



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF R-C-, LLC

DATE: OCT. 30, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a residential construction company, seeks to permanently employ the Beneficiary in the United States as a millwork machine spray finisher. *See* Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

The Petitioner requests classification of the Beneficiary as an unskilled worker. 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 did not establish that it had the ability to pay the proffered wage from the priority date onwards.

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.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence in the record, including new evidence properly submitted upon appeal.<sup>1</sup>

On July 9, 2015, we sent the Petitioner a notice of intent to dismiss the appeal (NOID) with a copy to counsel of record. We informed the Petitioner that the Connecticut Secretary of State indicated that the Petitioner had been dissolved on February 14, 2014 and that it appeared that there was no longer a *bona fide* job offer. We requested evidence from the Petitioner that it was still in business or that a successor-in-interest existed. We also requested evidence of the Petitioner's ability to pay the proffered wage since 2012. The NOID allowed the Petitioner 30 days in which to submit a response. We informed the Petitioner that, if it did not respond to the NOID, we may dismiss the appeal.

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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).

*Matter of R-C-, LLC*

As of the date of this decision, the Petitioner has not responded to the NOID. Not submitting requested evidence that precludes a material line of inquiry is grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Since the Petitioner did not respond to the NOID, the appeal will be summarily dismissed as abandoned 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 summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of R-C-, LLC*, ID# 14110 (AAO Oct. 30, 2015)