



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: MAR 18 2015

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner: [REDACTED]

Beneficiary: [REDACTED]

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 the Form I-129, Petition for a Nonimmigrant Worker (Form I-129), on February 24, 2014, seeking to classify the beneficiary as an L-1B nonimmigrant 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 Jersey corporation established in [REDACTED], states that it operates a "software development and computer applications" business. The petitioner claims to be a subsidiary of [REDACTED], located in [REDACTED] Spain. The petitioner seeks to employ the beneficiary in the position of "Advanced Mobile Software/Systems Engineer Coordinator" for a period of two years.

On July 18, 2014, the director denied the petition on three alternate grounds, concluding that the petitioner failed to establish that (1) the beneficiary's employment abroad was in a managerial, executive, or specialized knowledge capacity and that the beneficiary's prior education, training, and employment qualifies him to perform the intended services in the United States, (2) the beneficiary will be employed in a position that requires specialized knowledge in the United States, and (3) the foreign entity is currently doing business.

On August 20, 2014, the petitioner submitted a Form I-290B, Notice of Appeal or Motion, to appeal the denial of the underlying petition. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. The petitioner submits a letter and additional evidence in support of the appeal.

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 support of the appeal, the petitioner submits a cover letter from counsel listing the director's reasons for denial and listing documentation provided on appeal. In her letter, counsel does not indicate that the director made an erroneous conclusion of law or statement of fact in the decision, and simply states:

Hope this evidence [submitted on appeal] clearly establishes the nature and scope of the Petitioner's business and the specialized knowledge of [the beneficiary], and request that this Appeal be granted and approve [the beneficiary's] L1B visa petition.

The petitioner also submits a letter, dated August 15, 2014. The petitioner does not contend that the director made an erroneous conclusion of law or statement of fact in the decision, or otherwise object to the director's findings. Rather, the petitioner states:

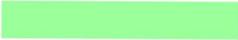
The purpose of this letter is to provide further evidence in support of the above referenced non-immigrant petition for [the beneficiary]. . . . the content of the initial letter was considered by you quite generic and not specific enough, and did not seem to provide sufficient proof of advanced and expert knowledge held by [the beneficiary]. We apologize for this situation, and this letter attempts to remedy the previous misunderstanding, by providing additional details about [the beneficiary's] demonstrated skills and specialized knowledge, which as you will read below, is completely unique, and extremely specialized within our company needs and requirements, which makes [the beneficiary] extremely necessary in our future US structure. Please be further advised that [the beneficiary] will be performing the same specialized knowledge employment in his temporary assignment in our United States subsidiary.

The petitioner's letter goes on to list the beneficiary's duties, responsibilities, and accomplishments on 11 specific projects at the foreign entity.

The petitioner further submits additional evidence in support of the appeal, as follows:

- Letters of recommendation from the foreign entity's existing clients, with translations;
- A bank reference letter, dated August 5, 2014, with translation;
- Corporate bank statements for the foreign entity, with translations;
- A letter from the foreign entity's accountant, with translation;
- The foreign entity's 2013 Corporate Tax Return, with translation;
- The foreign entity's 2013 and 2014 [REDACTED] Quarterly Sales Taxes, with translations; and
- The foreign entity's 2013 and 2014 invoices, with translations.

In the instant 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. Although the petitioner addresses the director's grounds for denial of the underlying petition, it has not identified any error on the part of the director and simply submits a letter and additional evidence in support of the appeal. The director's decision includes a discussion of the significant evidentiary deficiencies present in the record. The petitioner has not specifically objected to the director's findings and its statement and additional evidence submitted on appeal fails to directly address or overcome these deficiencies.



As the petitioner has not identified an erroneous conclusion of law or statement of fact in the director's decision as a basis for the appeal, 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.