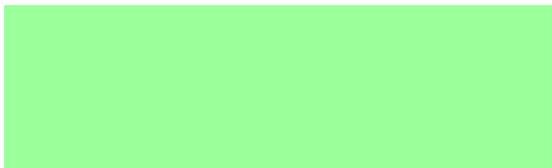


(b)(6)

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

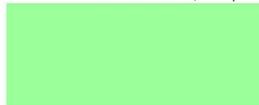


U.S. Citizenship  
and Immigration  
Services



DATE: **FEB 12 2013** OFFICE: NEBRASKA SERVICE CENTER

FILE:



PETITIONER:  
BENEFICIARY:



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

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,

  
Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner filed a motion to reopen and reconsider the director's decision. The director granted the motion to reopen and reconsider, affirmed its previous decision, and denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner describes itself as a labor contractor provider. It seeks to permanently employ the beneficiary in the United States as a fitter. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A). The petition is accompanied by a labor certification approved by the U.S. Department of Labor.

The director determined that the petitioner failed to demonstrate that it was making a *bona fide* offer of permanent, full-time employment to the beneficiary and that it failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date. The director denied the petition accordingly.

The record shows that the appeal is properly filed 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.

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.<sup>1</sup>

On January 4, 2013, the AAO sent the petitioner a Notice of Intent to Dismiss and Derogatory Information (NOID/NDI) with a copy to counsel based on information obtained from the Mississippi Secretary of State that the petitioner had filed an intent to dissolve on September 13, 2012. A copy of the status report was included. In the NOID/NDI, the AAO requested that the petitioner demonstrate the continued existence, operation, and good standing of the organization. The NOID/NDI informed the petitioner that 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).

The petitioner, through counsel, responded to the AAO's NOID/NDI on January 22, 2013. In its response, counsel stated that the petitioner intends to dissolve the company due to the owner's failing health. No other documentation was provided.

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<sup>1</sup> The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by 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).

(b)(6)

Since the petitioner failed to submit requested evidence that precludes a material line of inquiry, namely that the petitioner is in continued operation and in good standing, the petition will be denied pursuant to 8 C.F.R. § 103.2(b)(14). Further, the evidence in the record is not sufficient to establish that the petitioner is making a *bona fide* offer of permanent, full-time employment to the beneficiary and that it has the ability to pay the proffered wage beginning on the priority date

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.