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



U.S. Citizenship
and Immigration
Services

[Redacted]

[Handwritten signature]

MAY 17 2005

FILE: WAC 04 021 53026 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)

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.

Robert P. Wiemann

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 nonprofit organization seeking to employ the beneficiary as a Network Administrator. The petitioner, therefore, 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(a)(15)(H)(i)(b).

The director denied the petition on the basis that the proposed position was not a specialty occupation, stating the following:

It is not sufficient for a petitioner to merely state that he will employ an individual to perform full time duties that are characteristic of those found in a particular specialty occupation. Instead, there must be a reasonable and credible offer of employment that is consistent with the needs of the petitioning organization. This can be shown by demonstrating that the types of duties to be performed are normal and customary requirements in similar organizations in the petitioner's industry; however, the petitioner did not present any documentary evidence that businesses similar to the petitioner in their types of organizations, number of employees, and amount of gross annual income require the services of individuals in parallel positions. Or, the petitioner can present specific, credible evidence showing that his organization has unique and specific needs for such services for the period of time in which they intend to employ the individual, which is not the case in this instance. Consequently, it cannot be concluded that there is a bona fide position which can be considered a specialty occupation.

On March 16, 2004, the petitioner submitted a Form I-290B and a cover letter. The petitioner entered a check mark in the box at section two of the Form I-290B to indicate that a separate brief or evidence would not follow. Accordingly, the record is complete and ready for adjudication.

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).

The petitioner asserts that the director erred in his decision. However, the only information the petitioner submits on appeal is the following statement:

The Service's denial is based on the erroneous rationale that a non-profit, community-based organization does not require the services of a Network Administrator. We have demonstrated the error in this reasoning by demonstrating that the types of duties to be performed are normal and customary requirements in similar organizations in our industry. We have also presented specific evidence showing that SDICF has unique and specific needs for the Network Administrator's services. The position is clearly a specialty occupation.

No evidence was submitted to support these assertions.

The appeal, therefore, consists of a general assertion that the director did not properly consider the documents submitted in response to the director's request for evidence (RFE). The petitioner is in essence asking the AAO to reconsider the evidence sent in response to the RFE. In doing so, however, the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As the petitioner submits no 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 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. The petition is denied.