



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A-H-O-W-, INC.

DATE: OCT. 4, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a religious organization, seeks to extend the Beneficiary's temporary employment as its general manager under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not establish that it has a qualifying relationship with the Beneficiary's former employer abroad.

The matter is now before us on appeal. In its appeal, the Petitioner disputes the denial and asserts that the Director erred in requiring evidence of a qualifying relationship in support of a petition to extend approval of a previously approved nonimmigrant petition, where circumstances had not changed from the time of the prior petition's filing.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a 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. Section 101(a)(15)(L) of the Act. 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. *Id.*

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129, Petition for a Nonimmigrant Worker, shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

II. QUALIFYING RELATIONSHIP

The Director denied the petition based on a finding that the Petitioner did not establish that it has a qualifying relationship with the Beneficiary's foreign employer.

To establish a "qualifying relationship" under the Act and the regulations, a petitioner must show that the beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. one entity with "branch" offices), or related as a "parent and subsidiary" or as "affiliates." See generally section 101(a)(15)(L) of the Act; 8 C.F.R. § 214.2(l).

The pertinent regulations at 8 C.F.R. § 214.2(l)(1)(ii) define the term "qualifying organization" and related terms as follows:

(G) *Qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

- (1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;
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(I) *Parent* means a firm, corporation, or other legal entity which has subsidiaries.

(J) *Branch* means an operating division or office of the same organization housed in a different location.

(b)(6)

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(K) *Subsidiary* means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

(L) *Affiliate* means

- (1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or
- (2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity. . . .

A. Evidence of Record

On the L Classification Supplement to Form I-129, the Petitioner stated that it is a subsidiary of [REDACTED] located in Brazil, the Beneficiary's last foreign employer abroad. The Petitioner referred to its supporting statement where it explained that it is a non-profit organization that "is operated and controlled by its members and directors" rather than by shareholders. The Petitioner further explained that the Brazilian entity maintains its control over the Petitioner by virtue of the fact that two out of three of the Petitioner's "member-directors" are also "agents and appointees" of the Brazilian entity. Accordingly, the Petitioner asserted that the Brazilian entity derived its "two thirds controlling stake" in the U.S. entity by virtue of appointing the two "Brazilian-based managers" to direct the U.S. operation.

The Director subsequently issued a request for evidence (RFE),¹ informing the Petitioner that it must provide evidence to show that it has a qualifying relationship with the Beneficiary's employer abroad.

The Petitioner's response included a statement where the Petitioner claimed that it continues to maintain the same parent-subsidary relationship with the Beneficiary's former employer in Brazil. The Petitioner once again pointed out that it is a non-profit entity that is controlled by its members and directors, as opposed to shareholders.

¹ The record shows that the Director issued a total of two RFEs on January 30, 2014, and April 30, 2014, respectively. Only the second RFE addressed the issue of a qualifying relationship.

After reviewing the Petitioner's submissions, the Director denied the Petition, concluding that the Petitioner did not submit sufficient evidence to establish that it and the Beneficiary's former employer in Brazil share common ownership as claimed.

On appeal, the Petitioner submits a statement disputing the Director's decision accompanied by the foreign entity's by-laws and the Petitioner's incorporation documents.

B. Analysis

Upon review of the petition and the evidence of record, including materials submitted in support of the appeal, we conclude that the Petitioner has not established that it has a qualifying relationship with the foreign entity.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. See *Matter of Church Scientology Int'l*, 19 I&N Dec. 593 (BIA 1988); see also *Matter of Siemens Med. Syss., Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm'r. 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology Int'l*, 19 I&N Dec. at 595.

In the present matter, the Petitioner has consistently stressed that unlike a for-profit corporation, which is generally controlled by its shareholders, the Petitioner, to the extent that it claims to be a non-profit corporation, is controlled by its members and directors. The Petitioner also emphasized that the Brazilian entity has control over the leadership of the petitioning entity by virtue of having appointed two of the Petitioner's directors who are also members of the foreign entity. The Petitioner pointed out that its board chairman is the same individual who serves as president of the foreign entity. Regardless of the claim that the Petitioner and the Brazilian have two directors in common, this claim is not sufficient to satisfy the element of common control. The Petitioner has not provided information to establish how the alleged common control is exercised or what specific functions the two directors actually control. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (quoting *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Further, neither the appeal nor any of the previously submitted documents properly address the other critical element, which is the matter of ownership of the two entities. Rather, the Petitioner seemingly indicates that ownership requirements should not apply in the present matter based on the fact that the instant Petitioner is a non-profit organization. First, the Petitioner has not provided evidence to establish that it is a designated non-profit organization. Moreover, the Petitioner's assertion that non-profit designation would excuse it from meeting its evidentiary burden, is not

