, 2008).

Therefore, for the years 2001, 2002, and 2004, the petitioner did not have sufficient net income to pay the proffered wage.

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[3] Form 1120 and Form 1120S (or Form 7004). These forms are due on the 15th day of the 3rd month after the end of the corporation's tax year. http://www.irs.gov/publications/p509/ar02.html#en_US_2011_publink100034286. Therefore, the petitioner's 2008 fiscal year tax return was due June 15, 2009.

If the net income the petitioner demonstrates it had available during that period, if any, added to the wages paid to the beneficiary during the period, if any, do not equal the amount of the proffered wage or more, USCIS will review the petitioner's net current assets. Net current assets are the difference between the petitioner's current assets and current liabilities.[4] A corporation's year-end current assets are shown on Schedule L, lines 1 through 6 and include cash-on-hand. Its year-end current liabilities are shown on lines 16 through 18. If the total of a corporation's end-of-year net current assets and the wages paid to the beneficiary (if any) are equal to or greater than the proffered wage, the petitioner is expected to be able to pay the proffered wage using those net current assets.

The figures shown on the below table reflect figures shown on the tax returns in the record, and not from IRS transcripts. If the petitioner's tax returns were to be considered, the petitioner's tax returns demonstrate its end-of-year net current assets for fiscal years 2001 and 2007, as shown in the table below.

- In 2001, the Form 1120 stated net current assets of -$301,331 (for the period from April 1, 2001 to March 31, 2002).
- In 2002, the Form 1120 stated net current assets of -$242,297 (for the period from April 1, 2002 to March 31, 2003).
- In 2003, the Form 1120 stated net current assets of -$106,938 (for the period from April 1, 2003 to March 31, 2004).
- In 2004, the Form 1120 stated net current assets of -$183,032 (for the period from April 1, 2004 to March 31, 2005).
- In 2005, the Form 1120 stated net current assets of -$ 50,010 (for the period from April 1 2005 to March 31, 2006).
- In 2006, the Form 1120 stated net current assets of $566,431 (for the period from April 1, 2006 to March 31, 2007).
- In 2007, the Form 1120 stated net current assets of $803,981 (for the period from April 1, 2007 to March 31, 2008).

Therefore, for the fiscal years 2001 through 2005, the petitioner did not have sufficient net current assets to pay the proffered wage.

Therefore, from the date the Form ETA 750 was accepted for processing by the DOL, the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage as of the priority date through an examination of wages paid to the beneficiary, or its net income or net current assets, except for years 2003, 2005, 2006 and 2007.

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[4] According to *Barron's Dictionary of Accounting Terms* 117 (3rd ed. 2000), "current assets" consist of items having (in most cases) a life of one year or less, such as cash, marketable securities, inventory and prepaid expenses. "Current liabilities" are obligations payable (in most cases) within one year, such accounts payable, short-term notes payable, and accrued expenses (such as taxes and salaries). *Id.* at 118.

On appeal, counsel asserts that based on the wages paid to the beneficiary and the petitioner's net income and net current assets, the petitioner has met the required ability to pay. However, all of counsel's calculations were based on the base pay the beneficiary was to receive, and did not include the five hours of weekly overtime that was included on the labor certification.

Counsel's assertions on appeal cannot be concluded to outweigh the evidence presented in the tax returns as submitted by the petitioner that demonstrates that the petitioner could not pay the proffered wage from the day the Form ETA 750 was accepted for processing by the DOL.

USCIS may consider the overall magnitude of the petitioner's business activities in its determination of the petitioner's ability to pay the proffered wage. *See Matter of Sonegawa,* 12 I&N Dec. 612 (Reg'l Comm'r 1967). The petitioning entity in *Sonegawa* had been in business for over 11 years and routinely earned a gross annual income of about $100,000. During the year in which the petition was filed in that case, the petitioner changed business locations and paid rent on both the old and new locations for five months. There were large moving costs and also a period of time when the petitioner was unable to do regular business. The Regional Commissioner determined that the petitioner's prospects for a resumption of successful business operations were well established. The petitioner was a fashion designer whose work had been featured in *Time* and *Look* magazines. Her clients included Miss Universe, movie actresses, and society matrons. The petitioner's clients had been included in the lists of the best-dressed California women. The petitioner lectured on fashion design at design and fashion shows throughout the United States and at colleges and universities in California. The Regional Commissioner's determination in *Sonegawa* was based in part on the petitioner's sound business reputation and outstanding reputation as a couturiere. As in *Sonegawa*, USCIS may, at its discretion, consider evidence relevant to the petitioner's financial ability that falls outside of a petitioner's net income and net current assets. USCIS may consider such factors as the number of years the petitioner has been doing business, the established historical growth of the petitioner's business, the overall number of employees, the occurrence of any uncharacteristic business expenditures or losses, the petitioner's reputation within its industry, whether the beneficiary is replacing a former employee or an outsourced service, or any other evidence that USCIS deems relevant to the petitioner's ability to pay the proffered wage.

In the instant case, counsel also asserts that pursuant to *Matter of Sonegawa,* 12 I&N Dec. 612 (Reg'l Comm'r 1967), USCIS should consider the overall magnitude of the petitioner's business. Counsel states the petitioner has been conducting business for approximately 22 years; the petitioner has employed 20-70 workers depending on the season and the amount of work subcontracted; and, from 2001 through 2007, the petitioner has paid wages in excess of $1.5 million.

