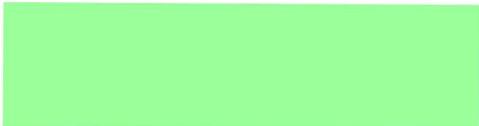




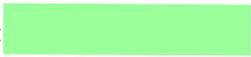
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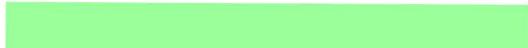


DATE: **NOV 26 2013**

Office: CALIFORNIA SERVICE CENTER

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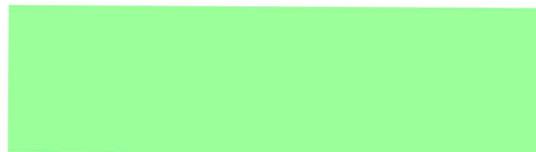
IN RE:

Petitioner: 

Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(i)

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, California Service Center, denied the nonimmigrant visa petition. The appeal was summarily dismissed by the Administrative Appeals Office (AAO) on October 21, 2013. The AAO now moves to reopen the matter *sua sponte* based on a brief in support of the appeal that was not previously considered. The October 21, 2013 AAO decision will be withdrawn. The appeal will be dismissed.

The petitioner filed the nonimmigrant petition seeking to classify the beneficiary as an internationally-recognized athlete under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i). The petitioner, a self-described agent, seeks to employ the beneficiary temporarily in the United States as a P-1 athlete to serve as a U.S. Equestrian Eventing Competitor.¹

The director denied the petition, concluding that the petitioner failed to establish: (1) that the beneficiary is an internationally recognized athlete as defined at 8 C.F.R. § 214.2(p)(3), more specifically, that the evidence provided failed to satisfy at least two of the seven criteria for internationally recognized athletes pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(2); (2) that the beneficiary seeks to enter the United States solely for the purpose of performing as an athlete with respect to specific athletic competition; and (3) that the beneficiary is coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete that has an international reputation.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

On appeal, counsel for the petitioner asserts that the petitioner submitted sufficient evidence to establish that the beneficiary qualifies for a P-1 classification. Counsel submits a brief and resubmits evidence.

I. The Law

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A)(i) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i), provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who:

- (I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;
- (II) is a professional athlete, as defined in section 204(i)(2);
- (III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if
 - (aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant country;

¹ Eventing competition is an equestrian triathlon that combines the three different disciplines of dressage, cross-country and show jumping.

- (bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and
- (cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or
- (IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production . . . [.]

Section 214(c)(4)(A)(ii)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(ii)(I), provides that the alien must seek to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition. The regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A)(1) provides that a P-1 classification applies to an alien who is coming temporarily to the United States to perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level of performance.

The regulation at 8 C.F.R. § 214.2(p)(4)(i)(A) states:

P-1 classification as an athlete in an individual capacity. A P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services which require an internationally recognized athlete.

The regulation at 8 C.F.R. § 214.2(p)(3) further states, in pertinent part:

Internationally recognized means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes as:

- (A) *General.* A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.
- (B) *Evidentiary requirements for an internationally recognized athlete or athletic team.* A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1

classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

- (1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and
- (2) Documentation of at least two of the following:
 - (i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;
 - (ii) Evidence of having participated in international competition with a national team;
 - (iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
 - (iv) A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
 - (v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
 - (vi) Evidence that the individual or team is ranked if the sport has international rankings; or
 - (vii) Evidence that the alien or team has received a significant honor or award in the sport.

Finally, the regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that petitions for P nonimmigrant aliens shall be accompanied by the following evidence:

- (A) The evidence specified in the specific section of this part for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and end dates for the events or activities, and a copy of any itinerary for the events or activities; and

- (D) A written consultation from a labor organization.

II. The Evidentiary Criteria

The first issue addressed by the director is whether the petitioner established that the beneficiary qualifies as an internationally recognized athlete pursuant to section 101(a)(15)(P)(i)(a)(I) of the Act. The director determined that the petitioner's evidence failed to satisfy any of the seven criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2), of which two must be satisfied in order to establish the beneficiary's eligibility as an internationally recognized athlete.²

