



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-USA, INC

DATE: MAR. 15, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an asphalt repair and maintenance technology company, seeks to permanently employ the Beneficiary as its general manager and responsible managing employee under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director, Nebraska Service Center, denied the petition. The Director concluded that the evidence of record: (1) did not establish that the Beneficiary will be employed in a qualifying managerial or executive capacity; (2) did not establish that the Beneficiary has been employed abroad in a qualifying managerial or executive capacity; and (3) did not establish that the Petitioner has a qualifying relationship with the Beneficiary's foreign employer.

The matter is now before us on appeal. We will summarily dismiss the appeal.

The Petitioner filed Form I-290B, Notice of Appeal or Motion. However, the Petitioner submitted no evidence or information addressing the actual grounds for denial; nor did the Petitioner dispute the ground for denial. Although the Petitioner marked Box 1(b) in Part 3 of Form I-290B, indicating that a brief and/or additional evidence would be submitted within 30 days, there is no evidence that the Petitioner has supplemented the record with any additional submissions. Accordingly, we will consider the record to be complete as it now stands.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, 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.

The Petitioner has not specifically identified any erroneous conclusion of law or statement of fact as a basis for the appeal. As noted, the Petitioner did not provide a brief or additional evidence in support of the appeal despite indicating on Form I-290B that it intended do so. Moreover, the Petitioner did not provide with its appeal a separate statement regarding the basis of the appeal, as

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instructed at Part 4 of Form I-290B. A petitioner filing an appeal is required to provide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed. Here, the Petitioner has made no reference or objection to the specific findings set forth in the Director's decision. Therefore, consistent with 8 C.F.R. § 103.3(a)(1)(v), the appeal will 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; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Because the Petitioner has not specifically identified an erroneous conclusion of law or a statement of fact in this proceeding, the Petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of J-USA, Inc.*, ID# 15995 (AAO Mar. 15, 2016)