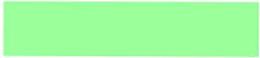


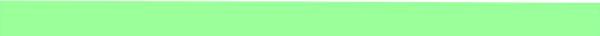
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U.S. Citizenship
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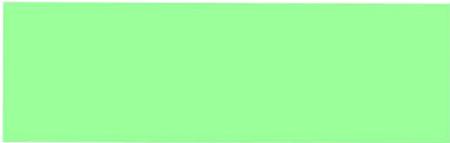


DATE: **JUL 17 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

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 (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 revoked the approval of the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. Approval of the petition remains revoked.

I. INTRODUCTION

On the Form I-129 visa petition, the petitioner describes itself as a 48-employee furniture importer and distributor¹ established in 1995. The approved petition that is the subject of the revocation action had been filed so that the petitioner could continue its employment of the beneficiary in what it designates as a human resources specialist position² by extending his classification 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 revoked the approval of the petition, concluding that the evidence of record does not demonstrate: (1) that it is employing the beneficiary in the capacity specified in the petition; and (2) that the statement of facts contained in the petition was not true and correct.

The record of proceeding before us contains the following: (1) the Form I-129 and supporting documentation; (2) the director's notice of intent to revoke approval of the petition (NOIR); (3) counsel's response to the NOIR; (4) the director's letter revoking approval of the petition; and (5) the Form I-290B and supporting documentation.

Upon review of the entire record, we find that the evidence of record does not overcome the director's specified grounds for revoking the approval of this petition. Accordingly, the appeal will be dismissed, and approval of the petition will be revoked.

II. AUTHORITY TO REVOKE APPROVAL OF PETITION

In general, the authority to revoke approval of an H-1B petition is found at 8 C.F.R. § 214.2(h)(11), which states, in pertinent part, the following:

Revocation of approval of petition.

(i) *General.*

¹ The petitioner provided a North American Industry Classification System (NAICS) Code of 423210, "Furniture Merchant Wholesalers." U.S. Dep't of Commerce, U.S. Census Bureau, North American Industry Classification System, 2012 NAICS Definition, "423210 Furniture Merchant Wholesalers," <http://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last visited June 4, 2014).

² The Labor Condition Application (LCA) submitted by the petitioner in support of the petition was certified for the SOC (O*NET/OES) Code 13-1078, the associated Occupational Classification of "Human Resources, Training and Labor Relations," and a Level I (entry-level) prevailing wage rate.

- (A) The petitioner shall immediately notify the Service of any changes in the terms and conditions of employment of a beneficiary which may affect eligibility under section 101(a)(15)(H) of the Act and paragraph (h) of this section. An amended petition on Form I-129 should be filed when the petitioner continues to employ the beneficiary. . . .
- (B) The director may revoke a petition at any time, even after expiration of the petition.

* * *

(iii) *Revocation on notice—*

- (A) *Grounds for revocation.* The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he or she finds that:
 - (1) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition. . . . ;
or
 - (2) The statement of facts contained in the petition . . . was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; or
 - (3) The petitioner violated terms and conditions of the approved petition; or
 - (4) The petitioner violated requirements of section 101(a)(15)(H) of the Act or paragraph (h) of this section; or
 - (5) The approval of the petition violated [paragraph] (h) of this section or involved gross error.
- (B) *Notice and decision.* The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of receipt of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. . . .

III. PROCEDURAL HISTORY

The petitioner filed the instant petition on August 9, 2011, and it was approved on October 4, 2011. On the Form I-129 and supporting letter, the petitioner claimed that it has employed the beneficiary as a human resources specialist, in H-1B status, since October 1, 2008. In its July 26, 2011 letter in support of the petition for which the approval was revoked, the petitioner described the duties of the proffered position as follows:

- Develop and execute human resources plan in accordance with company's business objectives; implement state-of-the-art processes in assessment, selection, leadership and employee development and communications;
- Conduct research into human resources programs and activities, and recommend changes or improvement when desirable;
- Ensure company policies and practices comply with the applicable federal and state labor laws, and keep employees informed of all changes in human resources policies;
- Provide assistance to organizational design, operations, and intra-company communications;
- Responsible for employee relations activity within customer groups including performance management, compensation, and training; and
- Set up and maintain general control methods, records, and files as required for effective human resources functions.

