



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 26 2015**

OFFICE: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:
Beneficiary:

[REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

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,


Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner describes itself as a kindergarten school. It seeks to employ the beneficiary permanently in the United States as a kindergarten school teacher pursuant to section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii). As required by statute, a labor certification accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to demonstrate the ability to pay the proffered wage.

We issued a Notice of Intent to Dismiss (NOID) on January 30, 2015, requesting evidence to establish the petitioner's ability to pay the proffered wage. Specifically, we requested documentation regarding the company's repayment of a loan to its sole shareholder and information regarding the shareholder's willingness and ability to forego the repayment of that loan.

Beyond the decision of the director, we also found that the petitioner had failed to establish that the beneficiary possesses the education required for classification as a professional, and for satisfying the minimum requirements of the offered position set forth on the labor certification.¹ We explained that we consulted a database that did not equate the beneficiary's credentials to a U.S. baccalaureate degree and the evidence in the record of proceeding as currently constituted did not support a determination that the petitioner intended the actual minimum requirements of the proffered position to include alternatives to a bachelor degree such as the credentials held by the beneficiary. We specifically solicited evidence of the entrance requirements for the [REDACTED]

In the NOID, we specifically alerted the petitioner that failure to respond to the notice of intent to dismiss and derogatory information would result in dismissal since we could not substantively adjudicate the appeal without the information requested. 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 of the date of this decision, the petitioner has not responded to our NOID. Because the petitioner failed to respond to the NOID, we are summarily dismissing the appeal as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i). 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.

¹ We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).