(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

DATE: AUG 20 2012 OFFICE: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

[redacted]

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,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner describes itself as a textile manufacturing and sales company, and seeks to employ the beneficiary permanently in the United States as the regional director – Americas pursuant to sections 203(b)(3)(A)(i) and (ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i) and (ii). As required by statute, a labor certification accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to establish that the beneficiary possessed a U.S. baccalaureate degree or foreign equivalent, and therefore, the beneficiary did not meet the education requirements listed on the ETA Form 9089.

The AAO issued a Request for Evidence and Notice of Derogatory Information on May 29, 2012 soliciting additional evidence of the beneficiary's educational credentials, and the petitioner's annual reports, federal tax returns, or audited financial statements, along with any Forms W-2 or 1099 issued to the beneficiary. Further, the AAO requested objective evidence to explain or reconcile inconsistencies in the record with regard to the petitioner and the tax returns in the record; evidence of the shareholders of the petitioner and its foreign corporations; evidence that the petitioner was still in good standing in the State of Virginia; and, evidence of any business relationship the beneficiary may have with the petitioner.

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. 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). Further, since the petitioner failed to respond to this office's request for a certificate of good standing or other proof that the petitioner remains in operation as a viable business or was in operation from the priority date onwards, the appeal will be dismissed as abandoned.[1]

Finally, based on the 2006 federal tax returns in the record, and documents found on Westlaw, which show the beneficiary is the Vice President of the petitioner, the present case will be referred to the Department of Labor for a possible revocation of the labor certification.

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 not met that burden.

ORDER: The appeal is dismissed.

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[1] Additionally, even if the appeal could be otherwise sustained, the petition's approval would be subject to automatic revocation pursuant to 8 C.F.R. § 205.1(a)(iii)(D) which sets forth that an approval is subject to automatic revocation without notice upon termination of the employer's business in an employment-based preference case.