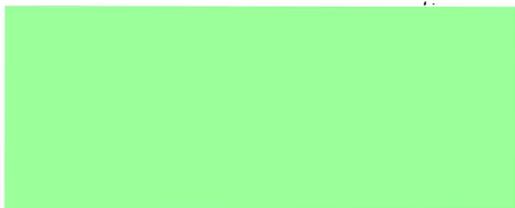




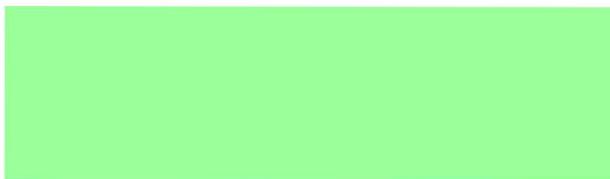
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: [REDACTED] OFFICE: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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 director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be summarily denied as abandoned.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a "Network repair, Computer repair, hardware and software troubleshooting" company. In order to employ the beneficiary in what it designates as a "Network Technician" position, the petitioner seeks to classify him as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on the ground that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation. On appeal, the petitioner claims that the director should have considered the proffered position to be a specialty occupation.

On November 21, 2012, the AAO sent a request for evidence (RFE) to the petitioner, noting the following: (1) the petitioner stated in its Articles of Incorporation, filed with the Florida Secretary of State, that the "purpose for which [the petitioner] is organized" is "ANY AND ALL LAWFUL BUSINESS. NEW AND USED SCHOOL BOOKS, IMPORT AND EXPORT. TUTORING CENTER K-12"; (2) the petitioner became a licensed seller of travel in the State of Florida on July 12, 2010; and (3) in the Form I-129 filed with USCIS on January 10, 2011, the petitioner states under the question "Type of Business" that it is in the business of "[n]etwork repair, [c]omputer repair, hardware and software troubleshooting."

The AAO also noted that it is unclear from a review of the record that the petitioner is actively engaged as a network repair, computer repair, hardware and software troubleshooting business, and that it cannot be determined from a review of the record that the petitioner has the finances necessary to pay the required wage to the beneficiary and to employ him on a full-time basis in the proffered position in accordance with the terms and conditions of the petition as attested by the petitioner. Thus, the AAO requested additional evidence to demonstrate that the petitioner made a bona fide offer of employment to the beneficiary. The AAO outlined the specific evidence to be submitted.

The petitioner and its counsel failed to respond to the AAO's RFE within the 63 day period afforded to the petitioner to respond to this request.

A petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner or applicant fails to respond to a request for evidence or a notice of intent to deny by the required date. 8 C.F.R. § 103.2(b)(13)(i). In the RFE, 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 due to the numerous credibility issues with the evidence in the current record of proceeding. 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).

(b)(6)

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Because the petitioner failed to respond to the RFE, the AAO is dismissing the appeal and summarily denying the petition as abandoned. The remaining issues in this proceeding are thereby moot.

ORDER: The appeal is dismissed. The petition is summarily denied as abandoned.