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



U.S. Citizenship
and Immigration
Services

DATE: **MAY 30 2014**

OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner:
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:

SELF-REPRESENTED

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

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the California Service Center on April 1, 2013. In the Form I-129 visa petition, the petitioner describes itself as a computer consulting company established in 1989. In order to employ the beneficiary in what it designates as a consultant position, the petitioner seeks to classify her as a nonimmigrant worker in a specialty occupation 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 November 1, 2013, the director denied the petition, finding that the petitioner failed to establish that the duties of the proffered position for the beneficiary require a specialty occupation and that it has sufficient work for the requested period of intended employment.

On December 4, 2013, the petitioner filed an appeal.¹ On the Form I-290B, Part 2, the petitioner checked Box B, indicating that a brief and/or evidence would be submitted within 30 days. However, the AAO did not receive a brief and/or additional evidence within the allotted timeframe (or thereafter). Accordingly, the record of proceeding is deemed complete as currently constituted.

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

[The petitioner] is an IT Consulting company based out of Paris, France. The denial was largely based upon [the petitioner]'s ability to prove that sufficient work is available for the requested period of intended employment. However, [the petitioner] has a long standing relationship with their client, [REDACTED] (a/k/a [REDACTED]), and completely determines the work of any of their employees.

[The petitioner] will be submitting a written brief and additional evidence within the next thirty (30) days to this office.

The AAO finds that the petitioner failed to identify specifically how the director made any erroneous conclusion of law or statement of fact in denying the petition. 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." Therefore, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

¹ Notably, the signature of the petitioner's representative varies significantly throughout the record of proceeding. No explanation was provided.

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.