



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-A-M-, LLC

DATE: DEC. 5, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a medical practice and research clinic, seeks to employ the Beneficiary as director of clinical research.¹ It requests his classification as a member of the professions holding an advanced degree under the second-preference immigrant category. *See* Immigration and Nationality Act section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This employment-based, “EB-2” classification allows a U.S. business to sponsor a professional with a master’s degree or a bachelor’s degree followed by five years of experience for lawful permanent resident status.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not establish the Beneficiary’s possession of a degree in the field of study required for the offered position.

On appeal, the Petitioner did not submit sufficient evidence to establish that the Beneficiary had the required education for the offered position. Further, in the course of reviewing the record, we identified four additional grounds of ineligibility. Accordingly, we issued a notice of intent to dismiss (NOID). In the NOID, we notified the Petitioner that, in addition to lacking sufficient evidence of the Beneficiary’s education, the record also does not establish that: (1) the Beneficiary has the training required for the offered position, (2) the Beneficiary has the experience required for the offered position, (3) the job opportunity was *bona fide*, and (4) the Petitioner intends to employ the Beneficiary in the offered position. The NOID specifically instructed the Petitioner to provide additional documentation to address the evidentiary deficiencies and discrepancies of record. The Petitioner did not respond to the NOID.

If a petitioner does not timely respond to a request for evidence or notice of intent to deny, U.S. Citizenship and Immigration Services may summarily deny a petition as abandoned, deny it based on the record, or deny it on both grounds. 8 C.F.R. § 103.2(b)(13)(i).

Here, we mailed the NOID to the Petitioner on August 24, 2017. Our NOID specifically informed the Petitioner that “[w]e may dismiss your case if we do not receive your response to this NOID

¹ The petition identifies the offered position as medical scientist. We will refer to the position as director of clinical research, however, as stated on the accompanying labor certification, approved by the U.S. Department of Labor (DOL).

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within 33 days of the date on the cover letter. This time period includes three days added for service by mail.” (Emphasis in original).

To date, more than 95 days have lapsed, and we have not received a response from the Petitioner. As such, we will dismiss the appeal as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i). Moreover, because the Petitioner did not submit the required evidence, the Beneficiary is ineligible for immigrant classification as an advanced degree professional.

As the Petitioner did not respond to our NOID, it abandoned its appeal.

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

Cite as *Matter of S-A-M-, LLC*, ID# 012096 (AAO Dec. 5, 2017)