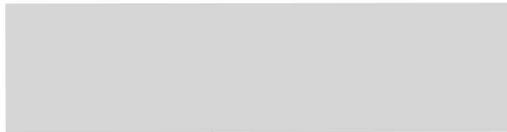




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 07 2015**

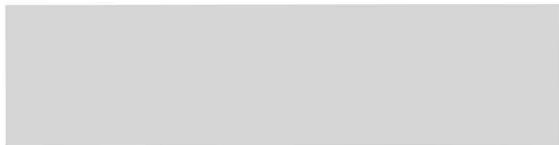
FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: *Immigrant Petition for Alien Worker as a Skilled Worker pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(i)*

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner describes itself as an IT development and consulting company. It seeks to employ the beneficiary permanently in the United States as a software engineer 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). Under this statutory provision preference classification may be granted to qualified immigrants who are capable of performing skilled labor that requires at least two years training or experience, is not of a temporary nature, and for which qualified workers are not available in the United States.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on May 23, 2013. As required by statute, the petition was accompanied by an ETA Form 9089, Application for Permanent Employment Certification, which was filed at the U.S. Department of Labor (DOL) on June 1, 2012, and certified by the DOL (labor certification) on April 18, 2013.

The Director denied the petition on March 4, 2015, finding that the petitioner did not establish its continuing ability to pay the proffered wages of the instant beneficiary as well as the beneficiaries of all its other I-140 petitions from the priority date of the instant petition (June 1, 2012)¹ up to the present, in accordance with the requirements of 8 C.F.R. § 204.5(g)(2).

The petitioner filed an appeal on March 26, 2015. On the Form I-290B (Part 4), the petitioner was instructed to provide a statement regarding the basis for the appeal on a separate sheet of paper. No such statement was submitted with the appeal. On the Form I-290B the petitioner indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. No brief or additional documentation was submitted in the next 30 days, however, or at any time up to the date of this decision.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. In this case the petitioner has not identified any erroneous conclusion or law or any erroneous factual findings in the Director's decision of March 4, 2015. The petitioner has not provided any additional evidence to be considered on appeal. Therefore, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is dismissed.

¹ The priority date of an I-140 petition is the date its underlying labor certification application was filed with the DOL.