

(b)(6)



U.S. Citizenship
and Immigration
Services

[Redacted]

DATE: OFFICE: TEXAS SERVICE CENTER

MAR 29 2013

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:

[Redacted]

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.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The petitioner is an information technology company. It seeks to permanently employ the beneficiary in the United States as a software engineer pursuant to section 203(b)(3)(A)(i) or (ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i) or (ii). Under section 203(b)(3)(A) of the Act preference classification may be granted to (i) skilled workers – "Qualified immigrants who are capable . . . of performing skilled labor (requiring at least 2 years of training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States," or (ii) professionals – "Qualified immigrants who hold baccalaureate degrees and who are members of the professions."

Focusing on the latter classification category, the Director denied the petition on the grounds that the beneficiary did not have the requisite education as specified in the labor certification (Form ETA 750) to be eligible for classification as a professional under section 203(b)(3)(A)(ii) of the Act and to qualify for the proffered position. A timely appeal was filed, along with a brief from counsel and supporting documentation.

On January 31, 2013, the AAO sent a Notice of Intent to Dismiss and Derogatory Information to the petitioner, with a copy to counsel. The AAO stated that according to the State of Wyoming Secretary of State the petitioning organization was administratively dissolved on April 11, 2012. A copy of the online status report was attached to the AAO's notice. The petitioner was advised that it must demonstrate its continued existence, operation, and good standing before the merits of the appeal would be addressed. The petitioner was afforded 30 days to respond to the AAO's notice. The petitioner was advised that if no response was received, the appeal would be dismissed without further discussion.

The petitioner did not respond within the 30-day period specified in the AAO's notice (or any time since then). If a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. See 8 C.F.R. § 103.2(b)(13)(i). As provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

Since the petitioner has not responded to the AAO's notice of January 31, 2013, the appeal will be dismissed in accordance with the above regulations.

ORDER: The appeal is dismissed.