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on March 1, 2013. At the time of filing, counsel described the beneficiary as a "professional Equestrian athlete." The petitioner submitted, among other documents, the following: the beneficiary's curriculum vitae (C.V.), a notarized summary of the terms of the oral agreement with the beneficiary pertaining to the beneficiary's duties under the approved petition; reference letters from six equestrian athletes and coaches; a "no objection" consultation from the United States Equestrian Federation (USEF); an itinerary of tournaments in which the beneficiary is expected to compete during the 2013 season; photographs of the beneficiary competing in equestrian events; and competition results for tournaments in which the applicant competed in Canada and the U.S. in 2006, 2008, 2009, 2010 and 2012. The director issued a request for additional evidence on March 13, 2013, and the petitioner responded to the request on March 26, 2013. In response to the RFE the petitioner submitted documents including an additional itinerary of tournaments in which the beneficiary is expected to compete during the 2013 and 2014 seasons and an Addendum to the summary of the terms of the oral agreement with the beneficiary. On appeal counsel asserts that the record demonstrates "the beneficiary's international recognition." The record has been reviewed in its entirety in reaching this decision.

Evidence of having participated in international competition with a national team

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(i), the petitioner must submit evidence that the beneficiary has participated to a significant extent in a prior season with a major United States sports league. The petitioner has not submitted evidence to meet this criterion.

Evidence of having participated to a significant extent in a prior season with a major United States sports league

To meet the second criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(ii), the petitioner must submit evidence that the beneficiary has participated in international competition with a national team. The petitioner has not submitted evidence to meet this criterion.

Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition

² Although counsel also refers to the beneficiary as a "professional Equestrian athlete," the petitioner has neither articulated a claim nor presented evidence that the beneficiary qualifies as a professional athlete as that term is defined in the section 204(i)(2) of the Act. As such, the AAO will not consider whether the beneficiary qualifies as a professional athlete pursuant to section 101(a)(15)(p)(i)(a)(II) of the Act.

The criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iii) requires the petitioner to submit evidence that the beneficiary has participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition. The petitioner has not submitted evidence to meet this criterion.

Written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the alien is internationally recognized

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv), the petitioner must provide a written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the alien is internationally recognized. The petitioner has submitted an advisory opinion letter dated February 20, 2013 from [REDACTED] Ms. [REDACTED] states, in pertinent part:

After reviewing [the petitioner's] P-1 visa petition on behalf of [the beneficiary], the beneficiary's [C.V.] which details the beneficiary's accomplishments, as well as other items relative to the beneficiary's credentials, USEF has no objection to the granting of this petition.

The regulation at 8 C.F.R. § 214.2(p)(2)(iii)(B) provides that affidavits written by recognized experts "shall specifically describe the alien's recognition and ability or achievement in factual terms, and also set forth the expertise of the affiant and the manner in which the affiant acquired such information. Furthermore, the plain language of this evidentiary criterion requires that the evidence "detail how the alien . . . is internationally recognized." This letter is insufficient to meet this criterion, as [REDACTED] does not specifically state that the beneficiary is an internationally recognized athlete. Therefore, the petitioner has failed to submit evidence to meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv).

Written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v), the petitioner must submit a written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized. The petitioner submitted endorsement letters from equestrian athletes [REDACTED] the petitioner, [REDACTED] (the petitioner's husband), [REDACTED] and [REDACTED]

[REDACTED] states that he has instructed the beneficiary for many years. He describes the beneficiary as "an internationally renowned professional athlete by way of equestrian competition who is rapidly rising to the very top echelons of her chosen endeavor" whose "winnings and performance in the past few years indicate that she has the ability to compete at the highest levels."

The petitioner states that she has taught the beneficiary on several occasions and describes her as "a determined internationally established equestrian professional" who has "all the qualities it takes to make it to the top of our sport." The beneficiary's C.V. indicates she was a "working student" for the petitioner and the petitioner's husband. The petitioner further states that the beneficiary "has also had many top placings at

events in Washington State, Oregon, California and Montana.”

Mr. [REDACTED] the petitioner’s husband, describes the beneficiary as one who “demonstrates the ability to be a forerunner in the highest level of international competition in equestrian sport” who has “the talent and aptitude to contend internationally at the very top level of competition.” He mentions that the beneficiary won first place at a competition in 2012 at the petitioner’s competition facility and that the beneficiary “is proving herself to be internationally recognized as an equestrian professional.”

Ms. [REDACTED] uses language almost identical to that of Mr. [REDACTED] in describing the beneficiary as “an internationally renowned professional athlete by way of equestrian competition who is rapidly rising to the very top echelons of her chosen endeavor.” This use of very similar language is consistent with a common source. While the authors all signed their letters, affirming the contents, nevertheless, the use of slightly modified boilerplate language somewhat reduces the evidentiary weight of these letters. Ms. [REDACTED] does not state how she first became acquainted with the beneficiary’s achievements. She states that the beneficiary has successfully competed at multiple international competitions both in Canada and the United States against riders from around the world, including a win in 2012 at the petitioner’s competition facility.

