



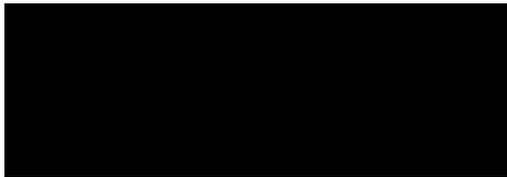
U.S. Citizenship
and Immigration
Services

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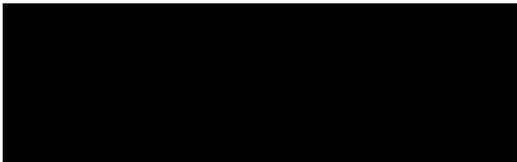


FILE: SRC 02 202 53187 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

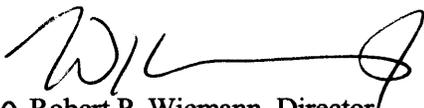
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision 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, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

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.

Pursuant to 8 C.F.R. § 214.2(l)(14)(ii) a visa petition under section 101(a)(15)(L) which involved the opening of a new office may be extended by filing a new Form I-129, accompanied by the following:

- (A) Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section;
- (B) Evidence that the United States entity has been doing business as defined in paragraph (l)(1)(ii)(H) of this section for the previous year;
- (C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;
- (D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid to employees when the beneficiary will be employed in a managerial or executive capacity; and
- (E) Evidence of the financial status of the United States operation.

The petitioner in the instant case is a food importing and exporting business seeking to extend its authorization to employ the beneficiary temporarily in the United States as its executive administrative director. The director denied the petition based on the determination that the petitioner had not established that the beneficiary would be employed in a primarily managerial or executive capacity. However, pursuant to the regulation at 8 C.F.R. § 103.2(b)(8), when the petitioner fails to submit initial evidence in support of the petition CIS shall request that the petitioner submit the missing evidence and may request additional evidence.

In the instant case, the record shows that the petitioner submitted a number of documents in support of the petition. However, the petitioner failed to provide the required statements regarding the beneficiary's duties and the petitioner's staffing as required by the regulations at 8 C.F.R. § 214.2(l)(14)(ii)(C) and (D), respectively. As such CIS was required to issue a notice instructing the petitioner to submit the missing evidence prior to denying the petition. Due to the director's failure to request the missing initial evidence the decision is hereby withdrawn and the case will be remanded so that the director can issue the proper request for evidence. The director shall then examine the record in its entirety and render a new decision based upon her findings.

ORDER: The decision of the director is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision, which, if adverse to the petitioner, is to be certified to the AAO for review.