U.S. Department of Homeland Security
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Washington, DC 20536

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U.S. Citizenship and Immigration Services

[redacted]

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FILE: SRC 03 089 50169 Office: TEXAS SERVICE CENTER Date: APR 27 2004

IN RE: Petitioner: [redacted]
Beneficiary

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

ON BEHALF OF PETITIONER:

[redacted]

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 service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is an automobile dealership, In order to employ the beneficiary as an operation manager/computer science engineer, 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 petitioner had failed to establish that the proffered position is a specialty occupation.

On April 21, 2003, the petitioner's representative submitted a Form I-290B that was annotated with general remarks about the petitioner's efforts to advertise the proffered position and about the beneficiary's qualifications. The Form I-290B comments also stated, "We will prepare evidence to show that [the beneficiary] is qualified and that [the proffered position] is necessary." No brief or additional evidence accompanied the Form I-290B. The Form I-290B also was check-marked at the section "I am sending a brief and/or evidence to the AAU within 30 days." As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

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. 8 C.F.R. § 103.3(a)(1)(v).

The Form I-290B fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor its representative presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.