

must demonstrate that the requirements of 20 CFR, Part 656 have been met. These requirements include the responsibility of the Employer to recruit U.S. workers at the prevailing wage and under prevailing working conditions through the public employment service and by other means in order to make a good faith test of U.S. worker availability.

The following decision is based on the record upon which the CO denied certification and the Employer's request for review, as contained in an Appeal File ("AF"), and any written arguments of the parties.

STATEMENT OF THE CASE

On June 11, 1998, the Employer filed an amended application for labor certification to enable the Alien to fill the position home 0 -2

alien for Aurelio Briones was not substantiated as he was apparently paid "under the table" which cannot be considered qualifying experience. As corrective action, the CO stated that

evidence are generally insufficient to carry an employer's burden of proof. (Sang Chung Insurance Agency, 2000-INA-259 (January 11, 2000), 2000-1-11-259 (INA)) (matDet22are)

to establish that he or she has the experience required for the job.

ORDER

The Certifying Officer's denial of labor certification is vacated and the matter remanded for further proceedings.

For the Panel:

JOHN C. HOLMES
Administrative Law Judge

NOTICE OF PETITION FOR REVIEW: This Decision and Order will become the final decision of the Secretary of Labor unless, within 20 days from the date of service, a party petitions for review by the full Board of Alien Labor Certification Appeals. Such a review is not favored, and ordinarily will not be granted except (1) when full Board consideration is necessary to secure or maintain uniformity of its decisions, or (2) when the proceeding involves a question of exceptional importance. Petitions for such review must be filed with:

*Chief Docket Clerk
Office of Administrative Law Judges
Board of Alien Labor Certification Appeals
800 K Street, N.W., Suite 400
Washington, D.C. 20001-8002*

Copies of the petition must also be served on other parties, and should be accompanied by

