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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  
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date: JUL 30 2010

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:

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 summarily dismissed.

The petitioner is a corporation in the business of computer and software development, and it "currently provides services in New Jersey, New York, Connecticut, Virginia, North and South Carolina, Canada and in many major cities across the [United States]." To employ the beneficiary in a position that the petitioner designates as a programmer analyst, the petitioner filed this H-1B petition 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 several independent grounds, namely, his findings that the petitioner failed to (1) establish that the proffered position is a specialty occupation; (2) file a Labor Condition Application (LCA) that encompasses all of the locations where the beneficiary would work; and (3) provide 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.<sup>1</sup>

On June 23, 2009, the petitioner's counsel submitted a Form I-290B (Notice of Appeal or Motion), signed by the petitioner's Human Resources Manager (HRM), without a brief or evidence. The only comment that the petitioner submits about the appeal is the statement by the HRM at Part 3 of the Form I-290B, which generally asserts that the petition is meritorious and that supportive submissions would follow, but specifies no particular factual or legal error by the director with regard to any of the three grounds upon which the petition was denied. The HRM's statement reads:

[The petitioner] is appealing the above denial because, [sic] [the petitioner] filed an H1B (transfer type) application. The H1B candidate previously has had [an] H1B visa and H1B status. The H1B candidate was employed lawfully at the client site working on software engineering tasks. [The petitioner] had a lawful long term contract for this placement. [Vermont Service Center] denied the H1B [petition] even though there was [a] real H1B job, a real client, [and] a real software engineering job. For this reason we appeal.

We will be providing the evidence and memoranda in support of this Appeal.

Although the petitioner's HRM checked box B at section 2 of the Form I-290B, indicating that the petitioner would send a brief and/or evidence within 30 days, the AAO has received neither. Accordingly, the record of proceeding is deemed complete as currently constituted.

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<sup>1</sup> The director's decision includes a discussion of the petitioner's failure to provide end-client contracts and other documentary evidence relevant to the specialty occupation, LCA, and itinerary issues as requested in the service center's request for additional evidence.

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).

The petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel 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.