



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: WAC 03 196 50274 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:

[Redacted]

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

ON BEHALF OF PETITIONER:

[Redacted]

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a corporation engaged in the business of providing contracting and engineering services. In order to employ the beneficiary as a vice president of design/build engineering, the petitioner 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on two independent grounds, namely, that the petitioner had failed to establish that (1) the proffered position meets the definition of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(iii)(A), and (2) the beneficiary is qualified to serve in a specialty occupation in accordance with 8 C.F.R. § 214.2(h)(4)(iii)(C).

On September 5, 2003, counsel submitted a timely Form I-290B without a brief or evidence. Although counsel checked the box at section 2 of this form, which indicates that he would send a brief and/or evidence to the AAO within 30 days, the AAO has received no additional matters related to this proceeding. Accordingly, the AAO deems the record complete and ripe for AAO adjudication.

The only statements submitted on appeal are these general and conclusory assertions at section 3 of the Form I-290B:

A. The position of Vice-President of Design/Build Engineering is a specialty occupation as defined by the regulations found at 8 CFR § 214.2(h)(4)(iii)(A). The service ignored evidence in support of this statement.

C. [SIC] [The beneficiary] is qualified to perform services in a specialty occupation as defined by the regulations found at 8 C.F.R. § 214.2(h)(4)(iii)(C) and 8 C.F.R. § 214.2(h)(4)(iii)(D). The service ignored evidence in support of this statement.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding 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.