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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

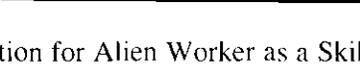
B6



DATE: JUL 16 2012

OFFICE: TEXAS SERVICE CENTER

FILE: 

IN RE: Petitioner: 
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:

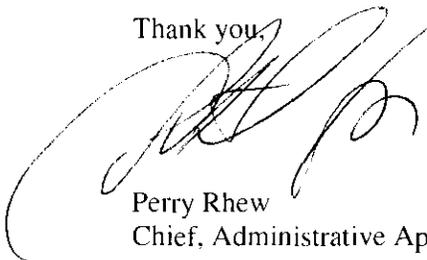


INSTRUCTIONS:

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 preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a construction company. It seeks to employ the beneficiary permanently in the United States as a dry-wall mechanic. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL). The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director also determined that the W-2 Forms submitted for a prior employer were insufficient to establish that the beneficiary met the experience required for the position offered. The director denied the petition accordingly.

The record shows that the appeal is properly filed, timely and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

As set forth in the director's November 21, 2008 denial, the issues in this case are whether or not the petitioner has the ability to pay the proffered wage as of the priority date and continuing until the beneficiary obtains lawful permanent residence and whether the beneficiary has the experience required for the position offered.

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (*the Act*), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

At the outset, the AAO finds that the petitioner has established that the beneficiary met the experience requirements of the offered position. The Form ETA 750 requires two years of experience in the job offered (as a dry-wall mechanic) or two years of experience as a taper/dry-wall finisher. On appeal the petitioner submitted a letter in Spanish with a certified English translation from [REDACTED] regarding the beneficiary's employment with [REDACTED] construction business from July 1997 until September 1999 as a dry-wall finisher. This letter confirms the beneficiary's stated experience on Form ETA 750 and is in conformance with 8 C.F.R. § 204.5(l)(3)(ii)(A). The AAO finds that this letter is sufficiently detailed to establish that the beneficiary met the experience requirements prior to the priority date.

With respect to the petitioner's ability to pay the proffered wage, the regulation at 8 C.F.R. § 204.5(g)(2) states in pertinent part:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the

priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements.

The petitioner must demonstrate the continuing ability to pay the proffered wage beginning on the priority date, which is the date the Form ETA 750, Application for Alien Employment Certification, was accepted for processing by any office within the employment system of the DOL. *See* 8 C.F.R. § 204.5(d). The petitioner must also demonstrate that, on the priority date, the beneficiary had the qualifications stated on its Form ETA 750, Application for Alien Employment Certification, as certified by the DOL and submitted with the instant petition. *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Acting Reg'l Comm'r 1977).

Here, the Form ETA 750 was accepted on December 29, 2003. The proffered wage as stated on the Form ETA 750 is \$14.59 per hour (\$30,347.20 per year). The Form ETA 750 states that the position requires two years of experience in the job offered or two years of experience as a taper/dry-wall finisher.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.¹

The evidence in the record of proceeding shows that the petitioner is structured as a C corporation. On the petition, the petitioner claimed to have been established in 2001 and to currently employ six workers. According to the tax returns in the record, the petitioner's fiscal year is based on the calendar year. On the Form ETA 750B, signed by the beneficiary on December 26, 2003, the beneficiary claimed to have worked for the petitioner from April 2003 until the present (the date of signature).

The petitioner must establish that its job offer to the beneficiary is a realistic one. Because the filing of an ETA 750 labor certification application establishes a priority date for any immigrant petition later based on the Form ETA 750, the petitioner must establish that the job offer was realistic as of the priority date and that the offer remained realistic for each year thereafter, until the beneficiary obtains lawful permanent residence. The petitioner's ability to pay the proffered wage is an essential element in evaluating whether a job offer is realistic. *See Matter of Great Wall*, 16 I&N Dec. 142 (Acting Reg'l Comm'r 1977); *see also* 8 C.F.R. § 204.5(g)(2). In evaluating whether a job offer is realistic, United States Citizenship and Immigration Services (USCIS) requires the petitioner to demonstrate financial resources sufficient to pay the beneficiary's proffered wages, although the totality of the circumstances affecting the petitioning business will be considered if the evidence warrants such consideration. *See Matter of Sonogawa*, 12 I&N Dec. 612 (Reg'l Comm'r 1967).

