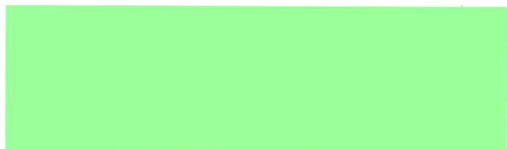




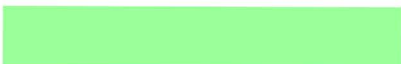
U.S. Citizenship
and Immigration
Services

(b)(6)



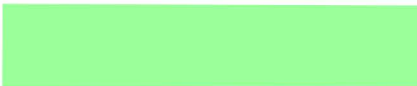
DATE: JAN 30 2014

OFFICE: CALIFORNIA SERVICE CENTER



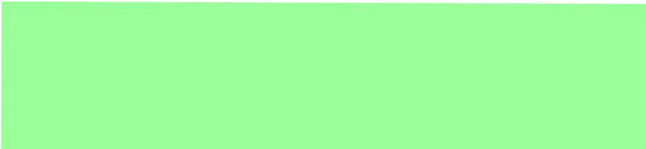
IN RE:

Petitioner:
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 THE PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On the Form I-129 visa petition, the petitioner describes itself as software development and computer consultancy firm established in 1995. In order to employ the beneficiary in what it designates as a software engineer position, the petitioner seeks to classify him 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, finding that the petitioner failed to establish (1) that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions; and (2) that it has sufficient work for the requested validity period.

On September 3, 2013, counsel for the petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box B in Part 2 of the form to indicate that he was filing an appeal and would send a brief and/or additional evidence within 30 days.

The only comment that counsel submits about the appeal is the following statement at Part 3 of the Form I-290B:

[The petitioner] submits that the proposed position is qualifies [sic] as [a] specialty occupation. Further, the petitioner submits they are not an employment agency as alleged by the Service. The petitioner is obtaining additional supporting documentation in support of their argument and requires additional thirty days of time to submit detailed brief.

The AAO fully and in-detail reviewed the submission, including the Form I-290B and counsel's written statement. However, counsel failed to identify any specific assignment of error. Moreover, although counsel stated that the petitioner would send a brief and/or additional evidence, the AAO has not received the submission. Accordingly, the record of proceeding is deemed complete as currently constituted.

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." In the instant case, the petitioner and counsel have failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

In visa petition proceedings, it is the petitioner's burden to establish 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 summarily dismissed.