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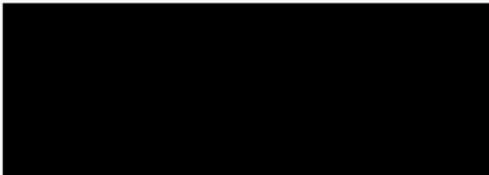
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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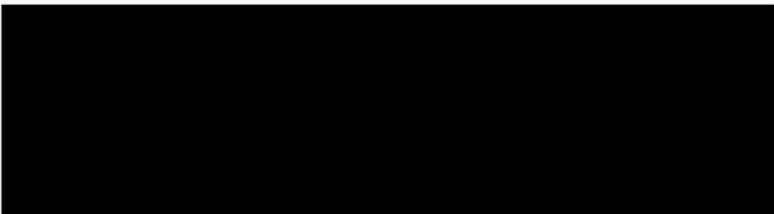


FILE: SRC 04 252 52999 Office: TEXAS SERVICE CENTER Date: JUL 05 2006

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

[Handwritten marks]

Robert P. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a transportation company that seeks to employ the beneficiary as a logistics manager and 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 on the basis that petitioner did not respond to the request for additional evidence (RFE) issued on October 5, 2004. The RFE asserted that the job description of the proposed position was not consistent with the duties of a position that meets the criteria of a specialty occupation and that the petitioner did not submit an evaluation of the beneficiary's academic credentials. On appeal, counsel asserts that she timely requested additional time to respond to the RFE and submits additional evidence.

The AAO notes that the regulation at 8 C.F.R. § 103.2(8) does not allow for additional time to respond to an RFE.

The regulation at 8 C.F.R. § 103.2(15) states that a petition denied based on abandonment cannot be appealed, but that an applicant or petitioner may file a motion to reopen under § 103.5.

The petitioner did not submit the requested evidence during the allotted time. In addition, the petitioner did not file a motion to reopen after the director denied the case based on abandonment.

The AAO will reject the appeal pursuant to 8 C.F.R. § 103.2(15).

ORDER: The appeal is rejected.