

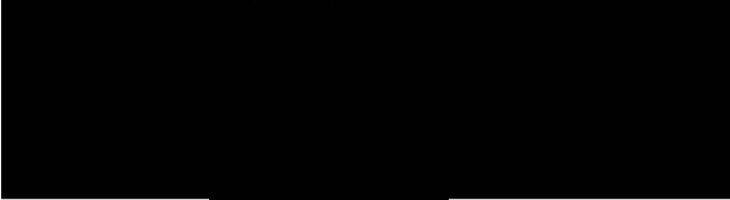
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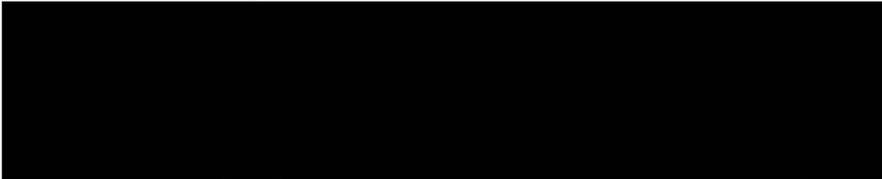


FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: OCT 02 2006
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IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b) of the Immigration and Nationality Act, 8 U.S.C. § 1153(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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a computer consulting business. It seeks to employ the beneficiary permanently in the United States as a programmer analyst. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. The director determined that the petitioner had not established its continuing ability to pay the proffered wage from the priority date and denied the petition accordingly.

The record shows that counsel filed Form I-290B, Notice of Appeal to the Administrative Appeals Office (AAO), with the Chicago District Office.

The regulation at 8 C.F.R. § 103.3(a)(2) states in pertinent part:

AAU appeals in other than special agricultural worker and legalization cases –(i) Filing appeal. The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 103.7 of this part. The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

In the instant case, the Form I-290B was filed with the District Office, and not with the office where the unfavorable decision was made (Nebraska). Therefore, the appeal is considered to be improperly filed and will be rejected.

ORDER: The appeal is rejected.