



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: NOV 18 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:
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) 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,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. We will sustain the appeal and approve the petition.

The petitioner is a computer software company. It seeks to employ the beneficiary permanently in the United States as an associate product manager, per section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), which provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. As required by statute, an ETA Form 9089, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to demonstrate that it had the ability to pay the proffered wage from the priority date of March 28, 2013 onwards.

The record lacked the petitioner's 2013 federal income tax return, which was unavailable at the time that the petition was filed. On appeal and in response to our Request for Evidence (RFE), the petitioner submitted its 2013 federal income tax return, which establishes that the petitioner has the ability to pay the proffered wage from the priority date onwards. Thus, the appeal will be sustained and the petition will be approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The appeal is sustained. The petition is approved.