¹ The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 8 C.F.R. § 103.2(a)(1). The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

In determining the petitioner's ability to pay the proffered wage during a given period, USCIS will first examine whether the petitioner employed and paid the beneficiary during that period. If the petitioner establishes by documentary evidence that it employed the beneficiary at a salary equal to or greater than the proffered wage, the evidence will be considered *prima facie* proof of the petitioner's ability to pay the proffered wage. In the instant case, the petitioner has not established that it employed and paid the beneficiary the full proffered wage from the priority date on December 29, 2003 onward.

The petitioner did, however, submit the following W-2 Forms stating the beneficiary's name:

- 2003 - \$12,330.00²
- 2004 - \$27,103.00
\$2,700.00 (Form 1099-MISC)
- 2005 - \$34,180.00
- 2006 - \$36,252.00
- 2007 - \$36,584.00

Thus, upon resolution of the social security number issue, for 2003 and 2004 the petitioner must establish the ability to pay the difference between the proffered wage and wages paid to the beneficiary. Those sums are:

- 2003 - \$18,017.20
- 2004 - \$544.20

Additionally, the petitioner must resolve the issue related to the beneficiary's social security number prior to accepting the 2005, 2006, and 2007 W-2 statements.

² The Form I-140 states "none" for the beneficiary's social security number. However, the W-2 Forms submitted for 2003 and 2004 list a social security number and have a handwritten note crossing out the social security number and listing a tax identification number (ITIN) instead. Later W-2 statements for 2005, 2006, and 2007 list the original social security number with no ITIN number. As the petitioner states on Form I-140 that the beneficiary has no social security number, and several forms contain handwritten notes regarding an ITIN, the W-2 statements cannot be accepted without an explanation. The handwritten changes and conflicting information cast doubt on the veracity of the forms submitted. Doubt cast on any aspect of the petitioner's evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988). This issue must be resolved in any further filings before the W-2 Statements can definitively be accepted.

If the petitioner does not establish that it employed and paid the beneficiary an amount at least equal to the proffered wage during that period, USCIS will next examine the net income figure reflected on the petitioner's federal income tax return, without consideration of depreciation or other expenses. *River Street Donuts, LLC v. Napolitano*, 558 F.3d 111 (1st Cir. 2009); *Taco Especial v. Napolitano*, 696 F. Supp. 2d 873 (E.D. Mich. 2010), *aff'd*, No. 10-1517 (6th Cir. filed Nov. 10, 2011). Reliance on federal income tax returns as a basis for determining a petitioner's ability to pay the proffered wage is well established by judicial precedent. *Elatos Restaurant Corp. v. Sava*, 632 F. Supp. 1049, 1054 (S.D.N.Y. 1986) (citing *Tongatapu Woodcraft Hawaii, Ltd. v. Feldman*, 736 F.2d 1305 (9th Cir. 1984)); *see also Chi-Feng Chang v. Thornburgh*, 719 F. Supp. 532 (N.D. Texas 1989); *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. 1080 (S.D.N.Y. 1985); *Ubedu v. Palmer*, 539 F. Supp. 647 (N.D. Ill. 1982), *aff'd*, 703 F.2d 571 (7th Cir. 1983). Reliance on the petitioner's gross sales and profits and wage expense is misplaced. Showing that the petitioner's gross sales and profits exceeded the proffered wage is insufficient. Similarly, showing that the petitioner paid wages in excess of the proffered wage is insufficient.

In *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. at 1084, the court held that the Immigration and Naturalization Service, now USCIS, had properly relied on the petitioner's net income figure, as stated on the petitioner's corporate income tax returns, rather than the petitioner's gross income. The court specifically rejected the argument that the Service should have considered income before expenses were paid rather than net income. *See Taco Especial v. Napolitano*, 696 F. Supp. 2d at 881 (gross profits overstate an employer's ability to pay because it ignores other necessary expenses).

