



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



File: LIN 99 129 51501 Office: Nebraska Service Center Date: **MAR - 7 2001**

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]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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.

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FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Susan Dillman
Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner, Examinations, on appeal. The appeal will be dismissed.

The petitioner is a provider of computer consulting, engineering and information management services. It seeks to employ the beneficiary as a programmer analyst for a period of two years and one month. The director determined that the petitioner had not submitted an itinerary of definite employment and information on any services the beneficiary would perform for the period of time requested. The director noted that although it had been requested, the petitioner had not submitted a contract between the firm and the beneficiary. The director also noted that although they had been requested, the petitioner had not submitted the contractual documents between the firm and its client firms.

On appeal, counsel submits contractual documents between the firm and its client firms. Counsel states that the beneficiary will be an employee of the petitioner and that he will work on-site at the petitioner's offices. Counsel argues that the petitioner is an established firm capable of affording employment to the beneficiary.

The record shows that the director requested the petitioner to submit a copy of a contract between the firm and the beneficiary. The petitioner provided a certified labor condition application upon initial submission. That document states that the beneficiary would work in "Metro Chicago and surrounding counties, IL." The petitioner's argument on appeal that the beneficiary would be working on-site at the petitioner's office is inconsistent with the information contained in this labor condition application.

It is determined that the director's request for a copy of a contract between the firm and the beneficiary and for an itinerary for the beneficiary were reasonable requests bearing directly on the issue of the validity of the petition. As the petitioner has not provided the information requested and required for the adjudication of this petition, it may not be approved.

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.