



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

(b)(6)

DATE: **JUN 11 2014** Office: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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 California Service Center Director denied the nonimmigrant visa petition and certified her decision to the Administrative Appeals Office (AAO) pursuant to 8 C.F.R. § 103.4(a)(5). The AAO will affirm the director's decision denying the petition.

The petitioner filed the nonimmigrant petition seeking to classify the beneficiary 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, which is in the business of "tennis club management for resorts, hotels and private tennis clubs," seeks to employ the beneficiary temporarily in the United States as a "High Performance Coach" for a period of five years. The petitioner specifically claims the beneficiary is eligible for P-1 classification as a coach under the COMPETE Act of 2006, codified at section 214(c)(4)(A)(i)(III) of the Act.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary qualifies for the classification sought. Specifically, the director determined that the petitioner failed to establish the beneficiary's eligibility under sections 214(c)(4)(A)(i)(III)(bb) and (cc) of the Act. The director certified her decision to the AAO.

In response to the notice of certification, the petitioner affirms that the beneficiary is eligible for P-1 classification as a high-performance tennis coach under the COMPETE Act of 2006. In support, the petitioner submits a brief and additional evidence.

I. The Law

Public Law 109-463, "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006" (COMPETE Act of 2006), amended Section 214(c)(4)(A) of the Act to authorize certain athletes and coaches to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance. The COMPETE Act, signed into law on December 22, 2006, expanded the P-1 nonimmigrant visa classification to include certain athletes who were formerly admitted to the United States as H-2B nonimmigrants.

Section 214(c)(4)(A)(i)(III) of the Act, as amended, provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who:

[P]erforms 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;
- (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.

The regulation at 8 C.F.R. § 214.2(p)(3) defines "team" as "two or more persons organized to perform together as a competitive unit in a competitive event."

II. Statement of Facts and Procedural History

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on November 21, 2013. On the Form I-129, the petitioner listed the beneficiary's job title as "High Performance Coach" and described the nature of its business as "5-star tennis club management for resorts, hotels and private tennis clubs." On the Form I-129 Supplement O/P, the petitioner explained the nature of the beneficiary's events as "coaching players who compete in ITF and WTA events. Players compete both in team competitions and in competitions where they compete individually." The petitioner explained the nature of the beneficiary's duties as "planning, organizing, and conducting practice sessions, identifying players with potential; studying and analyzing opponents, [and] designing professional coaching and conditioning plans."

In a letter submitted with the initial petition, the petitioner stated that the beneficiary will serve the petitioner as a high-performance tennis coach for its "amateur tennis and semi-professional academy teams." The petitioner stated that it would like the beneficiary to coach its most successful amateur players, and that he would be coming to "perform as a coach for our teams which are some of the many teams around the world whose coaches and players all participate in an international tennis league governed by a network of national and international governing bodies."

In the same letter, the petitioner described itself as specializing in tennis club management for resorts, hotels and private tennis clubs, and in professional athlete training programs. The petitioner stated that it "runs a number of tennis academies with programs to meet the needs of top-level junior, amateur, and semi-professional tennis players." The petitioner stated that these academies are located at various clubs within the United States. The petitioner stated that the beneficiary will be "based at the [redacted] in [redacted] Utah location but will travel to other clubs and to tournaments with various academy players on an as-needed basis."

Regarding the "team(s)" the beneficiary will be coaching and their scheduled competitions, the petitioner stated:

[T]he [petitioner's] [redacted] teams are located at various clubs These academies provide players who aspire to reach the highest levels of achievement in the sport, personalized coaching, world-class fitness facilities, the opportunity to train with [Association of Tennis Professionals] ATP, [Women's Tennis Association] WTA and [International Tennis Federation] ITF players, boarding, schooling and scheduled tournaments. The players train on a regular basis both for individual and [redacted] team

competitions. They represent the various academies in amateur and semi-professional competitions in the US and across the globe in order to accumulate high enough rankings and the requisite points to be drafted into the professional tennis circuit. **Team players compete both in team competitions and in competitions where they compete individually.**

* * *

Players on the [redacted] Teams compete both in team and individual competitions. The ITF team competitions cover three age groups: 14 & Under, 16 & Under, and 18 & Under. All three competitions give young tennis players the opportunities to experience international competition and the unique atmosphere of playing in a team for their country. Every team, except for the Finals' host nation teams who are granted an automatic place in the Finals, must compete in tough regional qualifying competitions to make it through to the annual Finals.