With respect to depreciation, the court in *River Street Donuts* noted:

The AAO recognized that a depreciation deduction is a systematic allocation of the cost of a tangible long-term asset and does not represent a specific cash expenditure during the year claimed. Furthermore, the AAO indicated that the allocation of the depreciation of a long-term asset could be spread out over the years or concentrated into a few depending on the petitioner's choice of accounting and depreciation methods. Nonetheless, the AAO explained that depreciation represents an actual cost of doing business, which could represent either the diminution in value of buildings and equipment or the accumulation of funds necessary to replace perishable equipment and buildings. Accordingly, the AAO stressed that even though amounts deducted for depreciation do not represent current use of cash, neither does it represent amounts available to pay wages.

We find that the AAO has a rational explanation for its policy of not adding depreciation back to net income. Namely, that the amount spent on a long term tangible asset is a "real" expense.

River Street Donuts at 118. "[USCIS] and judicial precedent support the use of tax returns and the net income figures in determining petitioner's ability to pay. Plaintiffs' argument that these figures

should be revised by the court by adding back depreciation is without support.” *Chi-Feng Chang* at 537 (emphasis added).

For a C corporation, USCIS considers net income to be the figure shown on Line 28 of the Form 1120, U.S. Corporation Income Tax Return. The record before the director closed on September 25, 2008 with the receipt by the director of the petitioner’s submissions in response to the director’s request for evidence. As of that date, the petitioner’s 2008 federal income tax return was not yet due. Therefore, the petitioner’s income tax return for 2007 is the most recent return available. The petitioner’s tax returns demonstrate its net income for 2003 through 2007, as shown in the table below.

- In 2003, the Form 1120 stated net income of (\$39,137.00).
- In 2004, the petitioner did not submit a tax return.
- In 2005, the petitioner did not submit a tax return.
- In 2006, the petitioner did not submit a tax return.
- In 2007, the Form 1120 stated net income of \$82,300.00.

Therefore, for the years 2003, 2004, 2005, and 2006 the petitioner did not have sufficient net income to pay the proffered wage.³

If the net income the petitioner demonstrates it had available during that period, if any, added to the wages paid to the beneficiary during the period, if any, do not equal the amount of the proffered wage or more, USCIS will review the petitioner’s net current assets. Net current assets are the difference between the petitioner’s current assets and current liabilities.⁴ A corporation’s year-end current assets are shown on Schedule L, lines 1 through 6 and include cash-on-hand. Its year-end current liabilities are shown on lines 16 through 18. If the total of a corporation’s end-of-year net current assets and the wages paid to the beneficiary (if any) are equal to or greater than the proffered wage, the petitioner is expected to be able to pay the proffered wage using those net current assets.

³ As stated above, the petitioner must resolve the issue related to the beneficiary’s social security number before the AAO can accept the petitioner’s W-2 statements as proof of its ability to pay the proffered wages for 2005, 2006, and 2007, or proof of partial wages paid in 2003 and 2004. In the absence of resolution of the social security number issue, the petitioner should submit its federal tax returns for the years 2004 to 2007 in any further filings. Additionally, even if we accepted all the W-2 Statements, the wages paid in 2004 would be insufficient to establish the petitioner’s ability to pay the proffered wage and the petitioner’s tax return, audited financial statements, or annual report would be required.

⁴ According to *Barron’s Dictionary of Accounting Terms* 117 (3rd ed. 2000), “current assets” consist of items having (in most cases) a life of one year or less, such as cash, marketable securities, inventory and prepaid expenses. “Current liabilities” are obligations payable (in most cases) within one year, such accounts payable, short-term notes payable, and accrued expenses (such as taxes and salaries). *Id.* at 118.

The petitioner's tax returns demonstrate its end-of-year net current assets for 2003 through 2007, as shown in the table below.

- In 2003, the Form 1120 stated net current assets of (\$5,066.00).
- In 2004, the petitioner did not submit a tax return.
- In 2005, the petitioner did not submit a tax return.
- In 2006, the petitioner did not submit a tax return.
- In 2007, the Form 1120 stated net current assets of (\$24,443.00).

