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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

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DATE: **MAY 08 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 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,

*Elizabeth McCormack*

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 is an importer/manufacturer/distributor of garments. It seeks to employ the beneficiary permanently in the United States as a programmer analyst pursuant to section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii). As required by statute, a labor certification accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to demonstrate that the beneficiary satisfied the minimum level of education required by the labor certification. The director declined to combine the three-year bachelor degree in Computer Science and the post-graduate diploma (PGD) in Management Science and concluded that the beneficiary's three-year bachelor degree from Mysore University was not equivalent to a U.S. bachelor's degree in computer science or a related field.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On January 5, 2012, the AAO issued a request for evidence (RFE) requesting additional evidence to clarify the terms included in the labor certification. Specifically, the AAO indicated that while it appears that the beneficiary's PGD is comparable to either a bachelor's or master's degree in the United States, it is not in Computer Science, the field of study required of all candidates under the Application for Alien Employment Certification (Form ETA 750) certified by the Department of Labor (DOL).

The AAO also requested the petitioner to submit evidence to demonstrate the ability to pay the proffered wage from the priority date. In adjudicating the appeal, the AAO noted that the petitioner has filed multiple employment-based visa petitions for other beneficiaries.<sup>1</sup>

The AAO specifically alerted the petitioner that failure to respond to the RFE would result in dismissal without further discussion 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).

Because the petitioner failed to respond to the RFE, the AAO is dismissing the appeal without further discussion.

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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<sup>1</sup> The details of the other petitions are disclosed in the AAO's RFE.