* * *

The **2013-2014 ITF Calendar of Events** establishing team competitions is attached hereto as **Exhibit F**. The 2013-2014 ITF U.S. tournament schedule for individual competitions in which the [redacted] Teams members are competing is attached at **Exhibit G**. The 2013-2014 ATP and WTA tournament schedules are attached at **Exhibit H**. These events are repeated annually.

Again, our players compete both in team competitions and in competitions which count individual performance. The COMPETE Act does not distinguish between teams that have players competing individually and teams whose players compete in team competitions. Entries into these tournaments are primarily based on the players' performances and results in previously played tournaments. Therefore, some players may not qualify to play certain tournaments depending on how many points they accumulate on a week-to-week basis.

The petitioner asserted that "competitive tennis coaches and players from around the world typically affiliate themselves with an academy or club team such as our [redacted] Teams, which helps them navigate through various structured schedules of the national and international leagues." The petitioner elaborated that there are "literally hundreds" of amateur academy teams like itself in the United States. The petitioner explained: "all the [redacted] Teams are members of the ITF, which is a league governing hundreds of amateur teams and players from around the world. The petitioner explained that the ITF operates or sponsors the Davis Cup for men, the Fed Cup for Women, the Hopman Cup for mixed teams, the Juniors Fed Cup, and the Juniors Davis Cup, which are team competitions where "each team represents their respective country." The petitioner further explained that the ITF also organizes the lowest-tier tournaments in the world of professional tennis, including the "Futures" tournament.

The petitioner stated that "[m]ost of [its] teams' tennis players compete at a 'high amateur level' and many have gone on to compete in major national and international competitions, including the U.S. open. The

petitioner provided a sample list of some of its “most successful amateur players,” including [REDACTED] and [REDACTED] who are based at the [REDACTED] where the beneficiary will be coaching. The petitioner stated: “It is our hope that many of these amateur players will one day develop into successful, professional tennis players.”

The petitioner explained, however, that for any player “to play even one match on the main ATP/WTA [professional] tour is extremely difficult, simply because the cut-off systems that are in place for each level are extremely challenging.” The petitioner stated:

For example, it is quite typical for a national USTA junior champion to have little or no success at the ATP/WTA level. Likewise, the junior ITF champion may never surpass the “Futures” ITF level. In order for a tennis player to reach the professional circuits run by the ATP and WTA, the player must accumulate enough points through competition play and a high enough ranking to be drafted onto the main tour.

With respect to the “draft” process in general for tennis, the petitioner explained:

Amateur tennis players turn professional by accumulating points and high-rankings through winning tournaments and competitions. In tennis, the line between amateur and professional is often blurred. International leagues such as the International Tennis Federation (ITF) sponsor and organize both major professional tournaments such as Wimbledon and amateur junior competitions around the world like the World Juniors Tennis Championships. The division between amateur and pro is based on the individual player’s ranking and points and not the team or organization he/she may be associated with. Although not drafted into professional tennis circuits *per se*, elite players on the [REDACTED] Teams may accumulate enough points to qualify for competition in the professional circuit and in major pro tournaments such as the U.S. Open.

The petitioner asserted that participation in the ITF, ATP, and WTA national or international competitions “may render a player ineligible to compete in the NCAA.” The petitioner elaborated:

Tennis players are ineligible from playing in the NCAA if they accept any prize money that exceeds their actual and necessary expenses at individual tournaments or play on a professional or club team where any member of the team receives compensation, direct or indirect, for his or her playing. Thus, any player who wins an ITF or [United States Tennis Association] USTA junior tournament with prize money or wins any “futures” level competition will become ineligible to play in the NCAA. Also any player who receives expenses beyond their “actual and necessary expenses” or who accepts gifts as compensation for his or her playing will also be rendered ineligible for the NCAA play for not falling under the definition of an “amateur” player pursuant to NCAA Bylaw 12. *See* NCAA Bylaws at **Exhibit B**.

