

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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

D2



FILE: EAC 06 175 52354

Office: VERMONT SERVICE CENTER

Date: **APR 30 2010**

IN RE:

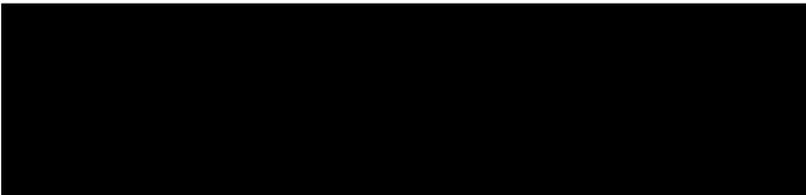
Petitioner:

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 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner corporation does business as a software development and consulting firm. On June 16, 2009, the director issued to the petitioner a Notice of Intent to Revoke (NOIR) approval of this H-1B petition, which had been issued on May 31, 2006 for the beneficiary to serve 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). After reviewing the documents that the petitioner submitted in response to the NOIR, the director issued a decision revoking approval of the H-1B petition on October 19, 2009. That decision is now on appeal.

The director's decision to revoke approval of the petition was based upon his determinations that the record of proceeding lacks (1) the itinerary required by the regulation at 8 C.F.R. § 214.2(h)(2)(i)(B) when a proffered H-1B position is to be performed at more than one location; and (2) a Labor Condition Application that corresponds to the petition.

On November 16, 2009 the petitioner's newly appointed counsel submitted a Form I-290B (Notice of Appeal or Motion) without a brief or evidence. Counsel does not specify any legal or factual errors by the director but, at Part 3 of the Form I-290B and in an accompanying letter, indicates that he will do so within 30 days. Likewise, counsel entered a check mark at the box at section 2B of the Form I-290B which indicates that he would send a brief and/or evidence to the AAO within 30 days. However, the AAO has received neither. Accordingly, the record of proceeding is deemed closed and complete as currently constituted.

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. 8 C.F.R. § 103.3(a)(1)(v).

Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither counsel nor the petitioner presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.