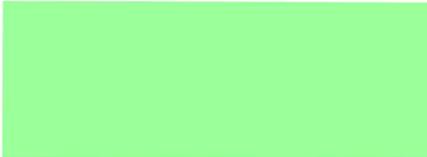


(b)(6)

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

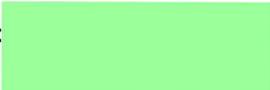


U.S. Citizenship
and Immigration
Services

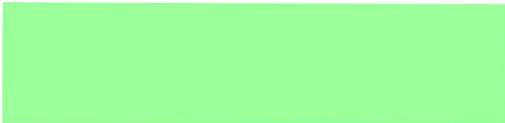


DATE: JUL 30 2013

OFFICE: TEXAS SERVICE CENTER FILE:

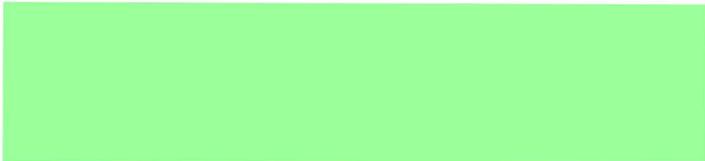


IN RE: Petitioner:
Beneficiary:



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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner describes itself as a wholesale bakery. It seeks to permanently employ the beneficiary in the United States as a baker. 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's decision denying the petition concluded that the petitioner had not established that the beneficiary possessed the minimum experience requirements for the position offered.

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.¹

On April 12, 2013, the AAO sent the petitioner a request for evidence (RFE) with a copy to counsel of record. The RFE requested the following items in order to make a substantive decision in the case:

- The petitioner's income tax returns for 2009, 2010, 2011, and 2012
- Any IRS Forms W-2's, or IRS Forms 1099, issued to the beneficiary for 2006 through 2012 by the petitioner.
- The "note receivable" claimed by the petitioner as a current asset on the 2006, 2007, and 2008 income tax returns, showing the payment terms and the name(s) of the debtor(s). The evidence should have also shown any funds repaid to the corporation on the basis of the note during 2007 and 2008.

The RFE allowed the petitioner the maximum amount of time allowed by regulation of 12 weeks in which to submit a response. *See* 8 C.F.R. § 103.2(b)(8)(iv). The AAO informed the petitioner that failure to respond to the RFE would result in a dismissal of the appeal.

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).

As of the date of this decision, the petitioner has not submitted any evidence in response to the AAO's RFE. *Id.* Counsel instead requests an extension of this time to obtain the requested documents. However, as previously indicated the petitioner has already received the maximum amount of time allowed under the regulations. *See* 8 C.F.R. § 103.2(b)(8)(iv). No further extensions are allowed for further evidence. 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 RFE, the appeal will be summarily dismissed pursuant to 8 C.F.R. § 103.2(b)(13)(i).

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.