In support of the petition, the petitioner submitted, *inter alia*, player records for [REDACTED]

and listing each player's individual rank, points, overall record, and competition-specific information, including her partner's name, if any, and the names of opponent(s).

The petitioner provided a copy of the 2009-2010 NCAA Division 1 Manual, containing its Constitution, Operating Bylaws, and Administrative Bylaws (NCAA Bylaws). In pertinent part, the NCAA Bylaws state that "[o]nly an amateur student-athlete is eligible for intercollegiate athletics participation in a particular sport." The NCAA Bylaws do not define the term "amateur," but states that an individual will lose amateur status if he or she uses her athletics skill (directly or indirectly) for pay in any form in that sport, accepts a promise of pay, signs a contract or commitment of any kind to play professional athletics, receives (directly or indirectly) a salary, reimbursement of expenses or any type of form of financial assistance from a professional sports organization based on athletics skill or participation, competes on any professional athletics team, enters into a professional draft, enters into an agreement with an agent, or receives prize money beyond actual and necessary expenses. The NCAA Bylaws further state that an individual who loses amateur status "shall not be eligible for intercollegiate competition in a particular sport." In addition, the NCAA Bylaws state that an individual "shall not be eligible for intercollegiate athletics in a sport if the individual ever competed on a professional team . . . in that sport. However, an individual may compete on a tennis . . . team with persons who are competing for cash or a comparable prize, provided the individual does not receive payment of any kind for such participation."

The petitioner submitted overviews for the ITF, USTA, ATP, and WTA. The ITF overview outlines the different circuits: the ITF Junior's Circuit, the ITF Men's Circuit, the ITF Women's Circuit, and the ITF Seniors Circuit. The ITF overview also explains that it controls the "major international team events" for tennis, including the "world's largest annual international team competitions in the sport, Davis Cup by BNP Paribas for men and Fed Cup by BNP Paribas for women." The ITF overview also states that it provides support for the Grand Slam tournaments (Australian Open, Roland Garros, Wimbledon and U.S. Open), which are "the most prestigious individual competitions in tennis" and the official championships of the ITF. The WTA and ATP overviews describe the associations' history and most successful players, such as Martina Navratilova, Moica Seles, Serena Williams, and Kim Clijsters. The USTA overview includes a staff directory, which includes numerous "national coaches."

The petitioner also submitted the ITF Calendar of Events and U.S. tournament schedule, which the petitioner claimed represents the "individual competitions in which the Teams members are competing."

The director issued a Request for Evidence (RFE), advising the petitioner that the record did not establish that a significant number of the league's players are drafted by a major sports league or minor league affiliate. The director also advised the petitioner that the record did not establish that participation in such league or association renders players ineligible to earn a scholarship or to participate in that sport under NCAA rules. The director instructed the petitioner to submit additional evidence.

In response, the petitioner elaborated on the "draft" process for the sport of tennis. The petitioner stated that "[i]n the tennis world, amateur tennis players turn professional" by accumulating enough points and high-rankings in ITF and other events to be "invited to compete in the major professional tennis events."

The petitioner reaffirmed that it is “extremely difficult” for a “tennis team or player to play even one match on the professional tour” because of the cut-off systems. Nevertheless, the petitioner asserted that “[a] very significant number of ITF club and team members are drafted into the professional ranks.” For instance, the petitioner asserted that “[a]ll professionally ranked players and teams have been members or participated in ITF sponsored events. There are more than 2000 men currently ranked professional by the ATP Tour and more than 1200 women ranked professional by the WTA.” The petitioner also asserted that “[v]irtually every male professional tennis player starts his career by playing on the ITF Men’s Futures Circuit which is considered semi-professional play.” The petitioner concluded that “[m]any of the individuals (such as [the petitioner’s] Tennis Academy Team players) who play in the USTA/ITF juniors, amateur and semi-professional competitions are drafted into the professional circuits.” The petitioner additionally concluded, without elaboration, that “[p]articipation in ITF, ATP and WTA competitions may render a player ineligible to compete in the NCAA.”