supported by either case law precedent or by any statute or regulation. The same statutory and regulatory criteria apply universally to every petitioner seeking the L-1 visa classification, regardless of whether that petitioner is a for-profit or a non-profit organization. *See Matter of Church Scientology Int'l, 19 I&N Dec. at 597* (“In view of the congressional intent that the ‘L-1’ provisions be used for personnel transferred by international businesses, the only appropriate standards for determining ‘L-1’ eligibility are those applied to businesses.”). As noted above, a determination of whether or not a qualifying relationship exists between two entities necessarily involves an analysis of two factors – ownership and control. Here, the Petitioner has not demonstrated that the two entities have common control, as the Petitioner claims, and has not properly addressed the issue of ownership, thereby neglecting to establish that the U.S. and Brazilian entities are similarly owned.

Accordingly, in light of the above deficiencies, we find that the Petitioner has not provided sufficient evidence to establish that it has a qualifying relationship with the Beneficiary’s foreign employer and on the basis of this determination the instant petition cannot be approved.

III. EMPLOYMENT IN A MANAGERIAL OR EXECUTIVE CAPACITY

Beyond the Director’s decision, the record does not establish that the Beneficiary would be employed in the United States and that he was previously employed abroad, in a managerial or executive capacity.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term “managerial capacity” as “an assignment within an organization in which the employee primarily”:

- (i) manages the organization, or a department, subdivision, function, or component of the organization;
- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
- (iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

Further, “a first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor’s supervisory duties unless the employees supervised are professional.” *Id.*

Section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B), defines the term “executive capacity” as “an assignment within an organization in which the employee primarily”:

- (i) directs the management of the organization or a major component or function of the organization;
- (ii) establishes the goals and policies of the organization, component, or function;
- (iii) exercises wide latitude in discretionary decision-making; and
- (iv) receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization.

If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, U.S. Citizenship and Immigration Services (USCIS) must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act.

A. U.S. Employment in a Managerial or Executive Capacity

1. Evidence of Record

In support of the Form I-129, the Petitioner provided a statement in which Petitioner stated that under the extended petition, the Beneficiary would “essentially perform the same duties as perform [*sic*] during the initial startup period” with some difference in allocating more time to some duties and less time to others. The Petitioner provided the following list of the Beneficiary’s proposed job duties reflecting the changes, where applicable:

1. Supervising and directing activities of subordinate managers and personnel (No change);
2. supervising [*sic*] and directing the recruitment of volunteers and their roles and scope of operations. It is expected that responsibilities under this category will be decreased owing to hiring, training and delegation of these responsibilities to appropriate personnel
3. planning [*sic*], developing, and establishing policies and procedures in accordance with corporate objectives regarding the start up [*sic*] of the U[.]S[.] operations; Working [*sic*] with the Board of Directors to determine strategy and the effective execution and formulation of corporate policy, and coordinating, executing, and managing company policy as it relates to the marketing and fundraising strategy (the determination and implementation of the business plan of the company as it seeks to develop U.S. activities). Responsibilities under this category will also become relaxed since most of the planning, developing and establishing of policies and

procedures have been implemented. To the extent that policy and procedure going forward may change owing to the development of new fundraising strategy, [the Beneficiary]'s responsibilities under this category may fluctuate between substantial to minimal time under this category.

4. working [sic] with recipients on charitable contributions and evaluating which needy persons and individual merit Church assistance. [The Beneficiary]'s responsibilities under this category will shift from individuals to group and organizational assistance as fundraising is slated to increase during the extended period in accordance with corporate goals and Board resolution. Accordingly, [the Beneficiary]'s responsibilities under this category will probably no [sic] change in the amount of time devoted
5. directing [sic] and coordinating financial and fiscal policies (No change); [sic]
6. supervising [sic] compilation of financial data and reporting of same to the respective authorities (**Little or no change**); [sic]
7. establishing [sic] hiring and firing standards and administering the same (**Little or no change**); [sic]
8. negotiating [sic] and signing of all significant contracts entered into between the U.S. entity and third parties in the U.S. marketing (**Some change**). Responsibilities under this category will be delegated to the accountant; [sic]
9. examining [sic] fund raising [sic] reports and goals and reporting to [the foreign entity] (**No change**);
10. collaborating [sic] with subordinate managers and supervisors regarding new fundraising strategies and ideas, new company's goals and markets, and training programs required, as well as budgetary requirements to accomplish those goals (**No change**); and
11. creating [sic] and developing new alliances with other churches and charitable organizations (**No change**).

The Petitioner also provided a list of employees and their respective job descriptions in the following positions: administrative assistant, accountant, co-pastor, counselor, and event planner.

