

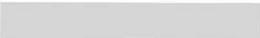


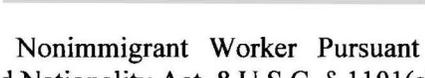
U.S. Citizenship
and Immigration
Services

(b)(6)



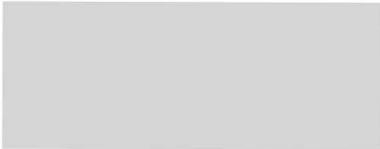
DATE: JUN 23 2015

PETITION RECEIPT #: 

IN RE: 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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a 28-employee "IT and Software Development" firm established in [REDACTED]. In order to employ the beneficiary in what it designates as a "QA 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, finding that the evidence (1) did not establish that the proffered position qualifies for classification as a specialty occupation and (2) did not establish that the Labor Condition Application submitted to support the visa petition is valid for the period of employment requested in the visa petition. The petitioner submitted a Notice of Appeal or Motion (Form I-290B) and asserts that the Director's bases for denial were erroneous and contends that it satisfied all evidentiary requirements.¹

On March 31, 2015, we issued a notice pertinent to the purported signatures of [REDACTED] on various documents in the record. We requested that the petitioner provide specific evidence pertinent to that issue. The petitioner was afforded 30 days from the date of the notice in which to respond. Thus, the response was due on Thursday, April 30, 2015 (plus three days for service by mail). The petitioner did not respond within the time period allowed.²

A benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner does not respond to a notice by the required date. 8 C.F.R. § 103.2(b)(13)(i). In the notice, we specifically alerted the petitioner that failure to respond to the notice by the required date could result in dismissal. 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 the petitioner did not respond to our notice within the time afforded, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed, and the petitioner's benefit request will be summarily denied as abandoned and denied due to the failure to submit requested evidence that precludes a material line of inquiry, making any remaining issues in this proceeding moot.

¹ In Part 3 of the Form I-290B, the petitioner marked box 1.b. to indicate that it was filing an appeal and that a brief and/or additional evidence would be submitted to us within 30 calendar days of filing the appeal. However, no further documentation was provided within the allotted time period.

² On June 4, 2015, sixty-five days after the notice was issued, we received a response from the petitioner to our notice. The response was therefore untimely. Moreover, the petitioner did not submit all of the requested documentation.

(b)(6)



NON-PRECEDENT DECISION

Page 3

ORDER: The appeal is dismissed.