The director denied the petition, concluding that the petitioner failed to establish that a player would be rendered ineligible to compete in the NCAA by participating in the amateur league as required under section 214(c)(4)(A)(i)(III)(bb). The director emphasized that a player would become ineligible to play in the NCAA only if he or she wins an ITF or USTA junior tournament with prize money or wins any “future” level competition, and thus, participation would not necessarily render players ineligible. Further, the director concluded that the petitioner failed to establish that a significant number of ITF players are drafted into a major sports league as required under section 214(c)(4)(A)(i)(III)(cc), stating that “[s]imply indicating the total number of players ranked professionally by the ATP and WTA is insufficient.” The director certified her decision to the AAO.

The petitioner submitted a brief in response to the notice of certification, asserting that it has established that participation in ITF professional competitions renders a player ineligible to compete in the NCAA. The petitioner reaffirmed that “tennis players are ineligible from playing in the NCAA if they accept any prize money that exceeds their actual and necessary expenses at individual tournaments or play on a professional or club team where any member of the team receives compensation, direct or indirect, for his or her playing.” The petitioner also reaffirmed that participation in any of the ITF professional level tournaments would render a player ineligible for the NCAA. The petitioner stated: “While players competing in the lowest amateur level tournaments – the juniors – may not be rendered ineligible for the NCAA, those who are able to rise and compete in even the lowest ITF professional tournaments, namely the Future’s levels for male tennis players will be rendered ineligible for the NCAA.”

The petitioner asserted that it has established that a significant number of ITF junior league players are drafted into the ranks of professional players. The petitioner explained that the ITF has “what it calls the ITF Junior Exempt Programme” where, at the end of the year, “the top ten players on the ITF Junior World Ranking list can select three events on the ITF Pro Circuit Calendar for the coming year where they will be given a place in the main draw of each event.” The petitioner further explained that the ITF “does not keep statistics on how many juniors make the professional ranks,” but it does track “the performance of juniors participating in the Junior Exempt Programme.” The petitioner provided nine specific examples of junior world champions since 1996 who have made successful transitions from ITF junior circuits to professional circuits. The petitioner then compared the number of ranked ITF junior players to the number

of ranked professional players, stating that there are 1837 ranked junior boys and 1987 ranked junior girls in the ITF Junior Circuit, while there are more than 2000 ranked professional men and 1257 ranked professional women in the ATP and WTA professional circuits. The petitioner concluded:

Again, given that a good majority of players on the ATP and WTA professional circuits has had to earn his or her right to compete at that level by playing in the ITF Juniors and ITF professional circuits, it can be inferred that a significant number of ITF junior players are selected, based on points earned, to play in the professional ranks.

In support of the notice of certification, the petitioner submitted, *inter alia*, the ITF Junior Circuit Regulations (ITF Junior Regulations). The ITF Junior Regulations make limited references to tennis “teams,” predominantly in the context of the Grade C International Team Competitions between nations.¹ Specifically, the ITF Junior Regulations indicate that each player invited to the Grade C tournaments represents a particular country or nation, stating that invitations to take part in the Grade C (International Team Competitions) “may only be sent to a Nation “ and “[u]nder no circumstances may invitations be sent direct to players.” Furthermore, the ITF Junior Regulations describe the “16 & Under Team Competition Feed Up System” for players in teams placed 1st, 2nd, and 3rd in the Junior Davis Cup and Junior Fed Cup by BNP Paribas Finals. The appendix contains a list of all the Junior World Champions in boys’ and girls’ singles and doubles since 1978 and 1982, respectively.

The petitioner also submitted the rankings of players in the ITF Juniors, ATP, and WTA. All the rankings list each player’s rank, name, nation, total points, and movement/change in points.²

Finally, the petitioner submitted additional information describing the ITF Circuits. In particular, the document describes the ITF Men’s Circuit provides the “entry level of Professional Tournaments enabling players to eventually reach the higher level of tournaments on the ATP World Tour,” otherwise known as the “Futures” tournaments. The document further states that “Futures Tournaments are single week tournaments that offer either \$10,000 or \$15,000 each in prize money.” The document also describes the ITF Women’s Circuit as providing the “entry level tournaments enabling players to eventually reach the WTA Tour” with six prize money levels. The document describes the ITF Junior Exempt Programme as “help[ing] to integrate juniors into the ITF Pro Circuit.”

III. Discussion

The petitioner’s claim is that the beneficiary qualifies as a coach under Section 214(c)(4)(A)(i)(III) of the COMPETE Act of 2006.