The petitioner claimed on the Form I-129 that this is a full-time position, and that the beneficiary would be paid a wage of \$51,646 per year.

Subsequent to the petition's approval, U.S. Citizenship and Immigration Services (USCIS) performed an administrative site visit to the address listed as the beneficiary's work location.

When the USCIS site investigator visited the petitioner's business premises, the beneficiary was interviewed regarding his employment, and he claimed that his duties are to "manage the shipping and receiving department and to manage the office site."

The director issued the NOIR on June 13, 2013, and notified the petitioner of these findings. In the NOIR, the director specifically mentioned 8 C.F.R. § 214.2(h)(11)(iii)(A)(1) and (2) as possible bases for revoking the approval of a petition.³ The director stated that:

³ The director cited to 8 C.F.R. § 214.2(h)(11)(iii)(1) and (2) in the NOIR, but it appears she was referring to 8 C.F.R. § 214.2(h)(11)(iii)(A)(1) and (2).

[T]he beneficiary's own description of his daily duties is different from his functions as a human resources specialist, proposed in the petitioner's letter of support dated July 26, 2011. The beneficiary's statement...indicated that a majority of his working time is not spent in a human resources specialist capacity, the position that the petitioner has claimed in this petition and also on the Labor Condition Application (LCA).

The director also stated that "it appears that the beneficiary is no longer employed in the human resources specialist capacity or the statement of facts contained in the petition was not true and correct."

The petitioner, through counsel, submitted a timely response, in which it asserted that the beneficiary has been continuously employed by it in the capacity specified in the petition and the beneficiary's response to the USCIS site investigator was consistent with his duties. The director did not find counsel's response persuasive, and she revoked approval of the petition on November 1, 2013. Specifically, the director revoked the approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(1) and (2). Counsel submitted a timely appeal.

IV. ANALYSIS

As will be discussed below, we agree with the director's decision revoking the approval of this petition.

A. The LCA Submitted by the Petitioner

As noted above, the LCA submitted by the petitioner in support of the petition was certified for the SOC (O*NET ONLINE/OES) Code 13-1078, the associated Occupational Classification of "Human Resources, Training and Labor Relations," and a Level I (entry-level) prevailing wage rate. The *Prevailing Wage Determination Policy Guidance*⁴ issued by the U.S. Department of Labor (DOL) states the following with regard to Level I wage rates:

Level I (entry) wage rates are assigned to job offers for beginning level employees who have only a basic understanding of the occupation. These employees perform routine tasks that require limited, if any, exercise of judgment. The tasks provide experience and familiarization with the employer's methods, practices, and programs. The employees may perform higher level work for training and developmental purposes. These employees work under close supervision and receive specific instructions on required tasks and results expected. Their work is closely monitored and reviewed for accuracy. Statements that the job offer is for a research fellow, a worker in training, or an internship are indicators that a Level I wage should be considered [emphasis in original].

⁴ Available at http://www.foreignlaborcert.doleta.gov/pdf/Policy_Nonag_Progs.pdf (last visited June 4, 2013).

