

PUBLIC COPY

U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

51



FILE: EAC 07 264 50517 Office: VERMONT SERVICE CENTER Date: NOV 27 2007

IN RE: Petitioner: [Redacted]
Beneficiaries: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(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.

for Michael T. Kelly
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, Vermont Service Center, and certified to the Administrative Appeals Office (AAO) for review as required by 8 C.F.R. § 214.2(h)(9)(iii)(B)(2)(ii). The decision of the director will be affirmed and the petition will be approved for 84 of the 85 workers initially named in the petition, that is, for all the named workers except Victor Penedo.

The petitioner is a AAA Five Diamond luxury resort and full-service hotel located in the French Quarter of New Orleans, Louisiana. It desires to employ the beneficiaries as waiters and waitresses from October 1, 2007 to June 30, 2008. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that sufficient countervailing evidence has been submitted to show that qualified persons in the United States are not available, that the employment policies of the DOL have been observed and that the need for the services to be performed is temporary. Subsequent to the director's decision and at the AAO's request, the petitioner withdrew Victor Penedo from consideration for the benefits of the petition.

After review of the evidence contained in the record, the decision of the director is found to be correct. The petitioner has provided sufficient evidence to establish that the need for the beneficiaries' services is peakload and temporary. The Vermont Service Center will issue the appropriate approval notice.

ORDER: The decision of the director is affirmed and the nonimmigrant visa petition is approved for all the workers originally named in the petition except Victor Penedo, who was withdrawn from the petition.