¹ The ITF Junior Regulations also make minor references to a doubles “team.”

² The ITF Juniors rankings also list each player’s date of birth. The WTA rankings list other tournament-related information as well.

A. As Part of a Team

At the outset, we note that Section 214(c)(4)(A)(i)(III) requires the beneficiary to perform as a coach “as part of a team . . . that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams.”³ Upon review of the record, we conclude that the petitioner has not established eligibility under this threshold element, as the petitioner is not a “team” as defined for the P-1 classification.

The regulation at 8 C.F.R. § 214.2(p)(3) defines a “team” as “two or more persons organized to perform together as a competitive unit in a competitive event.” Here, the petitioner is a tennis management company that runs tennis academies located at various clubs throughout the United States. The petitioner asserts that the beneficiary will coach its “[REDACTED] Team” based at the [REDACTED] in [REDACTED] Utah. However, the petitioner has not established that the “[REDACTED] Team” the beneficiary will be coaching, as well as the petitioner’s other “[REDACTED] teams,” meet the definition of a “team” pursuant to 8 C.F.R. § 214.2(p)(3). The petitioner has not provided any detailed information about any its claimed “[REDACTED] teams,” such as the team’s name, the names of all the team’s players, their positions, or an explanation of the team’s organization and how its players perform together as a competitive unit in competitive events. While the petitioner identified [REDACTED] and [REDACTED] as some of its “most successful amateur players . . . who are based at the [REDACTED] where the beneficiary will be coaching,” the petitioner did not provide any further information about which specific “team” they play for, their positions on the team, or any explanation of how they are organized to perform together as a competitive unit.

Moreover, the petitioner has failed to establish that the petitioner has been recognized in any capacity as a “team.” Evidence of a sports “team” would reasonably include documentation of the team’s organization, performance, and results as a competitive unit in actual team events. The petitioner has submitted no such evidence. To the contrary, the player records for [REDACTED] and [REDACTED] list their individual accomplishments and make no reference to any “team.” In fact, these player records do not even reference the petitioning academy. Overall, the petitioner has not established that its “[REDACTED] teams” refer to anything more than the individual students who attend the petitioner’s tennis academies. We can find no basis to conclude that players attending a tennis academy can be considered a “team” for purposes of the P-1 classification.

The petitioner specifically asserted that its players participate in “team competitions” wherein they “represent the various academies in amateur and semi-professional competitions.” However, the record does not establish that the sport of tennis has “team competitions” in the manner described by the petitioner. The record does not contain any evidence of team competitions in which players represent a certain tennis academy and compete with other players representing that or another academy. Rather, the record reflects that the sport of tennis is primarily an individual sport, in which players compete with each other in their individual capacities (or in doubles pairs) and do not represent any “[REDACTED] teams.”

For instance, as stated above, the player records for [REDACTED] and [REDACTED]

³ The petitioner does not claim that the beneficiary will perform as a coach as part of a franchise.

list their individual accomplishments and make no reference to “[redacted] teams.” The ITF Junior Regulations primarily refer to individual junior players, and make no reference to any “[redacted] teams.” The background information on the WTA highlights successful individual tennis players, but makes no mention of any “[redacted] teams.” Likewise, ITF Juniors, ATP, and WTA player rankings list individual players, and make no mention of any associated “[redacted] teams.” We can find no evidentiary support for the petitioner’s characterization of “team competitions” in which players represent their respective tennis academies.

We acknowledge that there are team competitions in the sport of tennis, such as the Davis Cup, the Fed Cup, the Juniors Davis Cup, and the Juniors Fed Cup. However, the record establishes that in these team competitions, players represent their respective countries, not their associated tennis academies. In particular, the ITF Junior Regulations state that in Grade C International Team Competitions, players represent their respective countries or nations, and are not allowed to be directly invited. The petitioner has acknowledged that the Davis Cup, the Fed Cup, the Juniors Davis Cup, and the Juniors Fed Cup are team competitions where “each team represents their respective country,” and that the “ITF team competitions . . . give young tennis players the opportunities to experience international competition and the unique atmosphere of playing in a team for their country.” The petitioner does not indicate that the beneficiary will be coaching any teams on this type of national level.⁴ The petitioner has only indicated that the beneficiary will be performing as a coach for its tennis academy located at [redacted] in [redacted] Utah.

