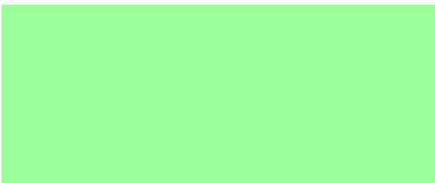


(b)(6)

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



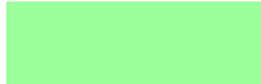
U.S. Citizenship
and Immigration
Services



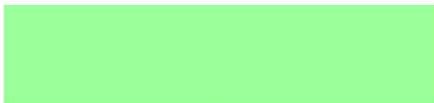
Date:

Office: CALIFORNIA SERVICE CENTER

FILE:



IN RE: **MAY 28 2013**
Petitioner:
Beneficiary:



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:

SELF-REPRESENTED

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The service center 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 denied.

On the visa petition, the petitioner stated that it is an IT (Information Technology) consulting firm with four employees. In order to continue to employ the beneficiary in a position it designates as a computer software engineer position, the petitioner endeavors to extend his employment 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).¹

The appeal is filed to contest each of the three separate and independent grounds upon which the director denied this petition, specifically, the director's separate determinations that the petitioner failed to establish: (1) that the petitioner will employ the beneficiary in a specialty occupation position, (2) that the Labor Condition Application (LCA) in this case corresponds to the visa petition and is valid for the location or locations where the beneficiary would work, and (3) that the petitioner has standing to file the visa petition as a United States employer within the meaning of the regulation at 8 C.F.R. § 214.2(h)(4)(ii).

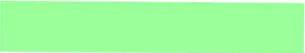
Noting, however, that Illinois corporate records indicated that the petitioning corporation was dissolved, the AAO issued a request for evidence (RFE) pertinent to (1) the petitioner's corporate status and (2) whether it continues to do business as an IT consulting firm.² The petitioner failed to respond to the AAO's 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. 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.

¹ The record contains two spellings of the petitioner's name. On the Form I-129 visa petition, the approved LCA submitted to support it, and two of three contracts between the petitioner and the beneficiary, the petitioner spelled its name [REDACTED]. On various other documents in the record it is spelled [REDACTED]. Because the latter spelling was used on the petitioner's notice of incorporation and the notice that the petitioner has been assigned an Employer Identification Number by the Federal Government, the AAO will assume that [REDACTED] is the correct spelling.

² *See* [REDACTED] (last accessed May 21, 2013).



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In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The appeal will be dismissed and the petition denied.

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