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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF W-E-C-, INC.

DATE: AUG. 11, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a mobile carnival business, seeks to employ the Beneficiaries as “maintenance helpers” under the H-2B nonimmigrant classification for temporary nonagricultural services or labor. See Immigration and Nationality Act (the Act) section 101(a)(15)(H)(ii)(b), 8 U.S.C. § 1101(a)(15)(H)(ii)(b). The H-2B program allows a qualified U.S. employer to bring certain foreign nationals to the United States to fill temporary nonagricultural jobs. The Petitioner’s service or labor need must be a one-time occurrence, seasonal, peak load, or intermittent.

The Director of the Vermont Service Center denied the petition. The Director concluded that the record of proceedings (1) lacked documentary evidence to establish that the Beneficiaries met the experience requirement specified in the temporary labor certification (TLC) and (2) indicated that the Petitioner has a year-round need, rather than a temporary, seasonal need.

The matter is now before us on appeal. In its appeal, the Petitioner submits a brief and additional documentation for the proposition that the Director’s grounds for denial do not comport with the evidence.

Upon *de novo* review, the appeal will be dismissed in part and sustained in part.¹

Based upon our review of the entire record of proceedings, including the submissions on appeal, we conclude that the Petitioner has partially overcome the Director’s grounds for denying the petition. Specifically, the Petitioner has established that (1) it has a temporary, seasonal need and (2) that all the Beneficiaries except [REDACTED] had acquired the three months of maintenance experience required by the TLC.²

¹ The regulation at 8 C.F.R. § 214.2(h)(9)(i)(A) provides that “[a] petition for more than one beneficiary and/or multiple services may be approved in whole or in part.”

² With regard to [REDACTED] the Petitioner has not satisfied the beneficiary-qualification requirement, at 8 C.F.R. § 214.2(h)(6)(vi)(C), for documentation that she had the experience requirement specified in the TLC. We note that the petition was filed on October 9, 2015, and that the experience charts submitted in the Petitioner’s letter dated October 5, 2015, attributed a total of only two months of maintenance experience to [REDACTED]

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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 been partially met.

ORDER: The appeal is sustained for all of the named Beneficiaries except [REDACTED]

FURTHER ORDER: The appeal is dismissed with regard to [REDACTED]

Cite as *Matter of W-E-C-, Inc.*, ID# 17932 (AAO Aug. 11, 2016)