



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **FEB 04 2014** OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal was dismissed and the petitioner filed a motion to reconsider. The motion will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner describes itself as a software development company. It seeks to permanently employ the beneficiary in the United States as an “Engineer II.” The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). 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 beneficiary’s Bachelor’s degree in Mechanical Engineering does not meet the educational requirements of the labor certification to qualify him as an advanced degree professional.

On November 27, 2013, the AAO sent the petitioner a notice of intent to dismiss the motion (NOID) with a copy to counsel of record. The NOID requested that the petitioner provide a copy of the signed recruitment report required by 20 C.F.R. § 656.17(g)(1), including copies of the prevailing wage determination, all online, print and additional recruitment conducted for the position, the job order, the posted notice of the filing of the labor certification, and all resumes received in response to the recruitment efforts. The NOID allowed the petitioner 30 days in which to submit a response. The AAO informed the petitioner that failure to respond to the NOID would result in a dismissal of the motion.

As of the date of this decision, the petitioner has not responded to the AAO’s NOID. 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 NOID, the motion will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

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 motion is dismissed. The petition remains denied.