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Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, DC 20536



SEP 12 2003

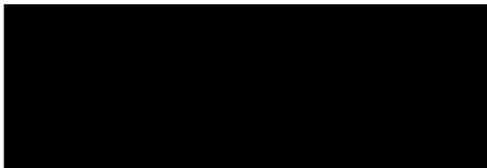
File: WAC 01 162 54144 Office: WESTERN SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER:



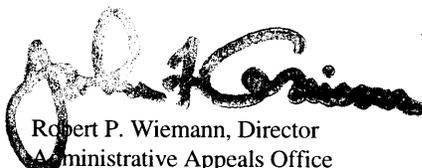
INSTRUCTIONS:

This is the decision 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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting Director, California Service Center and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is an architectural services corporation which seeks to employ the beneficiary temporarily in the United States as a project manager and architect in charge of a large Guam building design project. The director determined that the petitioner had not established that the beneficiary would be coming to the United States to perform services involving specialized knowledge.

On appeal, counsel submits a letter dated October 10, 2001 that he received from the beneficiary requesting information as to what type visa he should obtain to enter the United States, how much the attorney's fee will be, and requesting the attorney's advice as to how to proceed. In his letter the beneficiary outlined points that the attorney could make in processing the appeal in this case.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

The regulations at 8 C.F.R. § 214.2(1)(3) state that an individual petition filed on Form I-129 shall be accompanied by:

(i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (1)(1)(ii)(G) of this section.

(ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

At issue in this proceeding is whether the petitioner has established that the beneficiary will be employed in a capacity that involves specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides:

An alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

The regulations at 8 C.F.R. § 214.2(l)(1)(ii)(D) state:

Specialized Knowledge means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The duties of the offered position are described as follows:

Project Manager and Architect in charge of large Guam building design project.

The petitioner submits a "specialized knowledge statement" as follows:

The petitioner hereby confirms that the offered position requires specialized knowledge peculiar to the occupation of Project Manager/Architect which sets the occupation apart from others in the same general field. This job requires extensive specialized training and experience (see the beneficiary's Bio Data) and involves proprietary procedures and systems of the petitioner not known or available to the general public.

The petitioner's assertions concerning the specialized knowledge possessed by the beneficiary are not persuasive. The description of the beneficiary's job duties indicates that the beneficiary will be working as a project manager and as an architect. The petitioner has not articulated any duties of the beneficiary that might be considered specialized. The petitioner has not shown that the beneficiary has an advanced level of knowledge of or expertise in the organization's processes and procedures. On review of the record, the petitioner has not established that the beneficiary will be employed in a position requiring specialized knowledge. The petitioner has not articulated nor has counsel elaborated on any duty of the beneficiary that might be considered to require specialized knowledge. The petitioner's assertions that the job contains special advanced duties and that the beneficiary holds some type of unique knowledge of the petitioner's business is not supported in the record. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec.533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 BIA

1980). Going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The evidence as provided in this case remains insufficient to warrant the granting of a nonimmigrant visa based upon the beneficiary's specialized knowledge. The plain meaning of the term specialized knowledge implies that which is significantly beyond the average in a given field or occupation. The petitioner has not demonstrated that the beneficiary's knowledge is advanced knowledge specifically relating to the petitioner's business, or that it is knowledge of the petitioner's product, processes, or procedures.

As held in *Matter of Penner*, 18 I&N Dec. 49, 54 (Comm. 1982), an L-1 "...petition may be approved for persons with specialized knowledge, not for skilled workers." Based on the evidence submitted, the services of the beneficiary as a project manager and architect do not satisfy the requirements that he possess specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge as required for classification as an intracompany transferee pursuant to section 101(a)(15)(L) of the Act. For this reason, the petition may not be approved.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.