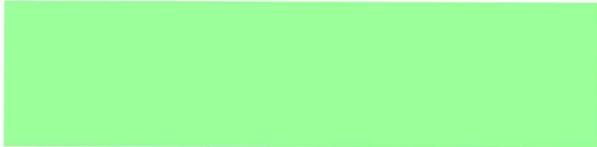
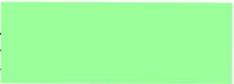




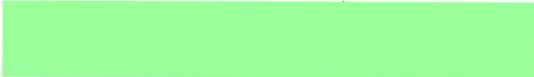
(b)(6)



DATE: **MAR 07 2013** OFFICE: NEBRASKA 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 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, Nebraska Service Center (director), denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner describes itself as a reproduction of steel car bodies business. It seeks to permanently employ the beneficiary in the United States as a hand metal finishing specialist. 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 failed to establish that it had the ability to pay the beneficiary the proffered wage from the priority date onward.

The record shows that the appeal is properly filed, timely, 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 December 20, 2012, the AAO sent the petitioner a request for evidence (RFE) with a copy to counsel of record. The RFE notified the petitioner that the record did not contain any regulatory prescribed financial information for the petitioner for any time period after the priority date, and that the director's decision was based solely on financial information preceding the priority date. As such, the RFE afforded the petitioner the opportunity to submit annual reports, tax returns or audited financial statements for 2009 to 2011, along with any other evidence of the petitioner's ability to pay the proffered wage. The RFE allowed the petitioner 45 days in which to submit a response. The AAO informed the petitioner that failure to respond to the RFE would result in a dismissal of the appeal.

As of the date of this decision, the petitioner has not responded to the AAO's RFE. 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). As the petitioner failed to respond to the RFE, the appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

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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).

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 summarily dismissed as abandoned.