However, the record does not contain any newspapers or magazine articles, awards, or certifications indicating the company's milestone achievements. Unlike *Sonegawa*, the petitioner in this case has not shown any evidence reflecting the company's reputation or historical growth since its inception in 1997. Nor has the petitioner presented evidence of any uncharacteristic business expenses or losses contributing to its inability to pay the proffered wage. Thus, assessing the totality of the circumstances in this individual case, it is concluded that the petitioner has not established that it had the continuing ability to pay the proffered wage.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

According to USCIS records, the petitioner has filed thirteen I-140 petitions on behalf of other beneficiaries. Accordingly, the petitioner must establish that it has had the continuing ability to pay the combined proffered wages to each beneficiary from the priority date of the instant petition. *See Matter of Great Wall*, 16 I&N Dec. 142, 144-145 (Acting Reg'l Comm'r 1977).

The evidence in the record does not document the priority date, proffered wage or wages paid to each beneficiary, whether any of the other petitions have been withdrawn, revoked, or denied, or whether any of the other beneficiaries have obtained lawful permanent residence. Thus, it is also concluded that the petitioner has not established its continuing ability to pay the proffered wage to the beneficiary and the proffered wages to the beneficiaries of its other petitions.

Therefore, the AAO affirms the director's decision that the petitioner failed to establish its ability to pay the proffered wage at the time the priority date was established and continuing until the beneficiary obtains lawful permanent residence, under establish that under section 8 C.F.R. § 204.5(g)(2).

The beneficiary must meet all of the requirements of the offered position set forth on the labor certification by the priority date of the petition. 8 C.F.R. § 103.2(b)(l), (12). *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg. Comm. 1977); *see also Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg. Comm. 1971).

In evaluating the labor certification to determine the required qualifications for the position, U.S. Citizenship and Immigration Services (USCIS) may not ignore a term of the labor certification, nor may it impose additional requirements. *See Matter of Silver Dragon Chinese Restaurant*, 19 I&N Dec. 401, 406 (Comm. 1986). *See also Madany*, 696 F.2d at 1008; *K.R.K. Irvine, Inc.*, 699 F.2d at 1006; *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981).

Where the job requirements in a labor certification are not otherwise unambiguously prescribed, e.g., by regulation, USCIS must examine "the language of the labor certification job requirements" in order to determine what the petitioner must demonstrate about the beneficiary's qualifications. *Madany*, 696 F.2d at 1015. The only rational manner by which USCIS can be expected to interpret the meaning of terms used to describe the requirements of a job in a labor certification is to "examine the certified job offer *exactly* as it is completed by the prospective employer." *Rosedale Linden Park Company v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984)(emphasis added). USCIS's interpretation of the job's requirements, as stated on the labor certification must involve "reading and applying *the plain language* of the [labor certification]." *Id.* at 834 (emphasis added). USCIS

cannot and should not reasonably be expected to look beyond the plain language of the labor certification or otherwise attempt to divine the employer's intentions through some sort of reverse engineering of the labor certification.

In the instant case, the labor certification states that the offered position has the following minimum requirements:

EDUCATION
Grade School: 6 years
High School: None listed
College: None listed
College Degree Required: None listed
Major Field of Study: N/A
TRAINING: None Required.
EXPERIENCE: Two (2) years in the job offered
OTHER SPECIAL REQUIREMENTS: Able to work O.T., flexible days

The labor certification also states that the beneficiary qualifies for the offered position based on experience as a cement mason with the petitioner from November 1999 until the present; and as a cement mason with Oaxaca, Mexico from January 1997 to August 1999. No other experience is listed. The beneficiary signed the labor certification under a declaration that the contents are true and correct under penalty of perjury.

The regulation at 8 C.F.R. § 204.5(l)(3)(ii)(A) states:

> Any requirements of training or experience for skilled workers, professionals, or other workers must be supported by letters from trainers or employers giving the name, address, and title of the trainer or employer, and a description of the training received or the experience of the alien.

The record contains an experience letter from manager, on letterhead stating that the company employed the beneficiary as a cement mason from 1997 to until 1999. However, the letter does not give the specific dates of employment, describe the duties performed by the beneficiary in detail, or state whether the position was full time.

In its Notice of Intent to Revoke, the director advised the petitioner that the experience letter must be accompanied by other credible evidence that validates the beneficiary's claimed employment with the employer the beneficiary claims to have gained his qualifying experience, and if such experience was gained in a foreign country, the petitioner was to submit government issued documentation such as tax returns to establish that the beneficiary worked for the claimed business. The director also requested a government issued business permit to establish the authenticity of the foreign business.

In response, the petitioner submitted various U.S. Internal Revenue Service transcripts for the beneficiary's employment in the U.S. However, no documentation was submitted to support the beneficiary's experience with [redacted] Additionally, the petitioner failed to submit a government issued business permit evidencing the authenticity of [redacted] The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The AAO affirms the director's decision that the petitioner failed to establish that the beneficiary met the minimum requirements of the offered position set forth on the labor certification as of the priority date. Therefore, the beneficiary does not qualify for classification as a professional or skilled worker under section 203(b)(3)(A) of the Act.

The petition will remain revoked for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER**: The appeal is dismissed.