



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: FEB 21 2014 OFFICE: VERMONT SERVICE CENTER

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: SELF-REPRESENTED

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, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition 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 New York corporation, states that it engages in import, export, and distribution of engineering products. The petitioner claims to be an affiliate of [REDACTED]. The petitioner seeks to employ the beneficiary as the president of its new office in the United States.

On April 12, 2013, the director denied the petition concluding that the petitioner failed to establish that the beneficiary will be employed in a primarily managerial or an executive capacity in the United States or that the new office will support such a position within one year of approval of the petition. In denying the petition, the director found that the petitioner failed to submit a complete response to a request for evidence issued on January 8, 2013, and, as a result, failed to satisfy several of the evidentiary requirements for a "new office" as set forth at 8 C.F.R. § 214.2(l)(3)(v), such as the size of the foreign entity's investment in the U.S. company. In addition, the director observed discrepancies in the number of employees to be hired by the petitioner as well as in the photos of the premises where business is to be conducted. The director found that the evidence does not establish that the beneficiary would occupy a position that can be deemed managerial or executive in nature or that he would oversee a subordinate staff of professional employees. The director further found that the petitioner's prospective staffing does not include salespersons to provide the sales and services of its business and therefore, it appears that the beneficiary and any subordinate employees will all primarily perform the tasks necessary to operate the business.

On May 20, 2013, the petitioner submitted the Form I-290B, Notice of Appeal or Motion, to appeal the denial of the petition. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to the AAO within 30 days. However, in part three of the Form, the petitioner requested 60 days' time to submit a brief and additional evidence. The record indicates that the petitioner did not file a brief or supplemental evidence within the allowed timeframe. The AAO will consider the record complete as presently constituted.

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 the 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.

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.

On the Form I-290B, the petitioner states:

As per separate statement to be filed with full details and supporting documentation within 30 days. . .

As it would take us some more time to prepare the reply, we would request you to please allow us 60 days time [*sic*] to submit our brief/ additional evidence.

Your cooperation in the matter is solicited. Should you have any further questions or require any other information you may contact us and we shall be glad to furnish the same. Thank you in advance for your consideration and attention in the matter.

In the present matter, the petitioner has not specifically identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. The director's decision includes a thorough discussion of the significant evidentiary deficiencies present in the record. The petitioner has not specifically objected to the director's findings and its statement on appeal fails to acknowledge these deficiencies.

Upon review, the AAO agrees with the director's decision and will affirm the denial of the petition. As no erroneous conclusion of law or statement of fact has been specifically identified and as no additional evidence is presented 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).

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.