It is unclear to us how, if the beneficiary has indeed been working for the petitioner as a human resources specialist with the job duties listed above since October 1, 2008, that fact is not materially inconsistent with the petitioner's submission of an LCA certified for a Level I, entry-level position. The LCA's wage level (Level I, the lowest of the four that can be designated) is only appropriate for a low-level, entry position relative to others within the occupation.⁵ In accordance with the relevant DOL explanatory information on wage levels quoted above, this wage rate is appropriate for positions in which that the beneficiary is only required to have a basic understanding of the occupation; will be expected to perform routine tasks requiring limited, if any, exercise of judgment; will be closely supervised and his work closely monitored and reviewed for accuracy; and will receive specific instructions on required tasks and expected results.^{6,7}

⁵ In her November 1, 2013 decision revoking approval of the petition, the director stated that "it appears that the petitioner does not [employ] anyone in a managing position, besides the beneficiary." Counsel does not address this stated concern of the director. The petitioner's apparent employment of the beneficiary in what appears to be the company's sole managerial position adds weight to our determination that the proffered position is not in fact one which involves close supervision and monitoring, and which requires only a basic level of understanding.

⁶ Furthermore, by obtaining an LCA certified for a Level I, entry-level position, the petitioner also implicitly claimed that the duties of the proffered position fall below those of a Level II, III, or IV position in terms of complexity and/or specialization.

The aforementioned *Prevailing Wage Determination Policy Guidance* issued by the U.S. Department of Labor (DOL) states the following with regard to Level II wage rates:

Level II (qualified) wage rates are assigned to job offers for qualified employees who have attained, either through education or experience, a good understanding of the occupation. They perform moderately complex tasks that require limited judgment. An indicator that the job request warrants a wage determination at Level II would be a requirement for years of education and/or experience that are generally required as described in the O*NET Job Zones.

It describes the Level III wage designation as follows:

Level III (experienced) wage rates are assigned to job offers for experienced employees who have a sound understanding of the occupation and have attained, either through education or experience, special skills or knowledge. They perform tasks that require exercising judgment and may coordinate the activities of other staff. They may have supervisory authority over those staff. A requirement for years of experience or educational degrees that are at the higher ranges indicated in the O*NET Job Zones would be indicators that a Level III wage should be considered.

Frequently, key words in the job title can be used as indicators that an employer's job offer is for an experienced worker. . . .

Finally, the *Prevailing Wage Determination Policy Guidance* describes the Level IV wage designation as follows:

This aspect of the LCA undermines the credibility of the petition, and, in particular, the credibility of the petitioner's assertions regarding the proffered position's job duties. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The U.S. Department of Labor (DOL) has clearly stated that its LCA certification process is cursory, that it does not involve substantive review, and that it makes the petitioner responsible for the accuracy of the information entered in the LCA. With regard to LCA certification, the regulation at 20 C.F.R. § 655.715 states the following:

Certification means the determination by a certifying officer that a labor condition application is not incomplete and does not contain obvious inaccuracies.

Likewise, the regulation at 20 C.F.R. § 655.735(b) states, in pertinent part, that "[i]t is the employer's responsibility to ensure that ETA [(the DOL's Employment and Training Administration)] receives a complete and accurate LCA."

While DOL is the agency that certifies LCA applications before they are submitted to USCIS, DOL regulations note that the Department of Homeland Security (DHS) (i.e., its immigration benefits branch, USCIS) is the department responsible for determining whether the content of an LCA filed for a particular Form I-129 actually supports that petition. See 20 C.F.R. § 655.705(b), which states, in pertinent part (emphasis added):

Level IV (fully competent) wage rates are assigned to job offers for competent employees who have sufficient experience in the occupation to plan and conduct work requiring judgment and the independent evaluation, selection, modification, and application of standard procedures and techniques. Such employees use advanced skills and diversified knowledge to solve unusual and complex problems. These employees receive only technical guidance and their work is reviewed only for application of sound judgment and effectiveness in meeting the establishment's procedures and expectations. They generally have management and/or supervisory responsibilities.

Again, it is unclear to the AAO how, given the petitioner's claims of the beneficiary's job duties that a Level II, III, or IV wage-level designation would not have been the more appropriate than the Level I wage-level to have designated on the LCA.

