



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **SEP 10 2014**

OFFICE: VERMONT SERVICE CENTER FILE: [REDACTED]

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

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 service center director denied the nonimmigrant visa petition, and the matter is now on appeal before the Administrative Appeals Office. The appeal will be summarily dismissed. The petition will be denied.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a five-employee real estate sales and property management firm established in 2007. In order to employ the beneficiary in what it designates as a "Sales Manager" position, the petitioner seeks to classify him as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, concluding that the evidence of record does not establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. The petitioner, through its counsel, filed a timely appeal of the decision.

While conducting a preliminary review of the record of proceeding, we discovered that the petitioner's offered wage to the beneficiary is below the prevailing wage level for the occupational classification in the area of intended employment. We issued a request for additional evidence (RFE) with regard to this issue on July 17, 2014, and afforded the petitioner a period of 33 days during which to respond. We have not received a response.

A petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner fails to respond to a request for evidence or a notice of intent to deny by the required date. 8 C.F.R. § 103.2(b)(13)(i). In our RFE, we specifically notified the petitioner that failure to respond to the RFE could result in summary denial of the petition as abandoned. 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).

Because the petitioner did not respond to our RFE, we are dismissing the appeal and summarily denying the petition as abandoned. The remaining issues in this proceeding are thereby moot.

ORDER: The appeal is summarily dismissed as abandoned. The petition is denied.