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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



DA

FILE: EAC 02 279 54159 Office: VERMONT SERVICE CENTER Date: **11 12 2004**

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:

SELF-REPRESENTED

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, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont Service Center denied the nonimmigrant visa petition and matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is an architectural firm that seeks to employ the beneficiary as a project architect. 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 (the Act), 8 U.S.C. § 1101(H)(i)(b). On October 30, 2002, the director issued a request for evidence that included a request for a certified LCA that "has been properly filed, completed and endorsed by the Department of Labor." Instead, the petitioner submitted only the final page of the 3-page LCA. It should be noted that the two missing pages of the certified LCA contain material information such as the petitioning employer's full legal name and the location of the proposed employment. Without a full copy of the certified LCA, CIS could not determine whether the petitioner had in fact obtained a certified LCA in support of the petition. If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned, and accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). Further, failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the application or petition. 8 C.F.R. § 103.2(b)(14). Accordingly, the director determined that the petitioner had abandoned his petition by failing to submit a complete copy of the certified Labor Condition Application Form ETA 9035 (LCA) in response to a request for evidence and denied the petition.

On appeal, the petitioner submits a complete copy of the three-page certified LCA, which was certified on August 21, 2002. While the director advised the petitioner that it could file an appeal, 8 C.F.R. § 103.2(b)(15) provides:

A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under § 103.5.

Therefore, this office has no jurisdiction over the instant appeal. Rather, 8 C.F.R. § 103.5(a)(2) provides that denials due to abandonment may be challenged in a motion to reopen before the office that rendered the decision based on limited arguments.

**ORDER:** The appeal is rejected.