⁷ The AAO notes that an LCA certified for a Level II (qualified), a Level III (experienced), or a Level IV (fully competent) human resources specialist would have necessitated a higher wage being paid to the beneficiary.

For H-1B visas . . . DHS accepts the employer's petition (DHS Form I-129) with the DOL certified LCA attached. *In doing so, the DHS determines whether the petition is supported by an LCA which corresponds with the petition*, whether the occupation named in the [LCA] is a specialty occupation or whether the individual is a fashion model of distinguished merit and ability, and whether the qualifications of the nonimmigrant meet the statutory requirements of H-1B visa classification.

We find that this conflict between the petition and the LCA the petitioner submitted in its support undermines the credibility of the petition because it materially undermines the credibility of the petitioner's statements with regard to the nature and level of work that the beneficiary would perform. Having made this initial observation, we will turn next to the director's specified grounds for revoking the approval of this petition.

B. Employment in the Capacity Specified in the Petition

In revoking approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(1), the director found that the evidence of record failed to demonstrate that the petitioner is employing the beneficiary in the capacity specified in the petition.

Counsel contends that the evidence submitted in response to the NOIR reflects that the beneficiary has been performing the duties of a human resources specialist, including developing and executing human resources plans, conducting research into human resources, and setting up and maintaining general control methods. Counsel states that the petitioner provided evidence that the beneficiary performed quarterly and yearly performance reviews of employees, and interviewed candidates. Counsel cites to reviews from 2012 and 2013 in asserting that the beneficiary discussed the general atmosphere of the workplace, how employees have responded to trainings, in-depth assessment of each employee's performance, and general issues in the workplace. Counsel asserts that the director implied that quarterly and yearly performance reviews of employees, and interviewing candidates, are not duties in which human resources specialists engage, and asserts that such duties are core tasks of human resource specialists according to the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* and the DOL's Occupational Information Network (O*NET OnLine). Counsel refers to O*NET Online, which reflects that interviewing and hiring employees are job duties of a human resources specialist. In similar fashion, the *Handbook* states, "[h]uman resources specialists recruit, screen, interview and place workers." As a preliminary matter, we agree with the director and do not find that these authorities state that performance evaluations are typical job duties of positions falling within the "Human Resources Specialists" occupational category.

Counsel states that the beneficiary provided management with information related to performance appraisals and documentation of performance issues, advised management on raise amounts; and that he is in charge of hiring and training all new employees. Counsel cites to internal communications from 2013 in asserting that the beneficiary has been active and responsible for all matters surrounding employee relations including performance management, compensation and training, and that he actively recommends changes and improvements. Counsel states that the beneficiary is the only employee working in a human resources capacity due to the size of the

petitioner's business, and that he therefore operates in a more informal way than those employed in a more typical human resources department in a larger corporation. Counsel contends that it is therefore difficult to provide evidence documenting formal human resources plans or research into human resources, and the absence of such formal documentation does not mean that the beneficiary does not engage in these duties. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

More importantly, as indicated above, the beneficiary notified the USCIS site investigator that his duties were to "manage the shipping and receiving department and to manage the office site." Counsel asserts that these duties are consistent with his stated job duty to "provide assistance to organizational design, operations, and intra-company communications." Counsel asserts that "manage the shipping and receiving department and to manage the office site" fits into the duty to "provide assistance to organizational design, operations, and intra-company communications." We do not agree. First, we find that providing assistance to an organization could apply to nearly any duty, and that such duties would not necessarily need to be related to being a human resources specialist. Furthermore, counsel states further that in times of crisis or when under-staffed, it is not uncommon for employees to go beyond their job descriptions, and that although the site visit by USCIS occurred during one such time, the beneficiary was still active in his other duties. In one instance, counsel is stating that to "manage the shipping and receiving department and to manage the office site" is a typical job duty, but in the other instance he is stating that it is in fact beyond the beneficiary's typical job duties. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The beneficiary had an opportunity to explain his duties to the site investigator, and the duties he described are not listed in his job duties as presented with his Form I-129 petition. In addition, they are not duties listed in the *Handbook*.

