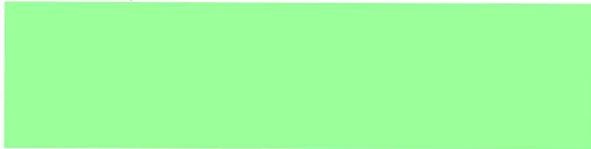




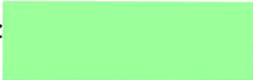
U.S. Citizenship
and Immigration
Services

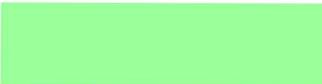
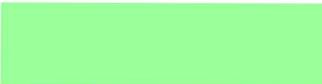
(b)(6)



DATE: **FEB 28 2013**

OFFICE: TEXAS SERVICE CENTER

FILE: 

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,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center denied the employment-based immigrant visa petition, and the petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The petitioner filed a motion to reopen and a motion to reconsider. The motions will be summarily dismissed as abandoned pursuant to 8 C.F.R. §103.2(b)(13)(i).

The petitioner describes itself as a provider of integrated business. It seeks to permanently employ the beneficiary in the United States as a systems analyst. 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 AAO's decision dismissing the petition concludes that the petitioner failed to establish it is a successor-in-interest to the original entity on the labor certification. Beyond the decision of the director, the AAO also concludes that petitioner failed to establish its ability to pay the beneficiary the proffered wage as of the priority date onwards, and that the beneficiary possessed the education, experience and special requirements to perform the offered position.

The motion 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.

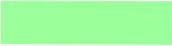
The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.¹

On January 4, 2013, the AAO issued a Notice of Intent to Dismiss and Derogatory Information (NOID) to the petitioner and counsel at their addresses of record. The notice stated that the petitioner's status is listed as noncompliance by the Georgia Secretary of State. The petitioner was provided 30 days to respond and/or rebut this derogatory information pursuant to 8 C.F.R. § 103.2(b)(16)(i).

As of the date of this decision, no response has been received from either the petitioner or counsel. 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). Since the petitioner failed to respond to the NOID, the motions will be summarily dismissed as abandoned pursuant 8 C.F.R. §103.2(b)(13)(i). The AAO will dismiss the motions without further discussion. The instant motions are therefore moot.

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 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)


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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 motions are summarily dismissed as abandoned.