Ms. [REDACTED], National Director for the [REDACTED] [an international youth organization devoted to the educating youths about horses and riding] and [REDACTED] within [REDACTED] states she has known the beneficiary for 10 years “through [REDACTED] and through her competitions with the [REDACTED] [REDACTED] states that the beneficiary has completed her “internationally recognized B2 level in horsemanship and dressage,” which she describes as being an extremely difficult achievement that requires the rider to be “a dedicated rider with an impeccable work ethic, who must be willing to volunteer and give back to their branch and their community.” The [REDACTED] website at [REDACTED] describes B level certification, a standard of proficiency, as follows:

B level is for the active horseman and [REDACTED] member who is interested in acquiring further knowledge and proficiency in riding. The B is able to ride experienced mounts with confidence and control. The B should be able to ride and care for another person’s experienced mount . . .

Ms. [REDACTED] states that few members in all the [REDACTED] youth organizations, nationally and internationally, attain this competency level. Ms. [REDACTED] also states that the beneficiary “has moved up from Beginner Novice level to now compete very successfully against other international competitors at the [REDACTED] [REDACTED] level. Finally, Ms. [REDACTED] states that in the past year the beneficiary “has risen quickly to the top of her sport – placing in the top 5 at several competitions and taking first place in some of those competitions” and that the beneficiary “is becoming an internationally recognized equestrian professional.”

Ms. [REDACTED] Leader/Coach of the [REDACTED] [REDACTED] states the beneficiary has been under her direction for six years as part of that program. Ms. [REDACTED] uses language almost identical to that of Mr. [REDACTED] and Ms. [REDACTED] in describing the beneficiary as “an internationally renowned professional athlete by way of equestrian competition who is rapidly rising to the very top echelons of her chosen endeavor.” Like [REDACTED] Ms. [REDACTED] also describes the beneficiary as

“a demonstrated internationally recognized equestrian professional.” As stated previously, this use of very similar language is consistent with a common source which somewhat reduces the evidentiary weight of these letters. She describes the beneficiary as having “competed successfully all over the Northwest, Montana, California and British Columbia, performing consistently well against strong competition” and who has “successfully completed her introduction to the International ranks of [REDACTED] and is now in a position to pursue the upper levels of the sport.”

In response to the director's request for evidence, the petitioner submitted an additional letter from [REDACTED] stating that the beneficiary “is currently competing successfully at the [REDACTED] one star level – the first International level,” and that the beneficiary “is showing much promise to go to the top of her sport.”

Upon review, the persons providing testimonials have not detailed the beneficiary's accomplishments in the sport or how she is internationally recognized. The letters are written in vague language and do not establish how the beneficiary's achievements are renowned, leading, or well-known in more than one country. The evidence does not establish that the petitioner satisfies the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v).

Evidence that the individual or team is ranked if the sport has international rankings

To meet the sixth criterion, the petitioner must submit evidence that the individual or team is ranked, if the sport has an international ranking. 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi). The petitioner has not submitted evidence to meet this criterion.

Receipt of a significant honor or award in the sport

In order to satisfy the seventh criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii), the petitioner must submit evidence to establish that the beneficiary has received a significant honor or award in the sport.

The beneficiary's C.V. and official tournament results list the beneficiary's results for Eventing tournaments in which it appears she was a semi-finalist, finalist or champion, as follows:

- 2008 – Third Place, Pre-Training Division, [REDACTED]
- 2009 – Reserve Champion, [REDACTED]
- 2012 – First Place, [petitioner's competition facility], [REDACTED]

The evidence does not establish that the beneficiary has received a significant honor or award in the sport. The petitioner cannot satisfy this criterion without establishing the significance of the events at which the beneficiary competed. The record contains no further background information regarding the events, or evidence that receipt of awards in these tournaments can be equated to receipt of a significant honor or award in the sport.

³ Although the beneficiary's C.V and the petitioner's response to the RFE at Exhibit seven indicate that this award as being received in 2008, the official tournament result indicates the competition took place in 2009.

The beneficiary's C.V also lists several tournaments in which the beneficiary participated in 2009 through 2012 in British Columbia, Washington, Montana, California and Oregon. However, the official event results do not indicate that the beneficiary achieved a significant honor or award at these events.

Furthermore, while some of the persons providing references on the beneficiary's behalf indicate that she has "many top placings at events in Washington State, Oregon, California and Montana" and has taken "first place in some competitions," these awards have not been further documented or described with any specificity. Again, 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Based on the foregoing, the petitioner has not submitted evidence to satisfy the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii).