The *Handbook* states the following with regard to the duties of positions falling within the "Human Resources Specialists and Labor Relations Specialists" occupational category:

Human resources specialists recruit, screen, interview, and place workers. They often handle other human resources work, such as those related to employee relations, payroll and benefits, and training. Labor relations specialists interpret and administer labor contracts regarding issues such as wages and salaries, employee welfare, healthcare, pensions, and union and management practices.

Duties

Human resources specialists typically do the following:

- Consult with employers to identify employment needs

- Interview applicants about their experience, education, and skills
- Contact references and perform background checks on job applicants
- Inform applicants about job details, such as duties, benefits, and working conditions
- Hire or refer qualified candidates for employers
- Conduct or help with new employee orientation
- Keep employment records and process paperwork

Labor relations specialists typically do the following:

- Advise management on contracts, worker grievances, and disciplinary procedures
- Lead meetings between management and labor
- Draft proposals and rules or regulations in order to help facilitate collective bargaining
- Interpret formal communications between management and labor
- Investigate validity of labor grievances
- Train management on labor relations

Human resources specialists are often trained in all human resources disciplines and perform tasks throughout all areas of the department. In addition to recruiting and placing workers, human resources specialists help guide employees through all human resources procedures and answer questions about policies. They often administer benefits, process payroll, and handle any associated questions or problems. They also ensure that all human resources functions comply with federal, state, and local regulations.

The following are examples of types of human resources specialists:

Employment interviewers work in an employment office and interview potential applicants for job openings. They refer suitable candidates to employers for consideration.

Human resources generalists handle all aspects of human resources work. They may have duties in all areas of human resources including recruitment, employee relations,

payroll, benefits, training, as well as the administration of human resources policies, procedures, and programs.

Placement specialists match employers with qualified jobseekers. They search for candidates who have the skills, education, and work experience needed for jobs, and they try to place those candidates with employers. They also may help set up interviews.

Recruitment specialists, sometimes known as **personnel recruiters**, find, screen, and interview applicants for job openings in an organization. They search for applicants by posting listings, attending job fairs, and visiting college campuses. They also may test applicants, contact references, and extend job offers.

Labor relations specialists work with a labor union and a company's management. In addition to leading meetings between the two groups; these specialists draft formal language as part of the collective bargaining process. They often address specific grievances a worker might have, and ensure that all labor and management solutions comply within the relevant collective bargaining agreement.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2014-15 ed., "Human Resources Specialists and Labor Relations Specialists," <http://www.bls.gov/ooh/business-and-financial/human-resources-specialists-and-labor-relations-specialists.htm#tab-2> (last visited June 4, 2014).

We find that the beneficiary's stated duties of managing the petitioner's shipping department, receiving department, and office site clearly fall outside of the duties claimed for the beneficiary in the initial filing. Nor do they fall within those specified in the *Handbook* as being normally performed by Human Resources Specialists. Moreover, as indicated above, the director also questioned whether the petitioner employed any other individuals in managerial positions, and counsel does not respond on appeal. The fact that the petitioner, a 48-employee company, appears to employ no one other than the beneficiary in a managerial role indicates further that the beneficiary is in fact performing duties that exceed those of the positions falling within the "Human Resources Specialists" occupational category, the category under which the LCA was certified. The evidence of record establishes that the beneficiary is no longer employed by the petitioner in the capacity in the petition, and the director properly revoked approval of this position pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(1).

