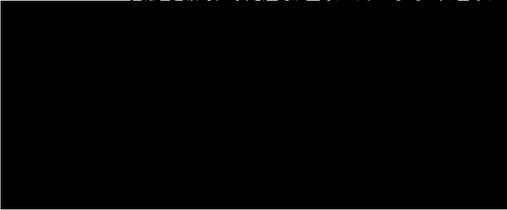




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



D4

FILE: EAC 01 199 53019 Office: VERMONT SERVICE CENTER

Date: JUN 02 2004

IN RE: Petitioner:
Beneficiary



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

ON BEHALF OF PETITIONER:



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

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center denied the nonimmigrant visa petition and certified his decision to the Administrative Appeals Office (AAO). The director's decision will be affirmed. The petition will be denied.

The petitioner is a civil and environmental engineering business that seeks to employ the beneficiary as a surveyor. 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(a)(15)(H)(i)(b).

The director denied the petition because the beneficiary was not qualified to perform the duties of a specialty occupation. In a subsequent appeal, the AAO withdrew the director's decision and remanded it to the director for further action and consideration, reasoning that the petitioner had not demonstrated that the beneficiary is licensed in the State of Massachusetts to work as a surveyor, and the director had not determined whether the proffered position is a specialty occupation.

The director requested additional evidence from the petitioner, but received no response.

Pursuant to 8 C.F.R. § 103.2(b)(13):

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. . . .

The director subsequently denied the petition, finding that because the petitioner had failed to respond to the request for additional evidence, it had not established that the beneficiary is immediately eligible to begin employment as a surveyor in the United States, or that the proffered position is a specialty occupation.

The petitioner has not submitted any additional information in response to the director's notice of certification.

The record reflects that on July 25, 2002, the director requested additional evidence from the petitioner's counsel concerning the instant petition. As no response was received, the petitioner has conceded these points.

ORDER: The director's March 20, 2003 decision is affirmed. The petition is denied.