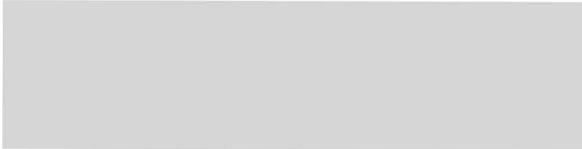




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUL 08 2015** PETITION RECEIPT #: [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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", written over a large, stylized loop.

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a computer consulting and technical training business established in [REDACTED]. In order to employ the beneficiary, 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The Director denied the petition, noting there were a number of discrepancies in the record of proceeding, and concluding that the petitioner did not submit a Labor Condition Application that corresponds to the petition. The petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box a in Part 3 of the form to indicate that it was filing an appeal and that a brief and/or additional evidence was attached.

We fully and in-detail reviewed the submission, including the Form I-290B and the petitioner's written statement. However, the petitioner did not specifically identify any erroneous conclusion of law or statement of fact for the appeal. Rather, the petitioner acknowledges the discrepancies and its errors.<sup>1</sup>

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." In the instant case, the petitioner did not specifically identify an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

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.

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<sup>1</sup> USCIS regulations affirmatively require a petitioner to establish eligibility for the benefit it is seeking at the time the petition is filed. See 8 C.F.R. 103.2(b)(1). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to U.S. Citizenship and Immigration (USCIS) requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). In accordance with the governing statutory and regulatory requirements (including the applicable H-1B cap provisions), the petitioner may file a new petition, with a corresponding LCA and the appropriate fee, for USCIS to consider.