C. The Statement of Facts Contained in the Petition was Not True and Correct,
Inaccurate, or Misrepresented a Material Fact

The Form I-129 Supplement H, Section 1 includes a section for describing the proposed duties. The petitioner's Form I-129 Supplement H, filed on August 9, 2011, refers to the aforementioned July 26, 2011 letter in support of the petition for this description. Again, the petitioner described the duties of the proffered position as follows:

- Develop and execute human resources plan in accordance with company's business objectives; implement state-of-the-art processes in assessment, selection, leadership and employee development and communications;
- Conduct research into human resources programs and activities, and recommend changes or improvement when desirable;
- Ensure company policies and practices comply with the applicable federal and state labor laws, and keep employees informed of all changes in human resources policies;
- Provide assistance to organizational design, operations, and intra-company communications;
- Responsible for employee relations activity within customer groups including performance management, compensation, and training; and
- Set up and maintain general control methods, records, and files as required for effective human resources functions.

As discussed, the record of evidence fails to demonstrate that the petitioner was employing the beneficiary in the capacity specified in the petition during the time of the investigation. In addition, the record of evidence fails to establish that the beneficiary was performing the duties listed in the Form I-129 support letter from the time the petition was approved until the time of the investigation. The record includes emails from [REDACTED] reflecting that he performed employee evaluations, and a list of resumes purportedly reviewed by [REDACTED]. The record is not clear as to whether [REDACTED] is an alias for the beneficiary. The record includes resumes from the aforementioned resume list with notes written in both the English and Chinese⁸ languages, and e-mail messages related to interviews. The e-mail messages are from a general human resources email address. The record does not establish that the beneficiary wrote these e-mail messages or that the notes in the e-mail messages are from him. The record does not include sufficient evidence to establish that the beneficiary reviewed resumes and interviewed job applicants. There is no other evidence to establish that the beneficiary performed the duties in the letter which the Form I-129 Supplement H referred to. For this reason alone, the director's revocation under 8 C.F.R. § 214.2(h)(11)(iii)(A)(2) was proper.

Next, the fact that the petitioner apparently employs the beneficiary as its only managerial employee, which also indicates duties beyond those specified in the petition, constitutes an additional reason why the statement of facts contained in the petition was not true and correct, and the director's revocation under 8 C.F.R. § 214.2(h)(11)(iii)(A)(2) was correct for this reason as well.

⁸ Because the petitioner failed to submit certified translations of the notes written in the Chinese language, we cannot determine whether the evidence supports the petitioner's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Finally, as we determined above, the beneficiary was not employed in the capacity specified in the petition during the time of the investigation. For this additional reason, the statement of facts contained in the petition was not true and correct, and the director's revocation under 8 C.F.R. § 214.2(h)(11)(iii)(A)(2) was correct for this reason as well.

For all of these reasons, we agree with the director's decision to revoke the approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(2).

V. PRIOR H-1B APPROVAL

Finally, it is noted that the beneficiary currently holds H-1B status. However, we are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. If any of the previous nonimmigrant petitions were approved based on the same unsupported assertions that are contained in the current record, they would constitute error on the part of the director. We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988). A prior approval does not compel the approval of a subsequent petition or relieve the petitioner of its burden to provide sufficient documentation to establish current eligibility for the benefit sought. 55 Fed. Reg. 2606, 2612 (Jan. 26, 1990). A prior approval also does not preclude USCIS from denying an extension of an original visa petition based on a reassessment of eligibility for the benefit sought. *See Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004). Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved nonimmigrant petitions on behalf of a beneficiary, we would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

VI. CONCLUSION AND ORDER

The record therefore establishes that the petitioner is no longer employing the beneficiary in the capacity specified in the petition, and the director properly revoked approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(1). The record also establishes that the statement of facts contained in the petition was not true and correct, and the director also properly revoked approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(2). Accordingly, the appeal will be dismissed and approval of the petition will remain revoked on these bases.⁹

ORDER: The appeal is dismissed. Approval of the petition remains revoked.

⁹ Because the grounds specified in the director's revocation decision preclude approval of the petition, we will not discuss any additional deficiencies we have observed in our appellate review of this matter. Specifically, the evidence of record does not establish that the proffered position is a specialty occupation.