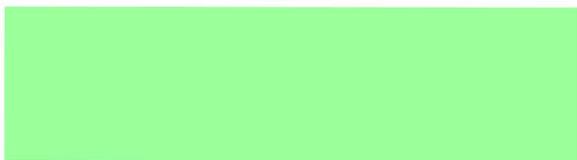
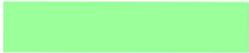


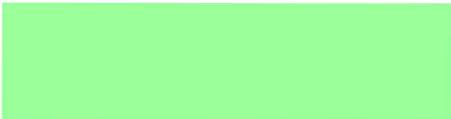


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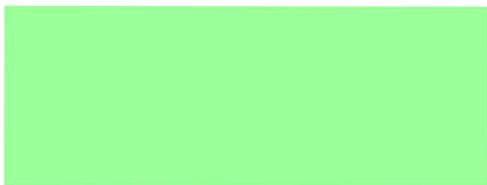


DATE: **AUG 13 2014** OFFICE: VERMONT SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 Director, Vermont Service Center ("the 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 filed the Form I-129, Petition for a Nonimmigrant Worker (Form I-129), seeking to classify the beneficiary as an intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a North Carolina corporation established in October 2012, intends to sell and distribute high precision tools and inserts. It claims to be a subsidiary of [REDACTED] located in China. The petitioner seeks to employ the beneficiary as the general manager of its new office for a period of three years.¹

The director denied the petition concluding that the petitioner failed to establish that it has a qualifying relationship with the beneficiary's foreign employer. The director denied the petition based on the petitioner's failure to submit a complete response to a request for evidence (RFE) issued on September 17, 2013.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. Counsel asserts that the additional evidence submitted on appeal establishes that the petitioner is a wholly-owned subsidiary of the foreign entity.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Here, the petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. In fact, the petitioner does not contend that the decision being appealed was erroneous based on the evidence of record at the time of the director's decision. Rather, the petitioner states that the evidence submitted for the first time on appeal is sufficient to establish the petitioner's eligibility. The newly submitted evidence will not be considered in this proceeding, and the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

¹ Pursuant to 8 C.F.R. § 214.2(l)(7)(i)(A)(3), if the beneficiary is coming to the United States to open or be employed in a new office, the petition may be approved for a period not to exceed one year.

On September 27, 2013, the director put the petitioner on notice of the required evidence and gave a reasonable opportunity to provide it for the record before the visa petition was adjudicated. See 8 C.F.R. § 103.2(b)(8). The director acknowledged the evidence the petitioner submitted at the time of filing in support of its claim that it is wholly owned by the foreign entity. This evidence included: (1) the petitioner's articles of incorporation; (2) an Application for Funds Transfer (Overseas), which was partially written in Chinese, showing a request for a \$100,000 wire transfer; (3) a Checking/Savings Account History report for the petitioner's bank account indicating an incoming wire credit for \$100,000 on May 14, 2013; and (4) a "Resolution of Shareholder Meeting" for the foreign entity indicating that the shareholders agreed on June 28, 2012 to set up a U.S. office. The director advised the petitioner that these documents provided no insight into the petitioner's actual ownership and control and requested additional documentary evidence, such as stock purchase agreements, stock certificates, a stock ledger, meeting minutes of the petitioning company which list the shareholders, and a copy of the petitioner's 2012 corporate tax return. In response, the petitioner simply re-submitted the same evidence as "proof of capital contribution" contributed by the foreign entity. The director denied the petition after noting that the petitioner failed to submit the requested evidence of its ownership.

The regulation at 8 C.F.R. § 214.2(l)(3)(viii) states that the director may request additional evidence in appropriate cases. Although specifically requested by the director, the petitioner did not provide additional evidence of its ownership in response to the RFE. The petitioner's failure to submit this information cannot be excused. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. See 8 C.F.R. § 103.2(b)(14). The director appropriately denied the petition, in part, for failure to submit requested evidence.

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); see also *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal.

The petition will be denied and the appeal will be summarily dismissed based on the petitioner's failure to identify specifically an erroneous conclusion of law or statement of fact as a basis for the appeal. 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.

The petitioner is not precluded from filing a new visa petition on the beneficiary's behalf that is supported by competent evidence that the beneficiary is now entitled to the status sought under the immigration laws.

ORDER: The appeal is summarily dismissed.