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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: AUG 2 9 2014

OFFICE: TEXAS SERVICE CENTER

FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Skilled Worker pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Elizabeth McCormack

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition (Form I-140) was denied by the Director, Texas Service Center (Director). The petitioner filed a motion to reopen and reconsider, which was dismissed by the Director. The petitioner then filed an appeal, which is now before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is an IT consulting services company. It seeks to permanently employ the beneficiary in the United States as a programmer analyst and to classify him as a skilled worker pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i). The Director denied the petition, and then dismissed the motion, on the ground that the evidence of record failed to establish that the beneficiary had the requisite employment experience, as specified in the labor certification (ETA Form 9089), to qualify for the position.

We conduct appellate review on a *de novo* basis. *See Soltane v. Department of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In accordance with this authority we issued a Request for Evidence (RFE) on June 17, 2014, addressed to the petitioner with a copy to the petitioner's attorney. In the RFE we requested additional evidence with respect to (1) the beneficiary's claimed work experience in India and (2) the petitioner's ability to pay the proffered wage from the priority date (April 27, 2012) up to the present. We gave the petitioner 60 days to respond to the RFE.

On July 21, 2014, we received a letter from the petitioner's attorney informing the AAO that he and his law firm were withdrawing their representation of the petitioner in this proceeding. The letter also advised that the withdrawal of legal representation did not affect the status of the petitioner's pending appeal.

On August 15, 2014, we received a letter from the beneficiary, along with additional documentation, which he described as a response to the RFE. The beneficiary, however, has no standing to file a response to the RFE because he is not an "affected party" in this proceeding. The term "affected party" is defined in the regulations as follows:

> For purposes of this section [Denials, appeals, and precedent decisions] . . . *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. **It does not include the beneficiary of a visa petition.**

8 C.F.R. § 103.3(a)(1)(iii)(B) (emphasis added). In accord with this definition, the regulations specify that a brief (and supporting documentation) may be submitted by an "affected party" in the appellate stage of proceedings. *See* 8 C.F.R. § 103.3(a)(2)(vi), (vii), and (viii).

In the instant proceeding, therefore, only the petitioner – – has legal standing to file a response to the RFE on appeal. The beneficiary has no such legal standing. Accordingly, we will not consider the materials submitted by the beneficiary in adjudicating the appeal.

The 60-day period for filing a response to the RFE has expired. No response has been received from the petitioner.

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 further 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 RFE of June 17, 2014, the petition is denied under the regulatory provisions cited above. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.