In summary, the evidence submitted by the petitioner fails to meet at least two of the criteria listed in the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The petitioner failed to establish that the beneficiary has achieved international recognition as an equestrian Eventing competitor. For this reason the petition may not be approved.

III. Purpose for coming to the United States

The second issue addressed by the director is whether the beneficiary is coming to the United States to solely participate in specific athletic competition *See* section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(1)(ii)(A)(1).

The regulation at 8 C.F.R. § 214.2(p)(3) defines "competition" as follows:

Competition, event or performance means an activity such as an athletic competition, athletic season, tournament, tour, exhibit, project, entertainment event or engagement An athletic competition or entertainment event could include an entire season of performances.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on March 1, 2013. The petitioner, a self-described agent, stated on Form I-129 that she seeks to employ the beneficiary as an "U.S. Equestrian Eventing Competitor." In question five on the Form I-129 Supplement the petitioner described the beneficiary's anticipated duties under the approved petition as being "equestrian competition and secondary duties for horse training and coaching." In support of the petition, the petitioner provided a notarized summary of the terms of the oral agreement with the beneficiary pertaining to the beneficiary's duties under the approved petition as follows:

[The beneficiary] will compete in U.S. Equestrian Competition "Eventing" which will be primarily in the Northwestern sector of the United States . . . Incidental to the U.S. Equestrian Competition that [the beneficiary] will compete in, I will assist [the beneficiary] with assignments in the equestrian industry such as but not limited to: training horses from beginning to international level, performing in exhibitions and equestrian coaching. For training horses, [the beneficiary] will receive \$1000 per month for an individual horse and she will receive \$45 per session for coaching

The petitioner submitted a document titled "2013 Competition Schedule for [the beneficiary]", listing equestrian events for the period from March 1, 2013 to November 3, 2013. As of the date the petition was filed, there were 14 events scheduled for the remainder of the year.

The director issued a request for additional evidence ("RFE") on March 13, 2013. In the RFE, the director noted, "The itinerary indicates that the beneficiary will be competing and participating in various events. Also you indicate that the beneficiary will be 'training horses . . . performing in exhibitions and equestrian coaching.' However, the beneficiary does not seek the P-1 classification solely to compete as an internationally recognized athlete in a specific athletic competition." The director also noted that the evidence did not indicate "what percentage of the time the beneficiary will be competing, training or coaching." The director did not specifically request additional evidence to address whether the beneficiary would be performing solely as an athlete with respect to specific athletic competitions; however, the director did request evidence that is relevant to this issue, including a more detailed explanation regarding the nature of the beneficiary's coaching duties, copies of any written contracts between the petitioner and beneficiary, an explanation regarding the nature of the events or activities and an itinerary for such events or activities.

In response, the petitioner submitted a document titled "Competition and Training Itinerary – [the beneficiary]," covering the period from March 2013 through December 2014, listing the upcoming tournaments or events in which the beneficiary would be competing, and other duties the beneficiary would be performing including "assisting with coaching." The petitioner stated that the various Eventing tournaments and performances listed in itinerary "would continue on a year-to-year basis." The petitioner also submitted a notarized Addendum to the summary of the terms of the oral agreement with the beneficiary, which the petitioner states "contains further specific terms of the oral agreement between the beneficiary and the petitioner." The Addendum states as follows:

[The beneficiary] will be at [the petitioner's facility] to have access to the competitions she will need to attend to reach her goal of competing at the Olympic level. Seventy-five percent of her time will be focused on preparing for these competitions. . . There are international shows in the area every other week from May through October as well as schooling shows in between. November through May there are international shows every other weekend in California.

In addition to show preparation, [the beneficiary] will train horses, some of which will be sales horses that she will receive a 10% sales commission on upon the sale of the horse. She will teach lessons to beginner riders as needed in addition to daily barn chores including care of 12-15 horses, ordering of supplies, and general farm maintenance.

The director denied the petition on April 11, 2013, concluding that the petitioner failed to establish that the beneficiary is coming to the United States *solely* for the purpose of performing as an athlete with respect to a specific athletic competition. The director determined that, based on the evidence submitted, the petitioner seeks to employ the beneficiary as "a coach, instructor, teacher, assistant and/or trainer," in addition to the beneficiary's participation in athletic competition.

On appeal, counsel for the petitioner asserts that "DHS is erroneous in their finding that an athlete cannot participate in ancillary activities related to an individual's chosen sport of endeavor." However, counsel has not pointed to any legal authority in support of his assertion. Upon review, counsel's assertions are not persuasive.

