PUBLIC COPY

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

D2

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

File: LIN 02 089 51882 Office: NEBRASKA SERVICE CENTER Date:

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:

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 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 dismissed. The petition will be denied.

The petitioner is a rehabilitation services staffing company that seeks to employ the beneficiary as a physical therapist. 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 labor condition application is not valid for the intended location of employment. On appeal, the petitioner submits a letter.

The labor condition application was submitted for Richmond, Indiana. The director found that the petitioner identified the actual worksite or physical location where the work will be performed as a site in Indianapolis, Indiana rather than Richmond, Indiana. On appeal, the petitioner states that it has a contract, which was previously submitted, with a company with numerous facilities throughout Indiana, one of which is in Richmond, where the beneficiary would be working.

There is no evidence on record, other than the labor condition application, to indicate that the beneficiary would be working in Richmond, IN. The contract between the petitioner and the company where the beneficiary would be placed indicates that the company is located in Indianapolis. There is nothing in the contract showing that the company has facilities throughout the state, most particularly in Richmond. The petitioner states on appeal that the contracting company has a facility in Richmond, but there is no supporting evidence provided. Simply 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).

Beyond the decision of the director, the AAO notes that the contract is for a one-year period, and can be cancelled on two weeks notice. This raises the issue of whether the beneficiary would actually be employed in a specialty occupation for the period requested.

The burden of proof in these proceedings 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. The petition is denied.