

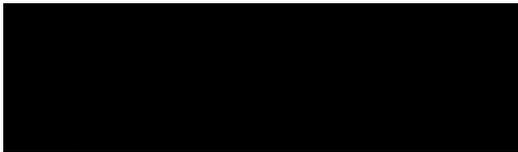
**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

D2

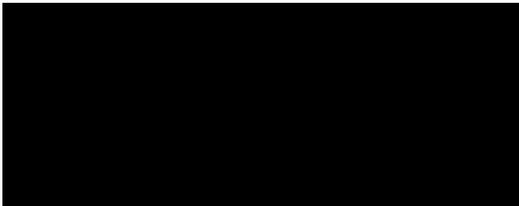


FILE: EAC 00 172 50040 Office: VERMONT SERVICE CENTER Date: MAR 03 2005

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

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:



**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.

*for Michael T. Kelly*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont Service Center denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be dismissed.

The petitioner is an electronics and computer communications company that seeks to employ the beneficiary as an international marketing analyst. The director denied the petition on the basis that the proffered position is not a specialty occupation.

On motion to reconsider, counsel states that because the beneficiary has been employed in the proffered position for over five years pursuant to a previously approved H-1B petition the proffered position is a specialty occupation. Counsel states that the AAO concluded that the proffered position resembled a market research manager or marketing manager. According to counsel, the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) reveals that these positions are specialty occupations due to their educational requirements. Counsel submits additional job postings to establish that the proffered position requires a specific baccalaureate degree. Counsel maintains that the petitioner needs the services of an international marketing analyst, and asserts that the beneficiary is qualified to perform a specialty occupation.

A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). Here, although counsel states the reasons for reconsideration, the reasons are not supported by any pertinent precedent decisions to establish that the AAO's decision was based on an incorrect application of law or CIS policy. Accordingly, counsel fails to satisfy the requirements of a motion to reconsider.

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). 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. The petitioner has not met that burden.

**ORDER:** The motion is dismissed. The previous decision of the AAO, dated March 31, 2003, is affirmed. The petition is denied.