In short, the petitioner failed to establish that it has any “team” within the regulatory meaning of the word at 8 C.F.R. § 214.2(p)(3). As such, the petitioner has not established that the beneficiary will be performing as a coach as part of a team, as required at Section 214(c)(4)(A)(i)(III) of the COMPETE Act of 2006. There are no other provisions within Section 214(c)(4)(A) that allow for a coach to be eligible for P-1 classification. For this reason, the petition may not be approved.

Furthermore, we concur with the director that the petitioner failed to establish eligibility under sections 214(c)(4)(A)(i)(III)(bb) and (cc) of the Act.

B. Participation in the League Renders Players Ineligible to Play under NCAA Rules

Section 214(c)(4)(A)(i)(III)(bb) of the Act requires the petitioner to establish that “participation” in the foreign league or association that is the highest level of amateur performance in the sport “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 [NCAA].” The NCAA Bylaws state that only an “*amateur* student-athlete is eligible for intercollegiate athletics participation in a particular sport (emphasis added).” The NCAA Bylaws list the circumstances in which a student-athlete can lose amateur status, including if he or she uses her athletics skill to receive pay in any form in that sport, or receives prize money beyond any actual and necessary expenses.

The petitioner indicates that the equivalent of the foreign league or association that is the highest level of

⁴ We note that the USTA employs “national coaches.”

amateur performance in the sport of tennis is the ITF Junior Circuit. With respect to section 214(c)(4)(A)(i)(III)(bb) of the Act, the petitioner stated that participation in the ITF Junior Circuit “*may* render a player ineligible to compete in the NCAA (emphasis added).” Specifically, the petitioner explained that any player who “wins” an ITF junior tournament with prize money, or accepts payment beyond actual and necessary expenses or other forms of compensation for playing, will be rendered ineligible to play in the NCAA. In response to the notice of certification, the petitioner reaffirmed that “tennis players are ineligible from playing in the NCAA if they accept any prize money that exceeds their actual and necessary expenses at individual tournaments or play on a professional or club team where any member of the team receives compensation, direct or indirect, for his or her playing.” The petitioner stated: “While players competing in the lowest amateur level tournaments – the juniors – may not be rendered ineligible for the NCAA, those who are able to rise and compete in even the lowest ITF professional tournaments, namely the Future’s levels for male tennis players will be rendered ineligible for the NCAA.”

We concur with the director that the petitioner failed to establish eligibility under section 214(c)(4)(A)(i)(III)(bb) of the Act. A player in the ITF Junior Circuit is not rendered ineligible to play in the NCAA merely by “participating” in the league, as required by the plain language of section 214(c)(4)(A)(i)(III)(bb) of the Act. As the director observed, a player in the ITF Junior Circuit *may* become ineligible to play in the NCAA if they win an ITF or USTA junior tournament with prize money or otherwise lose their amateur status by violating the rules set forth in the NCAA Bylaws. In other words, not all players who participate in the ITF Junior Circuit are ineligible under NCAA rules; only the subset of players who lose their amateur status are ineligible. This is insufficient to establish eligibility under section 214(c)(4)(A)(i)(III)(bb) of the Act.

The petitioner also asserts that participation in any of the ITF professional level tournaments would render a player ineligible for the NCAA. The petitioner states: “While players competing in the lowest amateur level tournaments – the juniors – may not be rendered ineligible for the NCAA, those who are able to rise and compete in even the lowest ITF professional tournaments, namely the Future’s levels for male tennis players will be rendered ineligible for the NCAA.” However, the petitioner’s claim regarding players in the Futures Circuit or the ITF Women’s Circuit is not relevant to the analysis of eligibility under Section 214(c)(4)(A)(i)(III)(bb) of the Act, which pertains only to participation at the highest level of *amateur* performance. Specifically, the term “such league or association” in section 214(c)(4)(A)(i)(III)(bb) of the Act refers back to “the foreign league or association [that] is the highest level of amateur performance of that sport” described in subsection (aa). The petitioner acknowledges, and the record confirms, that the “Futures” Circuit and the ITF Women’s Circuit are professional-level leagues in which each tournament offers prize money. Thus, any participation at the ITF professional level is not applicable to Section 214(c)(4)(A)(i)(III)(bb) of the Act and will not be considered.

