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U.S. Department of Justice

Immigration and Naturalization Service

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



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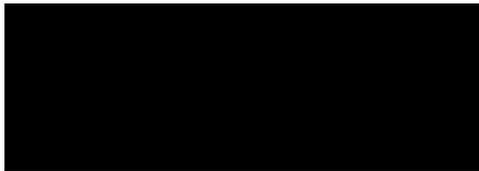
File: LIN 99 150 51101 Office: Nebraska Service Center Date:

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)

IN BEHALF OF PETITIONER:



identification 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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

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 for Examinations on appeal. The appeal will be dismissed.

The petitioner provides consulting and programming services. It seeks to employ the beneficiary as a systems analyst for a period of two years and five months. The director found that the petitioner had not established that the offered position is a specialty occupation.

On appeal, counsel argues that the duties of the projects on which the beneficiary will work cannot be specified in advance to specific projects. Counsel provides a representative sample of the type of software development project to which the beneficiary may be assigned. Counsel states that the petitioner is the beneficiary's actual employer rather than an agent and that there is no single location where any [REDACTED] Inc. employee will be permanently employed. Counsel further states that an employee moves from one client site to another as the need arises.

On appeal, the petitioner indicates that the duties of the offered position can only be expressed in general job duties because the beneficiary will be moving from one site to the other as projects are completed. 8 C.F.R. 214.2(h)(2)(1)(B) provides that when services are to be performed in more than one location, as in this case, the petitioner must include an itinerary with the dates of services and training.

The record now clearly shows that the beneficiary will be working at client sites other than the petitioner's headquarters. It is determined that the petitioner has failed to submit an itinerary listing the dates and locations where these services will be performed. Therefore, the visa petition 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.