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

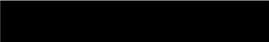


U.S. Citizenship
and Immigration
Services

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FILE:  Office: VERMONT SERVICE CENTER

Date:

JUL 01 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:



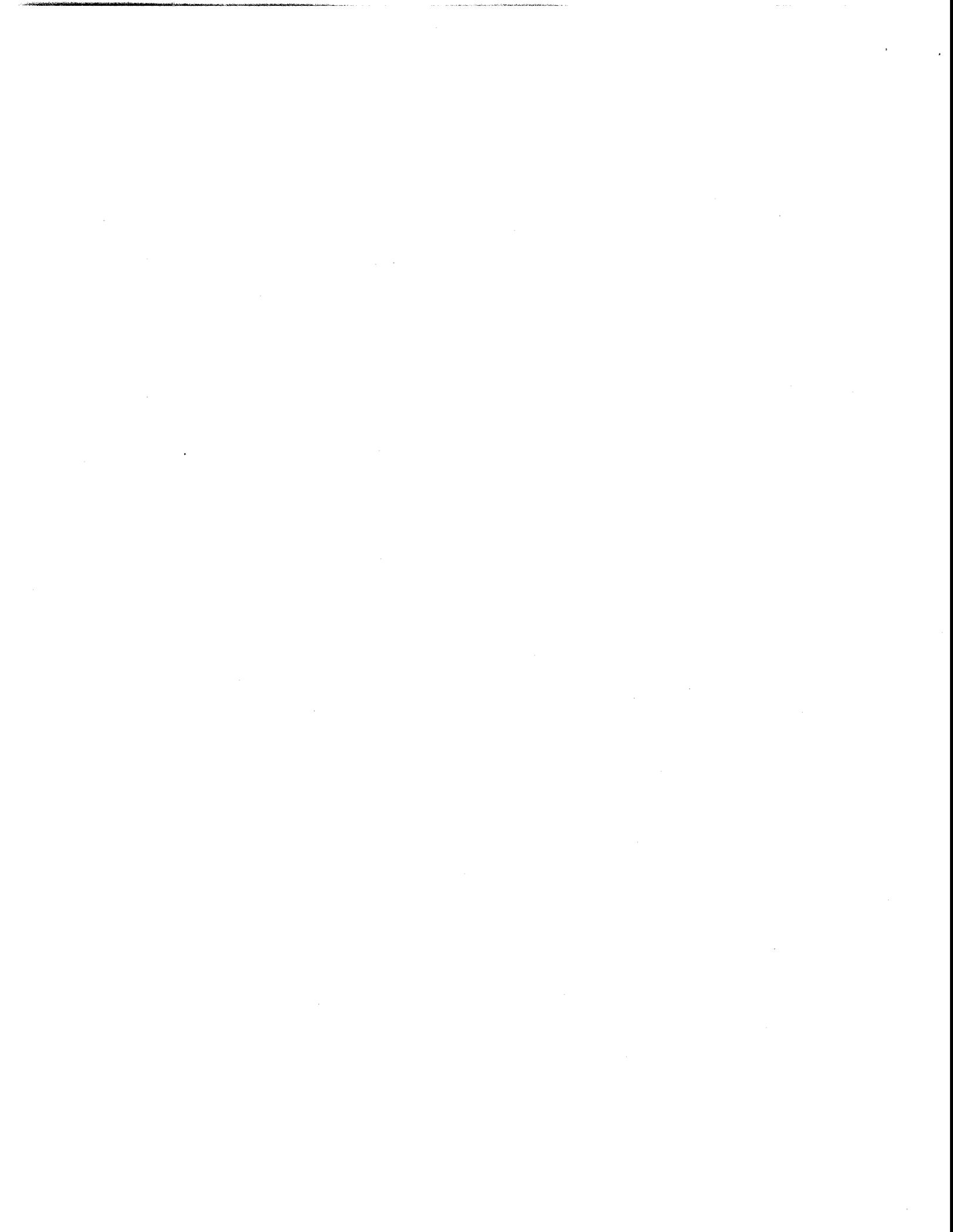
INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office



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

The petitioner describes itself as a corporation which provides a full continuum of information technology services. To employ the beneficiary in a position that it designates as Programmer Analyst, the petitioner endeavors 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 three independent grounds, namely, his findings that the evidence of record failed to (1) provide the itinerary that the regulation at 8 C.F.R. § 214.2(h)(2)(i)(B) requires when a proffered H-1B position is to be performed at more than one location; (2) establish that the Labor Condition Application (LCA) filed with the petition corresponds to the locations where the beneficiary would work; and (3) establish that the proffered position is a specialty occupation.

Appeal Dismissed for the Petitioner's Failure to Contest the Specialty Occupation and LCA Issues

Of the three grounds that the director specified for denying the petition, the appeal addresses only one, namely, the petitioner's failure to produce an itinerary of the beneficiary's proposed employment in accordance with the regulation at 8 C.F.R. § 214.2(h)(2)(i)(B).

The specialty occupation and LCA grounds invoked by the director are separate and independent from the itinerary issue, the single issue raised on appeal, and their merits are beyond the scope of that single issue. Whether, as asserted on appeal, the petitioner was not required by 8 C.F.R. § 214.2(h)(2)(i)(B) to provide the itinerary there described is a separate issue from both the specialty occupation ground for denying the petition (for the absence of "documentation that establishes what the beneficiary's specific duties will be while working under contract for a client, subcontractor, or end client," such that "USCIS cannot determine that these duties will require at least a baccalaureate degree or the equivalent in a specific specialty as required for H-1B classification") and the LCA ground for denial (for failure to establish that the proposed employment would be within the area encompassed by the LCA). Consequently, even if the single issue raised on appeal were resolved favorably for the petitioner, the validity of the director's separate determinations to deny the petition on the specialty occupation and LCA grounds would be unaddressed and unaffected.

Therefore, regardless of the outcome of the one issue raised on appeal, the appeal must be dismissed because the petitioner fails to specify any factual or legal error in the director's determinations to deny the petition on the specialty occupation and LCA grounds. *See* 8 C.F.R. § 103.3(a)(1)(v), which requires summary dismissal of an appeal that does not specify any erroneous conclusion of law or statement of fact by the director in denying the petition. Therefore, the AAO affirms the director's determinations to deny the petition on each of these two grounds, and the appeal will be dismissed.

