

Security data deleted to
prevent disclosure and
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D1

FEB 07 2005



FILE: WAC 02 156 50083 Office: NEBRASKA 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, Nebraska Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as a programmer/analyst pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a corporation engaged in the development and marketing of software products and services. The petitioner claims that it is the subsidiary of the beneficiary's foreign employer, located in Karnataka, India. The petitioner now seeks to change the beneficiary's classification to a nonimmigrant intracompany transferee.

The director denied the petition concluding that the petitioner had not demonstrated that the beneficiary was employed abroad in a qualifying capacity for one year within the three years prior to the filing of the petition as required in section 101(a)(15)(L) of the Act. The director noted that in the case of an alien seeking admission as a nonimmigrant intracompany transferee under a blanket petition, the statute provides:

[T]he 1-year period of continuous employment required under [section 101(a)(15)(L)] is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition under this subparagraph and met the requirements for expedited processing of aliens covered under such petition.

Section 214(c)(2)(A) of the Act, 8 U.S.C. § 1184. The director stated "[t]he regulations make clear distinctions between procedures for filing individual petitions and for seeking approval using the blanket petition procedure." The director concluded that because the petitioner submitted an individual petition on behalf of the beneficiary rather than a nonimmigrant petition based on a blanket petition, the petitioner was required to demonstrate that the beneficiary received one year of qualifying employment abroad within the three years prior to filing the petition. The director concluded that the beneficiary did not possess the requisite one-year of qualifying foreign employment.

Counsel subsequently filed an appeal on August 21, 2002. The director declined to treat the appeal as a motion and forwarded it to the AAO for review. On appeal, counsel claims that the petitioner filed an application for a change of the beneficiary's status under its blanket petition and did not submit an individual petition. Counsel notes that the petitioner submitted Form I-129S, Nonimmigrant Petition based on Blanket L Petition, and that both the petitioner and counsel stated in letters submitted with the petition that the request for change of status was being submitted under the petitioner's blanket petition. Counsel contends that the beneficiary's foreign employment satisfies the required six-month period.

As the petitioner did not submit proper documentation relating to its approval of a blanket petition, the AAO need not determine whether § 101(a)(15)(L) of the Act or § 214(c)(2)(A) of the Act is controlling. The blanket petition program allows a petitioner to seek continuing approval of itself, its parent, and its branches, subsidiaries, and affiliates as qualifying organizations under section 101(a)(15)(L) of the Act. *See generally*, 8 C.F.R. § 214.2(l)(4); *see also*, 51 FR 18591, 18592 (May 21, 1986). Upon approval of a blanket petition, CIS issues a Form I-797 approval notice that identifies the approved organizations and the petition's period of validity. 8 C.F.R. § 214.2(l)(7)(B)(1). Accordingly, the blanket approval is not probative of the pre-approved relationships without a CIS-generated list of the approved entities, which is typically included on the approval notice or a separate I-797A. *See* 8 CFR 214.2(l)(4)(iii); *see also*, 22 CFR 41.54(a)(3)(i) ("In the case of a blanket petition, the alien has presented to the consular officer official evidence of the approval by INS of a

blanket petition . . . listing only those intracompany relationships and positions found to qualify under INA 101(a)(15)(L)."

In the present matter, Form I-797 submitted by the petitioner does not include a list of the organizations approved under the blanket petition. The petitioner therefore failed to provide documentary evidence that it is covered under the blanket L petition as a qualifying organization. Absent relevant documentation identifying the petitioner as a qualifying organization, the AAO cannot determine whether § 214(c)(2)(A) of the Act applies. For this reason, the appeal will be dismissed.

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. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.