



U.S. Citizenship
and Immigration
Services

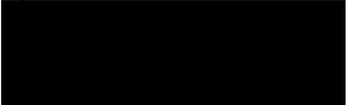
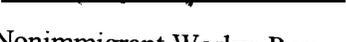
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FILE: EAC 03 188 53190 Office: VERMONT SERVICE CENTER Date: **NOV 07 2005**

IN RE: Petitioner: 
Beneficiary: 

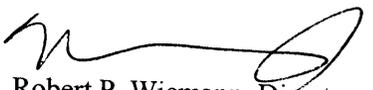
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a new company incorporated in New Jersey that intends to provide computer consulting services. It seeks to employ the beneficiary of its director of operations as an L-1B nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition concluding that the petitioner had not established that (1) sufficient premises to house the new office have been secured; or (2) that the beneficiary has been or will be employed in a specialized knowledge capacity.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner claims for the first time that the U.S. company "holds a complete billing System called 'GESTION', itself [sic] will be translated and adapted to United States legislation according to IRS rules, which will be licensed to small business companies." The petitioner claims that the beneficiary developed the system while working for the foreign entity and concludes "that would show that [t]he beneficiary actually has specialized knowledge." The petitioner provides a brief description of the system. The petitioner does not, however, identify an erroneous conclusion of law or statement of fact in the director's decision, nor does it attempt to overcome the director's finding that the petitioner had not secured sufficient premises to house its new office in the United States.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The director issued a lengthy request for evidence in this matter requesting, in part, evidence that the beneficiary's proposed duties require specialized knowledge, evidence that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual quality, or that he has an advanced level of knowledge of the processes and procedures of the company. As discussed in the director's detailed decision, the petitioner claimed that the beneficiary had "specialized knowledge" of both English and Spanish, as well as knowledge of both computers and business. The director reasonably concluded that the beneficiary had been and would be performing duties typical of any computer consultant, and therefore was not and would not be employed in a specialized knowledge capacity. The petitioner's claim on appeal that the beneficiary developed a unique or specialized billing system which would be implemented by the U.S. company is not supported by the record. Petitioner's general statements on appeal, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner.

Further, the petitioner had ample opportunity to submit evidence to establish the beneficiary's specialized knowledge qualifications. Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the additional information to be considered, it should have submitted it in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in support of the appeal, the appeal must be summarily 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, the petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.