(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

[redacted]

DATE: JUN 0 3 2014 OFFICE: NEBRASKA 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)(i)

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
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition and the matter was appealed to the Administrative Appeals Office (AAO). On October 5, 2012, the AAO remanded the matter to the director. On March 12, 2013, the director sent counsel for the petitioner a request for evidence (RFE). The director sent counsel for the petitioner another RFE on October 18, 2013. The director did not receive a response to either RFE. On February 27, 2014, the director denied the petition and certified the matter to the AAO for review pursuant to 8 C.F.R. § 103.4(a)(5). The appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner runs a competitive soccer league and trains soccer players. It seeks to permanently employ the beneficiary in the United States as a "Soccer Coaching Director." The petitioner requests classification of the beneficiary 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 petition is accompanied by a labor certification approved by the U.S. Department of Labor.

The director's decision denying the petition concluded that the petitioner had not established that it had the ability to pay the proffered wage to the beneficiary from the priority date onward. On October 5, 2012, we remanded the matter to the director and noted that although your organization's 2009 tax return stated sufficient net income to pay the beneficiary's proffered wage for that year, it was not clear that this 2009 tax return had been filed with the IRS. We also remanded the matter for the director to consider whether the beneficiary met the experience requirements of the labor certification. The director subsequently issued counsel for the petitioner two RFEs and did not receive a response. The director then certified the matter to us.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.[1]

On April 1, 2014, we sent the petitioner an RFE with a copy to counsel of record. The RFE requested that the petitioner provide copies of its federal tax returns or certified IRS tax transcripts for 2009 through 2012. The RFE also requested that the petitioner provide any Forms W-2 or Forms 1099-MISC that the petitioner issued to the beneficiary from 2009 onward. The RFE allowed the petitioner 45 days in which to submit a response. The RFE informed the petitioner that failure to respond would result in a dismissal of the appeal.

As of the date of this decision, the petitioner has not responded to our RFE. 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). Since the petitioner failed to respond to the RFE, the appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

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[1] The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by 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).

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.