



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **OCT 30 2014** OFFICE: NEBRASKA 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 (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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner describes itself as a computer consulting firm. It seeks to permanently employ the beneficiary in the United States as a system consultant. 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).¹ The petition was originally accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification) approved by the U.S. Department of Labor (DOL). However, because the petitioner failed to disclose the familial relationship between the petitioner's president and the beneficiary, on February 5, 2014, the DOL issued the petitioner a Notice of Intent to Revoke the approval of the labor certification (NOIR), case number [REDACTED] underlying the instant Form I-140, Petition for Alien worker. The DOL provided the petitioner 30 days to respond and ultimately revoked the approval of the labor certification as the petitioner did not respond to the NOIR.

On January 11, 2013, we issued the petitioner a notice of intent to dismiss (NOID) and advised the petitioner that we intended to deny the petition and dismiss the appeal as moot because the Form I-140 was no longer supported by a certified ETA Form 9089. We informed the petitioner that failure to respond to the NOID would result in a dismissal of the appeal.

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

In addition, the petition must be accompanied by an individual labor certification approved by the Department of Labor. See 8 C.F.R. § 204.5(a)(2). Because the certification of this labor certification has been revoked, the petition is not supported by a valid labor certification, and further pursuit of the matter at hand is moot.

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 dismissed based on the petitioner's failure to respond to our NOID, dated January 11, 2013, and because the petition is no longer supported by a valid labor certification due to the DOL's revocation of the ETA Form 9089.

¹ Section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees, whose services are sought by an employer in the United States.