In the first RFE, the Director instructed the Petitioner to submit evidence that the Beneficiary will be employed in a managerial or executive capacity in the United States. The Director instructed the Petitioner to provide an additional job description, listing the Beneficiary's job duties and their respective time allocations.

In response to the RFE, the Petitioner provided the following hourly breakdown of job duties:

1. Supervising and directing activities of subordinate managers and personnel and supervising and directing the recruitment of volunteers and their roles and scope of operations. (**2 hrs.**)
2. Coordinating, executing, and managing company policy as it relates to the marketing and fundraising strategy[.] (**2 hrs.**)

3. Working with recipients of charitable contributions and evaluating which needy persons and individuals merit Church assistance. (3 hrs.)
4. Directing and coordinating financial and fiscal policies[.] (45 min); [sic]
5. Supervising compilation of financial data and reporting of same to the respective authorities[.] (15 min); [sic]
6. Establishing hiring and firing standards and administering the same[.] (30 min); [sic]
7. Examining fund raising [sic] reports and goals and reporting same to [the foreign entity.] (1 hr.); [sic]
8. Collaborating with subordinate managers and supervisors regarding new fundraising strategies and ideas, new company's goals and markets, and training programs required, as well as budgetary requirements to accomplish those goals[.] (1-2 hrs); and [sic]
9. Creating and developing new alliances with other churches and charitable organizations[.] (1 hr.).

The Petitioner added that the "paid employees of the organization" and the "pool of volunteers" will relieve the Beneficiary from having to perform the non-managerial job duties of the organization. The Petitioner contended that the positions of accountant, co-pastor, counselor, and event planner are all professional positions.

2. Analysis

Upon review of the petition and the evidence of record, we conclude that the Petitioner has not established that the Beneficiary will be employed in a managerial or executive capacity under the extended petition.

When examining the managerial or executive capacity of the Beneficiary, we will look first to the Petitioner's description of the job duties. See 8 C.F.R. § 214.2(l)(3)(ii). The Petitioner's description of the job duties must clearly describe the duties to be performed by the Beneficiary and indicate whether such duties are in a managerial or executive capacity. *Id.*

The definitions of managerial and executive capacity each have two parts. First, the Petitioner must show that the Beneficiary will perform certain high-level responsibilities. *Champion World, Inc. v. INS*, 940 F.2d 1533 (9th Cir. 1991) (unpublished table decision). Second, the Petitioner must prove that the Beneficiary will be *primarily* engaged in managerial or executive duties, as opposed to ordinary operational activities alongside the Petitioner's other employees. See *Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006); *Champion World*, 940 F.2d 1533.

In the present matter, the Petitioner claimed on Form I-129 Supplement L, section 1(5), that the Beneficiary's primary responsibility would be to manage a place of worship. However, the hourly breakdown the Petitioner provided to describe how the Beneficiary would go about managing a church is vague and therefore does not establish that the position would be primarily comprised of

managerial or executive job duties. While the Petitioner claimed that the Beneficiary would allocate 3-4 hours of his time to overseeing and working with subordinate managers, the Petitioner did not list specific daily tasks that comprise overseeing subordinate managers, nor did the Petitioner establish that it had managerial personnel for the Beneficiary to manage. The Petitioner's list of employees includes an administrative assistant, an accountant, a co-pastor, a counselor, and an event planner. Looking to the job descriptions of these individuals, none would be assigned any managerial or supervisory tasks. Therefore, it is unclear how the Beneficiary would oversee "subordinate managers" when there is no evidence that any subordinate managerial positions existed in the Petitioner's staffing at the time of filing. USCIS may reject any assertion of fact that it finds reason to believe is untrue. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. INS*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). While the Petitioner also contends that these positions are of a professional nature, the record lacks evidence to support this claim. The Petitioner has not provided evidence to establish that any of the subordinate positions require a baccalaureate degree to perform the assigned duties.² Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Further, the Petitioner has not established that the Beneficiary's role with regard to marketing and fundraising, working with recipients of charitable contributions, and creating alliances with other religious and charitable organizations (which would cumulatively consume another six hours per day of the Beneficiary's time) would result in the performance of managerial or executive job duties. The Petitioner has not provided evidence to show that it employs any personnel who would relieve the Beneficiary from having to actually carry out the organization's fundraising and marketing tasks; nor do we find that working with actual and potential recipients of charitable contributions, or collaborating with charitable organizations can be readily deemed as tasks to be performed within a managerial or executive capacity. Rather, these duties appear to be part of the daily operational functions of a church, thereby indicating that the Beneficiary's performance of such duties would be deemed as time spent outside the realm of a managerial or executive capacity. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. *See* sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); *see also Matter of Church Scientology International*, 19 I&N Dec. at 604.

