



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

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

MATTER OF Y-H-R-C-, CORP.

DATE: SEPT. 23, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129CW, PETITION FOR A CNMI-ONLY NONIMMIGRANT  
TRANSITIONAL WORKER

The Petitioner, a manpower supply business, seeks to temporarily employ the Beneficiary as a computer technician under the CNMI-Only Transitional Worker (CW-1) nonimmigrant classification. *See* 48 U.S.C. § 1806(d). The CW-1 visa classification allows employers in the Commonwealth of the Northern Mariana Islands (CNMI) to apply for permission to temporarily employ foreign workers who are otherwise ineligible to work under other nonimmigrant worker categories.

The Director, California Service Center, denied the petition. The Director concluded that the Petitioner had not established that it was an eligible employer, more specifically because the evidence did not demonstrate that the Petitioner: (1) considered all available United States workers for the position, and (2) complied with all CNMI requirements relating to employment. 8 C.F.R. § 214.2(w)(4)(ii) and (iv).

The matter is now before us on appeal. The Petitioner claims that it satisfied 8 C.F.R. § 214.2(w)(4) but acknowledges that it did not comply with the CNMI Department of Labor requirements.

Upon *de novo* review, we will dismiss the appeal.

#### I. LEGAL FRAMEWORK

A petitioner must meet the applicable legal requirements for doing business in the CNMI. 8 C.F.R. § 214.2(w)(1)(vi). A petitioner will not be considered legitimate if it engages directly or indirectly in an activity that is illegal under Federal or CNMI law. *Id.*

To be eligible to petition for a CW-1 nonimmigrant worker, an employer must:

- (i) Be engaged in legitimate business;
- (ii) Consider all available United States workers for the position being filled by the CW-1 worker;

- (iii) Offer terms and conditions of employment which are consistent with the nature of the petitioner's business and the nature of the occupation, activity, and industry in the CNMI; and
- (iv) Comply with all Federal and Commonwealth requirements relating to employment, including but not limited to nondiscrimination, occupational safety, and minimum wage requirements.

8 C.F.R. § 214.2(w)(4).

## II. ANALYSIS

The Petitioner acknowledges on appeal that it did not comply with the CNMI Department of Labor's job vacancy announcement requirements and claims that its failure should be excused because there was no Internet access during various periods in 2015. On this issue, the Secretary of the CNMI Department of Labor confirmed that there were periods of lost Internet connection in the CNMI during 2015, but further stated: "[T]he local papers were available for posting JVs [job vacancy announcements] while the internet was down allowing US eligible workers to have access to the information on these job openings and for employers to act in good faith to provide ample posting notice of the job vacancies."

Upon review of the record and the Secretary's statement, we conclude that the Petitioner has not overcome the Director's basis for denying the petition.

## III. CONCLUSION

The burden is on the Petitioner to show eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of Y-H-R-C-, Corp.*, ID# 12558 (AAO Sept. 23, 2016)