(b)(6)

U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF [redacted]

DATE: FEB. 17, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an information technology consulting business, seeks to employ the Beneficiary as a .Net Software Engineer. It requests classification of the Beneficiary as a professional or skilled worker. The employment-based immigrant classification for a professional allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status under section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(3)(A)(ii). The immigrant classification for a skilled worker allows a U.S. employer to sponsor a foreign national for lawful permanent resident status to work in a position that requires at least 2 years of training or experience under section 203(b)(3)(A)(i) of the Act, 8 U.S.C. § 1153(b)(3)(A)(i).

The petition was initially approved. However, the Director, Texas Service Center, subsequently revoked the approval of the petition, concluding that the record did not establish that the Beneficiary holds a U.S. bachelor's degree or a foreign equivalent degree issued by a college or university to meet the educational requirements of the job offered and to meet the classification of a professional under section 203(b)(3)(A)(ii) of the Act. The matter is now before us on appeal. Upon *de novo* review, we will summarily dismiss the appeal as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

In the course of adjudicating the appeal, we sent the Petitioner a notice of intent to dismiss the appeal and request for evidence (NOID/RFE) with a copy to counsel of record. The NOID/RFE stated that Parts H.4 and H.9 of the ETA Form 9089, Application for Permanent Employment Certification (labor certification), required a bachelor's degree or foreign equivalent and did not allow for any combination of education and experience. In our NOID/RFE we requested that the Petitioner submit evidence to establish whether it intended the terms of the labor certification to allow for an alternative to a U.S. bachelor's degree or a foreign equivalent degree and this was specifically expressed during the labor certification process to the Department of Labor and to potentially qualified U.S. workers.

The NOID/RFE allowed the Petitioner 87 days in which to submit a response. We informed the Petitioner that if it did not respond to the NOID/RFE we may dismiss the appeal, pursuant to 8 C.F.R. § 103.2(b)(13). As of the date of this decision, the Petitioner has not responded to the NOID/RFE. As such, the appeal will be summarily dismissed as abandoned.

Matter of [redacted]

ORDER: The appeal is summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of* [redacted] ID# 11119 (AAO Feb. 17, 2017)