

(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: APR 04 2013 OFFICE: TEXAS SERVICE CENTER

FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The petitioner is an IT software and development company. It seeks to permanently employ the beneficiary in the United States as a software engineer and to classify him as a skilled worker (requiring at least two years of specialized training or experience) pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i).

The Director denied the petition on the ground that the petitioner failed to establish its ability to pay the proffered wage to the beneficiary. A timely appeal was filed, along with a request from counsel for 30 days to submit additional documentation. No such materials were submitted by counsel.

On January 11, 2013, the AAO sent a Notice of Derogatory Information and Request for Evidence (NDI/RFE) to the petitioner, with a copy to counsel. The AAO indicated that the petitioner needed to submit evidence detailing the relationship, if any, between the beneficiary and the petitioner's officers and owners, the beneficiary's ownership interest in or management of the petitioner, and a copy of the petitioner's articles of incorporation with evidence of its owners and officers from the date of incorporation up to the present. In addition, the AAO advised that the letters in the record from prior employers were substantively deficient, and requested new letters to establish that the beneficiary met the experience requirement of the labor certification. Finally, the AAO requested specific federal income tax documentation as evidence of its ability to pay the salaries of the beneficiary and its other employees. The petitioner was afforded 45 days to respond to the NDI/RFE with additional evidence. The petitioner was advised that if no response was received, the appeal would be dismissed without further discussion.

The petitioner did not respond within the 45-day period specified in the NDI/RFE, or any time since then. If a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. See 8 C.F.R. § 103.2(b)(13)(i). As provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

Since the petitioner has not responded to the NDI/RFE of January 11, 2013, the appeal will be dismissed in accordance with the above regulations.

ORDER: The appeal is dismissed.