



U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



Public Copy

FEB 28 2001

File: WAC 99 051 50276 Office: California Service Center Date:

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)

IN BEHALF OF PETITIONER: [Redacted]

identification data used to  
prevent clearly UNAUTHENTIC  
inversion of personal data

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director who affirmed his previous decision in response to the petitioner's motion to reconsider. This matter is now before the Associate Commissioner, Examinations on appeal. The appeal will be dismissed.

The petitioner provides information system and management consulting services. It seeks to employ the beneficiary as a programmer for a three year period. The director determined that the petitioner had failed to submit an itinerary listing multiple job locations and dates of employment. The director also determined that the petitioner had not demonstrated that it had the financial resources to pay the salaries for all of the prospective and existing beneficiaries of the petitions that the firm had filed.

The director has questioned the petitioner's ability to pay the beneficiary's offered wage. Wage determinations and the enforcement of their payment with respect to the H-1B classification are the responsibility of the Department of Labor. It is noted that the petitioner appears solvent and guarantees both employment and the beneficiary's salary. Therefore, this decision shall only examine the issue of the labor condition application.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(B), the petitioner shall submit the following with an H-1B petition involving a specialty occupation:

1. A certification from the Secretary of Labor that the petitioner has filed a labor condition application with the Secretary,
2. A statement that it will comply with the terms of the labor condition application for the duration of the alien's authorized period of stay, and
3. Evidence that the alien qualifies to perform services in the specialty occupation.

The petitioner has provided a certified labor condition application and a statement that it will comply with the terms of the labor condition application. This application shows that the beneficiary would be employed for a three year period at [REDACTED] Chino Hills, California. However, on appeal the petitioner states that although the petitioner did have its business office in a family residence at the Chino Hills location, the firm also has a business location at [REDACTED] Suite 113, in Diamond Bar, California. The record also contains the petitioner's assertion that "The beneficiary is employed with the petitioner and is assigned to work at a specific client job site under the direct control and supervision of the Petitioner."

It is determined that the petitioner has not complied with the terms of the labor condition application because it has not established that the beneficiary would be employed at the 15150 Via Maravilla address should the petition be approved.

The regulations at 8 C.F.R. 214.2(h)(2)(i)(b) require that a petition which requires services to be performed or training to be received in more than one location (as in this case), must include an itinerary with the dates and locations of the services or training. There is no such itinerary in this record. Therefore the petition must be denied for this additional reason.

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. Accordingly, the decision of the director will not be disturbed.

**ORDER:** The appeal is dismissed.