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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DATE: **MAR 05 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

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:

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.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The California Service Center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner filed a Petition for a Nonimmigrant Worker (Form I-129) with the California Service Center on April 1, 2013. The petitioner sought to classify the beneficiary 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 on November 6, 2013, finding that the petitioner failed to establish eligibility for the benefit sought. Counsel for the petitioner submitted an appeal of the decision. The AAO reviewed the submission and issued a Request for Evidence (RFE). The petitioner and its counsel submitted a timely response to the AAO's RFE.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO finds that, on appeal, the petitioner has overcome the director's grounds for denial of the petition.¹

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 been met.

ORDER: The appeal is sustained. The director's decision dated November 6, 2013 is withdrawn, and the petition is approved.

¹ In the instant case, the petitioner and its counsel could have more clearly articulated how the proffered position meets the statutory and regulatory provisions required to establish eligibility for the benefit sought. Nevertheless, in this particular record, the totality of the evidence presented is sufficient to support a determination that the petitioner has established eligibility for the benefit sought by a preponderance of the evidence standard.