



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **OCT 21 2014**

OFFICE: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

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, 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 extend the beneficiary's employment 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 California corporation, states that it operates an international trading, import, and export business. The petitioner claims to be a subsidiary of [REDACTED] located in China. The petitioner seeks to extend the beneficiary's employment as president for a period of three years.

On February 19, 2014, the director denied the petition, concluding that the petitioner failed to establish that the beneficiary will be primarily employed in a qualifying managerial or executive capacity in the United States.

On April 1, 2014, counsel for 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 three of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to the AAO within 30 days. The record indicates that the petitioner did not file a brief or supplemental evidence within the allowed timeframe. We 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 appeal statement attached to the Form I-290B, counsel for the petitioner lists all of the evidence previously submitted in support of the petition and in response to the RFE and states:

We desire to appeal this decision. According to the USCIS request, we will provide more detailed material. We will show that the beneficiary is performing the high level of responsibilities that are specified in the definitions when employed in the U.S. We will establish that the beneficiary is primarily performing these specified responsibilities and will not spend the majority of his or her time on day-to-day functions. . . . We will provide that the majority of the beneficiary's duties are primarily directing the management of the organization.

When examining the executive or managerial capacity of the beneficiary's U.S. position, we will clearly describe the duties performed by the beneficiary and indicate whether such duties are in either an executive or managerial capacity. We will specifically state the beneficiary is primarily employed in a managerial or executive capacity in the United States.

Please give us 30 days to prepare all the documentations [*sic*].

In the present matter, neither counsel nor the petitioner has 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 counsel's brief statement on appeal fails to acknowledge these deficiencies.

Upon review, we agree 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.