Section 214(c)(4)(A) of the Act specifically states that section 101(a)(15)(P)(i)(a) of the Act refers to an alien who "performs as an athlete" and "seeks to enter the United States. . . for the purpose of performing as . . . an athlete with respect to a specific athletic competition." Where the language of a statute is clear on its face, there is no need to inquire into Congressional intent. *INS v. Phinpathya*, 464 U.S. 183 (1984).

While the Act provides for P-1 classification for certain coaches, the beneficiary does not meet the criteria set forth at section 214(c)(4)(A)(i)(III) of the Act, which limits P-1 classifications to coaches of teams or franchises that are located in the United States and members of a foreign league or association of 15 or more amateur sports teams. Regardless, the petitioner clearly seeks to classify the beneficiary as an athlete who performs at an internationally recognized level of performance, pursuant to section 214(c)(4)(A)(i)(I) of the Act.

The evidence establishes that the beneficiary intends to compete in Eventing tournaments in the United States. However, the petitioner has also unequivocally indicated that the beneficiary will be serving as a coach/instructor and trainer for the petitioner's organization. Therefore, it must be concluded that the beneficiary would not be coming to the United States *solely* to participate in athletic events that require an internationally recognized athlete. Rather, the evidence indicates that the beneficiary will be a riding instructor and horse trainer in addition to any athletic competitions in which she may compete. There is no provision that would allow an alien to come to the United States individually as a P-1 coach or instructor other than the above-referenced statutory provision allowing P-1 classification of coaches who participate in certain qualifying amateur sports leagues or associations, or as a P-1 essential support alien accompanying a P-1 athlete or athletes. *See* 8 C.F.R. § 214.2(p)(4)(iv). The statute and regulations do not provide for P-1 classification of an individual who will serve as both a competitive athlete and coach/instructor. For this reason, the petition may not be approved.

The remaining two issues addressed by the director are whether the petitioner has demonstrated that the beneficiary would be coming to the United States to participate in athletic competitions which have a distinguished reputation and which require participation of an athlete or athletic team that has an international reputation. *See* 8 C.F.R. § 214.2(p)(4)(ii)(A). Even if the petitioner had established that the beneficiary is coming to the United States solely to compete in athletic competitions, the petitioner has not demonstrated that the beneficiary would be coming to the United States to participate in athletic competitions which have a distinguished reputation and which require participation of an athlete or athletic team that has an international reputation.

The itineraries submitted in support of the petition list Eventing competitions in Washington, California, Oregon and Montana of unknown significance in the sport. The petitioner also submitted a document titled [REDACTED] a list of 11 individuals who the petitioner states are internationally recognized equestrians who competed in 2011 and 2012 in the events listed in the submitted itineraries. These tournaments appear to be national tournaments and may reasonably require the participation of internationally-recognized athletes. However, the petitioner has not provided evidence of the

entry requirements for such events or comparable evidence that would establish whether the events require the participation of internationally-recognized athletes. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). For this additional reason, the petition may not be approved.

IV. Request for Oral Argument

Finally, on appeal counsel has requested oral argument on the basis that the case involves unique factors or issues of law. The regulations at 8 C.F.R. § 103.3(b) provide that the requesting party must explain in writing why oral argument is necessary. USCIS has the sole authority to grant or deny a request for oral argument and will grant oral argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. In a brief in support of the appeal counsel asserts as follows:

Counsel would also request that oral argument be permitted so that counsel can also advise the AAO as to the proper meaning of equestrian eventing and provide more guidance to the AAO as to the evidence submitted.

Upon review, the case does not require the resolution of a unique factor or issue of law. Moreover, the written record of proceeding fully represents the facts and the issue in this matter. Consequently, the request for oral argument will not be granted.

V. Conclusion

In summary, as discussed above, the petitioner has failed to establish that the beneficiary is an internationally recognized athlete as defined at 8 C.F.R. § 214.2(p)(3), because the evidence provided failed to satisfy at least two of the seven criteria for internationally recognized athletes pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The petitioner also has failed to establish that the beneficiary would be coming to the United States solely for the purpose of competing in athletic competitions. *See* section 214(c)(4)(A)(ii)(I) of the Act ; 8 C.F.R. 214.2(p)(1)(ii)(A)(1). Further, the petitioner has not demonstrated that the beneficiary would be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation. *See* 8 C.F.R. § 214.2(p)(4)(ii).

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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 October 21, 2013 AAO decision will be withdrawn. The appeal will be dismissed.