U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-J-J-S-D- INC.

DATE: SEPT. 12, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a restaurant, seeks to employ the Beneficiary as a cook. It requests classification of the Beneficiary as an "other worker" under the third preference immigrant classification. *See* Immigration and Nationality Act section 203(b)(3)(A)(iii), 8 U.S.C. § 1153(b)(3)(A)(iii). This employment-based immigrant classification allows a U.S. employer to sponsor for lawful permanent resident status a foreign national who is capable of performing unskilled labor that requires less than two years of training or experience and is not of a temporary or seasonal nature.

The Director of the Nebraska Service Center denied the petition on the grounds that the Petitioner did not submit documentation of the Beneficiary's work experience and information about its recruitment process for the cook position, as requested by the Director.

On appeal the Petitioner submitted a brief and supporting documentation, including some evidence of its recruitment for the offered position and a declaration from the Beneficiary regarding his work experience.

On May 31, 2017, we sent a notice of intent to dismiss and request for evidence (NOID/RFE) to the Petitioner which addressed the issues of (1) whether a *bona fide* job offer exists that is available to U.S. workers and (2) whether the Petitioner has had the continuing ability to pay the proffered wage from the priority date of the petition (October 7, 2015) up to the present. We requested specific evidence from the Petitioner to address these two issues and afforded the Petitioner 87 days to respond to the NOID/RFE. The 87-day response period expired on August 26, 2017, with no further evidence or communication of any kind from the Petitioner.

If a petitioner does not respond to an RFE or a NOID by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13). Since the Petitioner has not responded to the NOID/RFE, the petition is deniable under the regulatory provision cited above.

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

Cite as *Matter of C-J-J-S-D- Inc.*, ID# 397414 (AAO Sept. 12, 2017)