

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

B6



FILE:  Office: NEBRASKA SERVICE CENTER

DEC 08 2010

IN RE: Petitioner:   
Beneficiary: 

PETITION: Immigrant petition for Alien Worker as an Other, Unskilled Worker pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3) as an unskilled/other worker. The director determined that the petitioner failed to submit with the Form I-140 documentation to establish the petitioner's ability to pay the proffered wage from the September 16, 2004 priority date onward, and failed to submit documentation to establish that the beneficiary had completed the required eight years of grade school education required by the Form ETA 750. Additionally, the petitioner failed to submit evidence that the beneficiary had the required one-year of experience in the position offered as required by the labor certification. The petition was accordingly denied.

On appeal, the petitioner states that he disagrees with the director's decision and that he did submit the evidence referenced by the director in denying the petition.<sup>1</sup> The petitioner did not state what evidence he had submitted with the petition. The petitioner also states that the director should have issued a Request For Evidence (RFE) prior to denying the petition to allow an opportunity to "overcome any discrepancies."<sup>2</sup> The petitioner stated that additional evidence would be provided

---

<sup>1</sup> The record does not contain any of the initial required evidence and the petitioner did not submit any evidence with the appeal.

<sup>2</sup> C.F.R. § 103.2(b)(1) states that a petitioner must demonstrate eligibility at time of filing:

An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. All required application or petition forms must be properly completed and filed with any initial evidence required by applicable regulations and/or the form's instructions. Any evidence submitted in connection with the application or petition is incorporated into and considered part of the relating application or petition.

If the application does not demonstrate eligibility, the director is not required to send a request for evidence. *See* 8 C.F.R. § 103.2(b)(8):

...

(ii) *Initial evidence.* If all required initial evidence is not submitted with the application or petition or does not demonstrate eligibility, USCIS in its discretion may deny the application or petition for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS.

As the petition was filed without evidence of the petitioner's ability to pay in accordance with 8 C.F.R. § 204.5(g)(2), and without evidence of the beneficiary's experience in accordance with 8 C.F.R. § 204.5(1)(3)(ii)(D) which requires the petition to be accompanied by evidence that the

within 30 days. Applicable regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii). The Form I-290B was filed on February 26, 2009. To date, no additional evidence has been provided and the petitioner has not otherwise addressed the director's reasons for denial.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has not specifically addressed the reasons stated for denial and has not provided any of the initial required evidence either with the original filing or on appeal. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.

---

beneficiary meets any educational, training, experience and/or other requirements of the labor certification, the director was not required to issue an RFE.