



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

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

MATTER OF L-, INC.

DATE: SEPT. 24, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The employment-based immigrant visa petition was initially approved, but the Director, Texas Service Center, later revoked the approval of the petition. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Petitioner describes itself as a Chinese restaurant. It seeks to employ the Beneficiary permanently in the United States as a Chinese specialty cook pursuant to section 203(b)(3)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(ii). As required by statute, a labor certification accompanied the petition.

Upon reviewing the petition, the Director determined that the Petitioner did not establish the ability to pay the proffered wage and issued a notice of intent to revoke (NOIR) on August 26, 2014. Specifically, the Director noted that United States Citizenship and Immigration Services (USCIS) records revealed that the Petitioner had filed petitions on behalf of numerous beneficiaries. The Director noted that the Petitioner would need to demonstrate its ability to pay the proffered wage for each I-140 beneficiary from the priority date until the Beneficiary obtains permanent residence. *See* 8 C.F.R. § 204.5(g)(2). In response, the Petitioner stated that it had petitioned for 17 different beneficiaries. The Petitioner submitted copies of Forms I-9, Employment Eligibility Verification, copies of IRS Forms W-4, and copies of immigrant visas relating to two of the beneficiaries for whom it had petitioned. The Director determined that the Petitioner's response to the NOIR did not establish its ability to pay the proffered wage and on December 10, 2014, the Director revoked the approval of the petition.

On appeal, the Petitioner again submits documentation relating to two of the beneficiaries for whom it had petitioned. We issued a request for evidence (RFE) on June 18, 2015, and again noted that USCIS records reveal that the Petitioner has filed employment-based petitions on behalf of twelve beneficiaries in addition to the current Beneficiary and had not established the ability to pay the proffered wage to each of these beneficiaries from the current Beneficiary's December 31, 2002, priority date onward. We identified each of these beneficiaries by name and receipt number and notified the Petitioner that in order to establish the ability to pay the wage proffered to the current Beneficiary, it was necessary for the Petitioner to provide information regarding the wage proffered to each beneficiary, each beneficiary's priority date, and information about whether any beneficiary had adjusted to lawful permanent residence.

In addition, our RFE noted that it appeared that the Petitioner was related to other businesses with additional wage obligations to additional beneficiaries. We requested that the Petitioner establish the business relationship, if any, between itself and these other businesses. Finally, our RFE also identified that the documentation related to the Beneficiary's prior experience was deficient and there were inconsistencies regarding the Beneficiary's claimed qualifying work experience, and provided the Petitioner the opportunity to explain these discrepancies.

We specifically alerted the Petitioner that failure to respond to the RFE would result in dismissal of the appeal, 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 RFE. Because the Petitioner failed to respond to the RFE, 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 pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of L-, Inc.*, ID# 11062 (AAO Sept. 24, 2015)