

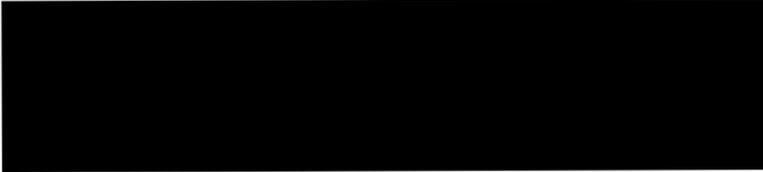
U.S. Citizenship  
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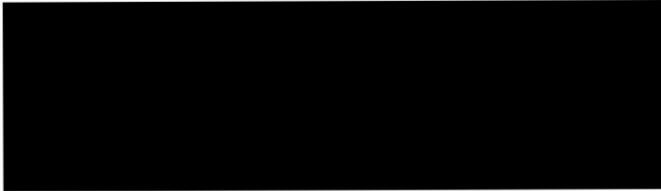
FILE: WAC 07 078 51883 Office: CALIFORNIA SERVICE CENTER Date: **JUL 22 2008**

IN RE: Petitioner:  
Beneficiary:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is a surveying and mapping business that seeks to employ the beneficiary as a project surveyor. The petitioner, therefore, endeavors to classify the beneficiary 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 petitioner filed the petition on January 17, 2007. On March 29, 2007, the director sent the petitioner a request for evidence (RFE) requesting that the petitioner submit evidence including federal income taxes, quarterly wage reports, business licenses, a company profile, and the beneficiary's original degree and sealed transcripts from the University of Philippines Diliman. Counsel responded by submitting the petitioner's federal income tax returns, a company profile, and the beneficiary's degree and transcripts. Counsel stated: "The beneficiary submitted sealed transcripts to the Embassy in Manila when he obtained his original H-1B visa and the University will not release sealed transcripts again." On July 9, 2007, the director denied the petition because the petitioner did not submit all of the requested documentation, namely, the petitioner's quarterly wage reports and business license, as well as sealed transcripts for the beneficiary.

On appeal counsel contends that the petitioner complied sufficiently with the director's RFE and that the director erred in denying the petition on the basis of evidence not in the record of proceeding or addressed in the RFE. Counsel asserts that the petitioner has not altered any documents or intentionally misrepresented any fact to Citizenship and Immigration Services (CIS) and that the director erred in concluding that it had. Counsel also contends that the requested documents were inadvertently and mistakenly excluded during a personnel change transition period, and that the petitioner mistakenly believed that the director was requesting the beneficiary's transcripts in a sealed envelope. Counsel submits the following supporting documentation: the petitioner's computer-generated "Wages and Earnings Report"; a copy of the petitioner's business license; an affidavit from the petitioner's president regarding the omission of the requested evidence due to the transition of human resources directors; and the beneficiary's transcripts containing a raised seal.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's RFE; (3) the petitioner's response to the RFE; (4) the director's denial letter; and (5) the Form I-290B, with counsel's brief. The AAO reviewed the record in its entirety before reaching its decision.

At the outset, the burden of proof is on the petitioner to establish that the job it is offering to the beneficiary qualifies as a specialty occupation and that the beneficiary is qualified to perform the duties of a specialty occupation. Section 291 of the Act, 8 U.S.C. § 1361. Thus, the director's line of inquiry regarding the petitioner's business operations and the beneficiary's qualifications is legitimate.

The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See*

8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

In this matter, the AAO finds that the director properly denied the petition due to the petitioner's failure to submit the requested evidence, namely, the petitioner's quarterly wage reports that were accepted by the state in which they were filed, the petitioner's business license, and sealed transcripts for the beneficiary. The copy of the petitioner's business license submitted by counsel on appeal is noted. Counsel, however, has not submitted the requested quarterly wage reports or the sealed transcripts. Rather, counsel submits the same evidence on appeal as he submitted in response to the RFE: internal wage records and unsealed transcripts. Counsel's explanation that the University of the Philippines Diliman provided sealed transcripts to the U.S. Embassy in Manila and would not release sealed transcripts again, and that the petitioner had mistakenly understood that the director was requesting the beneficiary's transcripts in a sealed envelope, as opposed to transcripts with an official seal, is insufficient.<sup>1</sup> Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). In view of the foregoing, the evidence submitted by counsel on appeal does not overcome the basis for the petition's denial.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed. The petition is denied

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<sup>1</sup> The beneficiary's original bachelor's degree certificate appears to have been altered. Thus, the beneficiary's qualifications are in question.