Therefore, for the years 2003, 2004, 2005, 2006, and 2007 the petitioner did not have sufficient net current assets to pay the proffered wage.⁵

Therefore, from the date the Form ETA 750 was accepted for processing by the DOL, the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage as of the priority date through an examination of wages paid to the beneficiary, or its net income or net current assets.

On appeal, counsel asserts that the petitioner should not be required to demonstrate its ability to pay the proffered wage for the entire year of 2003 because the labor certification was filed on December 29, 2003. Counsel does not cite any legal authority for this assertion.⁶

The regulation at 8 C.F.R. § 204.5(g)(2) states in pertinent part:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability *at the time the priority date is established* and continuing until the beneficiary obtains lawful

⁵ Upon resolution of the social security number issue, as stated above, the W-2 statements would otherwise show the petitioner's ability to pay the proffered wage for 2005, 2006, and 2007.

⁶ Counsel requests that USCIS prorate the proffered wage for the portion of the year that occurred after the priority date. The AAO will not, however, consider 12 months of income towards an ability to pay a lesser period of the proffered wage any more than we would consider 24 months of income towards paying the annual proffered wage. While USCIS will prorate the proffered wage if the record contains evidence of net income or payment of the beneficiary's wages specifically covering the portion of the year that occurred after the priority date (and only that period), such as monthly income statements or paystubs, the petitioner has not submitted such evidence. If the petitioner intends to demonstrate this, it should submit such documentation in any further filings to include the beneficiary's paystub for the relevant time period in December and resolve the issue related to the beneficiary's social security number used to demonstrate that the wages paid were actually paid to the beneficiary.

permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements. (Emphasis added).

As stated above, the priority date was established at the filing of the labor certification on December 29, 2003.

The AAO issued the petitioner a Notice of Derogatory Information (NDI) on December 27, 2011 with evidence from the Maryland Secretary of State that the petitioner's corporate status had been forfeited on October 3, 2008, for failure to file a property return for 2007.⁷ In response to this NDI, counsel asserts that a new entity, JB Contractors, Inc. is the successor-in-interest of the original petitioner. A labor certification is only valid for the particular job opportunity stated on the application form. 20 C.F.R. § 656.30(c). If JB Contractors, Inc. is a different entity than the petitioner/labor certification employer and appellant, it must establish that it is a successor-in-interest to that entity. *See Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm'r 1986).

A valid successor relationship may be established for immigration purposes if it satisfies three conditions. First, the successor must fully describe and document the transaction transferring ownership of all, or a relevant part of, the predecessor. Second, the successor must demonstrate that the job opportunity is the same as originally offered on the labor certification. Third, the successor must prove by a preponderance of the evidence that it is eligible for the immigrant visa in all respects.

The evidence in the record does not satisfy all three conditions described above because it does not fully describe and document the transaction transferring ownership of the predecessor, it does not demonstrate that the job opportunity will be the same as originally offered, and it does not demonstrate that the claimed successor is eligible for the immigrant visa in all respects, including whether it and the predecessor possessed the ability to pay the proffered wage for the relevant periods. Instead, counsel states that JB Contractors, Inc. is the successor-in-interest of the petitioner, because it is owned by the same stockholder and director; has the same address and telephone number; engages in the same type of business; and assumed the assets and contractual rights and obligations of the petitioner. The record does not contain any evidence to support these claims. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter Of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Accordingly, the petition must also be denied because JB Contractors, Inc. has failed to establish that it is a successor-in-interest to the petitioner.⁸

⁷ See http://sdatcert3.resiusa.org/UCC-Charter/CharterSearch_f.aspx (accessed December 19, 2011).

⁸ An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *See also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

Furthermore, a search of the Maryland Secretary of State website on June 18, 2012 revealed that the corporate status of [REDACTED] was forfeited on October 1, 2010.⁹ Where there is no active business, no bona fide job offer exists, and the request that a foreign worker be allowed to fill the offered position on the petition has become moot. 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)(the approval of an employment-based immigrant petition is subject to automatic revocation without notice upon the termination of the employer's business). Thus, even if [REDACTED] had demonstrated a valid successor-in-interest relationship to the petitioner prior to October 3, 2008 when the petitioner's corporate status was forfeited, the petition must be denied as it appears that this company is no longer in business. The successor would also need to establish its ability to pay the proffered wage from the date of successorship onward. In any further filings, the petitioner would need to submit sufficient evidence to establish successorship, as well as evidence that the two entities were validly in continuous operation, to establish a continuing realistic bona fide job offer from the priority date onward.

