



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: JAN 11 2013 OFFICE: CALIFORNIA 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:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be summarily denied as abandoned.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a construction company. In order to employ the beneficiary in what it designates as an accountant position, the petitioner seeks to classify her 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 initially denied the petition on the ground that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation. The petitioner filed a combined motion to reopen and motion to reconsider. The director granted the motion to reopen; however, the petition was again denied on the ground that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation.

The AAO sent a request for evidence (RFE) to the petitioner on November 21, 2012, noting, *inter alia*, the following: (1) the petitioner stated on the Form I-129 and Labor Condition Application that its address is [REDACTED] and that the beneficiary will work at that location during the requested employment period; (2) copies of the petitioner's City of Redondo Beach business license, bank statements, and checks indicate that the petitioner is located at [REDACTED]; and (3) property records indicate that [REDACTED] is a single family residence. Thus, the AAO requested evidence clarifying (1) the petitioner's address, and (2) the beneficiary's proposed work location.

The petitioner and its counsel failed to respond to the AAO's RFE within the 33 day period afforded to the petitioner to respond to this request.

A petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner or applicant 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 the RFE, the AAO specifically alerted the petitioner that failure to respond to the RFE would result in dismissal since the AAO could not substantively adjudicate the appeal without the information requested due to the numerous credibility issues with the evidence in the current record of proceeding. 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 failed to respond to the RFE, the AAO is dismissing the appeal and summarily denying the petition as abandoned. The remaining issues in this proceeding are thereby moot.

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