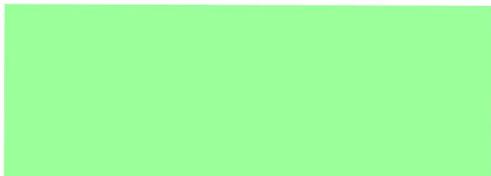




U.S. Citizenship
and Immigration
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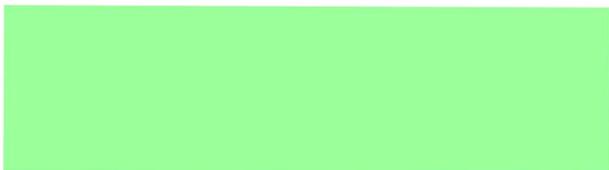


DATE: **JAN 08 2015** OFFICE: VERMONT SERVICE CENTER FILE:

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,

7 Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center ("the director"), 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 Petition for 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 Florida corporation, states that it operates a clothing import and export business. The petitioner claims to be a branch of [REDACTED] located in Bangladesh. The petitioner seeks to employ the beneficiary as manager of its new office for a one year period.

On November 4, 2013, the director denied the petition as abandoned under 8 C.F.R. § 103.2(b)(13). The director stated that the petitioner was granted until September 16, 2013 to submit a response to a request for additional evidence ("RFE") and found that the petitioner failed to respond to the RFE in the allowable period of time.

On December 5, 2013, counsel for the petitioner submitted a Form I-290B, Notice of Appeal or Motion, to appeal the denial of the petition. The basis of the appeal was the director's erroneous determination that the petitioner failed to respond within the allowable period of time. The petitioner provided as evidence: the RFE issued on August 14, 2013, instructing the petitioner to submit a response on or before November 9, 2013; and evidence that the service center received the petitioner's RFE response on November 8, 2013.

The director issued a new decision on December 17, 2013, but did not reference the petitioner's filing of a Form I-290B. After considering the evidence that was submitted in response to the RFE, the director denied the petition finding that the petitioner failed to establish: (1) the beneficiary's employment in a managerial position for one continuous year in the three year period preceding the filing of the petition; and (2) that the new office will support the beneficiary's position in a managerial capacity within one year of the approval of the petition.

The director subsequently forwarded the petition to the Administrative Appeals Office (AAO). The director's most recent decision resolves the basis for appeal as stated in the Form I-290B. However, to ensure the petitioner the opportunity to appeal the reissued decision, this office contacted the petitioner's counsel and provided an opportunity to submit a brief to explain any erroneous conclusion of law or fact in the latest decision. The petitioner was instructed to respond on or before September 22, 2014, to avoid summary dismissal of the appeal. 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.

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 latest decision includes a thorough discussion the significant evidentiary deficiencies present in the record and considers the evidence submitted in response to the RFE resolving the petitioner's stated grounds for appeal. The petitioner has not objected to the director's findings or acknowledged the deficiencies identified in the director's decision.

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.