Counsel's assertions on appeal cannot be concluded to outweigh the evidence presented in the tax returns as submitted by the petitioner that demonstrates that the petitioner could not pay the proffered wage from the day the Form ETA 750 was accepted for processing by the DOL.

USCIS may consider the overall magnitude of the petitioner's business activities in its determination of the petitioner's ability to pay the proffered wage. *See Matter of Sonogawa*, 12 I&N Dec. 612 (Reg'l Comm'r 1967). The petitioning entity in *Sonogawa* had been in business for over 11 years and routinely earned a gross annual income of about \$100,000. During the year in which the petition was filed in that case, the petitioner changed business locations and paid rent on both the old and new locations for five months. There were large moving costs and also a period of time when the petitioner was unable to do regular business. The Regional Commissioner determined that the petitioner's prospects for a resumption of successful business operations were well established. The petitioner was a fashion designer whose work had been featured in *Time* and *Look* magazines. Her clients included Miss Universe, movie actresses, and society matrons. The petitioner's clients had been included in the lists of the best-dressed California women. The petitioner lectured on fashion design at design and fashion shows throughout the United States and at colleges and universities in California. The Regional Commissioner's determination in *Sonogawa* was based in part on the petitioner's sound business reputation and outstanding reputation as a couturiere. As in *Sonogawa*, USCIS may, at its discretion, consider evidence relevant to the petitioner's financial ability that falls outside of a petitioner's net income and net current assets. USCIS may consider such factors as the number of years the petitioner has been doing business, the established historical growth of the petitioner's business, the overall number of employees, the occurrence of any uncharacteristic business expenditures or losses, the petitioner's reputation within its industry, whether the beneficiary is replacing a former employee or an outsourced service, or any other evidence that USCIS deems relevant to the petitioner's ability to pay the proffered wage.

⁹ See http://sdatcert3.resiusa.org/UCC-Charter/searchByName_a.aspx?mode=name, listing forfeiture of JB Contractors, Inc. for the failure to file a property return for 2009.

In the instant case, the petitioner has been in business since 2001 and had its corporate status forfeited on October 3, 2008. Even if [REDACTED] could have established that it is a successor-in-interest to the petitioner, it still would have needed to demonstrate the original petitioner's ability to pay the proffered wage from the priority date onward until the date of successorship and the successor's ability to pay the proffered wage from that date onward.¹⁰ The petitioner did not submit tax returns for 2004, 2005, and 2006 which could have been used to demonstrate the petitioner's growth or uncharacteristic business losses.¹¹ The petitioner did not submit any tax returns for the purported successor. The petitioner did not submit any other evidence of this or of its reputation in the industry. Thus, assessing the totality of the circumstances in this individual case, it is concluded that the petitioner has not established that it had the continuing ability to pay the proffered wage.

The evidence submitted does not establish that the petitioner had the continuing ability to pay the proffered wage beginning on the priority date, or that the alleged successor is the valid successor-in-interest to the initial petitioner to continued processing under the labor certification.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

¹⁰ Other issues, such as the forfeiture of the original petitioner and [REDACTED], and the lack of corroborating evidence regarding the successor-in-interest claim, tend to foreclose the possibility of establishing the ability to pay the proffered wage based on the totality of the circumstances.

¹¹ In any further filings, the petitioner should submit evidence of its tax returns for these years. Tax returns prior to 2003, although not required, may also help establish the original petitioner's ability to pay the proffered wage in the totality of the circumstances. If sufficient evidence is submitted to establish that [REDACTED] is a successor-in-interest to the petitioner and is a valid business in the state of Maryland, its ability to pay the proffered wage must also be established from the time it became a successor-in-interest. The original petitioner's ability to pay the proffered wage must also be demonstrated from the priority date until the successor-in-interest relationship began.