Beyond the required description of the job duties, USCIS reviews the totality of the record when examining the claimed managerial or executive capacity of a beneficiary, including the company's organizational structure, the duties of a beneficiary's subordinate employees, the presence of other

² In evaluating whether the Beneficiary manages professional employees, we must evaluate whether the subordinate positions require a baccalaureate degree as a minimum for entry into the field of endeavor. *Cf.* 8 C.F.R. § 204.5(k)(2) (defining "profession" to mean "any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation").

employees to relieve a beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in a business.

As discussed above, the Petitioner has not provided sufficient evidence of an organizational hierarchy capable of relieving the Beneficiary from having to allocate his time primarily to nonmanagerial or nonexecutive tasks. While the job descriptions of the Petitioner's support personnel indicate that certain operational tasks would be assigned to individuals other than the Beneficiary, the Petitioner has not establish that its current staffing is sufficient to support the Beneficiary in a primarily managerial or executive capacity. Based on the evidence submitted, the wages paid to the Petitioner's support staff, ranging from \$200-\$400 per month, are commensurate with those of part-time employment. This calls into question the likelihood that a part-time staff would be capable of relieving the Beneficiary from having to carry out the Petitioner's operational and administrative functions on a daily basis. The Petitioner's claim that it would have "a pool of volunteers of varying backgrounds and credentials" is similarly dubious, as the Petitioner has provided no evidence establishing that it has access to "a pool of volunteers" or that the volunteers would have the credentials to meet the Petitioner's needs and the capacity to relieve the Beneficiary from having to carry out primarily operational and administrative tasks. In fact, the Petitioner offered no meaningful information as to the specific tasks the alleged "pool of volunteers" would be asked to perform. As stated earlier, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

The various staffing deficiencies discussed above give further cause to question how the Petitioner planned to relieve the Beneficiary from having to allocate his time primarily to nonmanagerial and nonexecutive job duties when the support staff it employed at the time of filing was comprised of part-time employees who lacked the educational credentials and work experience to carry out the job duties that were listed in their respective job descriptions. In fact, it is unclear who, if not the Beneficiary, would provide the full-time services of a pastor, given that the individual the Petitioner named as the assistant pastor not only lacks the credentials to assume the position, but is also employed on a limited part-time basis. As previously stated, an employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. See sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); see also *Matter of Church Scientology International*, 19 I&N Dec. at 604.

Given the above described deficiencies, we find that the Petitioner has not established that the Beneficiary would be employed in a primarily managerial or executive capacity.

B. Foreign Employment in a Managerial or Executive Capacity

Upon reviewing the record, we find no evidence to support the conclusion that the Beneficiary was employed abroad in a managerial or executive capacity. Although the Petitioner writes "See [P]etitioner letter" at section 1(6) of the Form I-129 Supplement L when asked to provide a description of the job duties the Beneficiary performed during his claimed employment abroad, the supporting statement included only a description of the Beneficiary's proposed job duties. As stated in our prior discussion of the Beneficiary's proposed employment, a detailed job description is equally critical to the issue of whether the Beneficiary's position abroad fits the statutory definition of managerial or executive capacity. See 8 C.F.R. § 214.2(l)(3)(iii). Given that this critical information is missing from the Petitioner's supporting documents, we cannot conclude that the Beneficiary primarily performed tasks within a managerial or executive capacity.

Further, the Petitioner did not provide evidence or information about the foreign entity's organizational hierarchy that would establish who, if anyone, served as the Beneficiary's subordinates and who was performing the daily operational tasks of the foreign organization so that the Beneficiary could allocate his time primarily to the performance of managerial or executive tasks.

Accordingly, in light of the evidentiary deficiencies described above, the Petitioner has not established that the Beneficiary was employed abroad in a managerial or executive capacity.

IV. PRIOR APPROVALS

Finally, the Petitioner asserts that USCIS previously granted the requested status, thereby recognizing that the Petitioner and the Beneficiary meet the applicable eligibility requirements. However, it must be emphasized that each petition filing is a separate proceeding with a separate record. In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceeding. See 8 C.F.R. § 103.2(b)(16)(ii). That said, if the previous nonimmigrant petition was approved based on the same unsupported assertions that are contained in the current record, the approvals would constitute material error on the part of the Director. We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. See *Matter of Church Scientology Int'l*, 19 I&N Dec. at 597. USCIS is not required to treat acknowledged errors as binding precedent. *Sussex Eng'g. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987). Furthermore, we are not bound to follow a contradictory decision of a service center. See *La. Philharmonic Orchestra v. INS*, 44 F. Supp. 2d 800, 803 (E.D. La. 1999).

V. CONCLUSION

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of A-H-O-W-, Inc.*, ID# 98164 (AAO Oct. 4, 2016)