C. A Significant Number of League Players are Drafted by a Major League or a Minor League Affiliate

Lastly, section 214(c)(4)(A)(i)(III)(cc) of the Act requires the petitioner to establish that a “significant number” of the individuals who play in the foreign league or association that is the highest level of amateur performance in the sport, i.e., the ITF Junior Circuit, are “drafted by a major sports league or a minor league affiliate of such a sports league.”

Upon review, we agree with the director that the petitioner has failed to establish eligibility under section 214(c)(4)(A)(i)(III)(cc) of the Act. As an initial matter, we note that, unlike Major League Baseball, the National Hockey League, or the National Basketball Association for which the COMPETE Act of 2006 was intended, the record does not establish that there is a draft in the sport of tennis.⁵ The petitioner has even conceded that amateur tennis players are not “drafted into professional tennis circuits *per se*.” Rather, as the petitioner explained, amateur tennis players “turn professional” by accumulating enough points and high-rankings to qualify for and be invited into the professional circuit. The system through which amateur tennis players “turn professional” is not equivalent to the professional-league draft system through which professional sports teams select eligible players. The lack of a draft *per se* in the sport of tennis precludes the petitioner from establishing eligibility under the plain language of section 214(c)(4)(A)(i)(III)(cc).

Nevertheless, assuming *arguendo* that the system through which amateur tennis players “turn professional” can be considered a “draft” for purposes of section 214(c)(4)(A)(i)(III)(cc), the petitioner has failed to establish that a “significant number” of amateur tennis players are drafted into the professional leagues. The petitioner has not provided any information or evidence establishing the total number of amateur tennis players who are drafted into the professional leagues. While the petitioner provided the total number and names of the men and women who are currently ranked in the junior and professional circuits, this data does not show how many total junior players have been drafted into the professional leagues. The petitioner provided nine specific examples of amateur players who have succeeded in the professional leagues, but nine examples fall significantly short of establishing that a “significant number” of amateur tennis players have risen to the professional tennis leagues.

The petitioner asserts that “given that a good majority of players on the ATP and WTA professional circuits has had to earn his or her right to compete at that level by playing in the ITF Juniors and ITF professional circuits, it can be inferred that a significant number of ITF junior players are selected, based on points earned, to play in the professional ranks.” However, the petitioner failed to provide sufficient evidence to establish this assertion. 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)). In fact, the petitioner has conceded that it is “extremely difficult” for an amateur player to play “even one match on the professional

⁵ The legislative history of the COMPETE Act of 2006 makes clear that the amendment was geared towards specific sports: baseball, hockey, basketball, and ice skating. In a statement introducing the COMPETE Act of 2006, Sen. Feinstein discussed the problems faced by Major League Baseball, the National Hockey League, the National Basketball Association, and Disney on Ice in recruiting foreign players, and stated that this bill “allows minor league athletes--whether in baseball, basketball, hockey, or ice skating--who will perform competitively in the United States to apply for a P-1 temporary visa.” 152 Cong. Rec. S8839 (daily ed. Aug. 3, 2006). Similarly, in passing the bill through the House of Representatives, Rep. Conyers stated that “through this legislation, [Congress] will allow sport franchises and companies to bring minor league baseball players, hockey players and ice skating performers into the country to perform or compete when they are needed.” 152 Cong. Rec. H9197 (daily ed. Dec. 8, 2006).

tour.” The petitioner’s concession undermines its assertion that a “significant number” of ITF junior players are drafted into the professional ranks.

We acknowledge the petitioner’s claim that the ITF “does not keep statistics on how many juniors make the professional ranks.” However, the lack of ITF statistics does not negate the petitioner’s burden of proof in these proceedings. Moreover, the lack of such statistics reinforces the dissimilarity between tennis’s system of “turning professional” to the professional-league draft system for purposes of section 214(c)(4)(A)(i)(III)(cc). In summary, the petitioner failed to establish eligibility under sections 214(c)(4)(A)(i)(III)(bb) and (cc) of the Act. For these additional reasons, the petition may not be approved.

III. Conclusion

The petitioner failed to establish that the beneficiary is coming to perform as a coach “as part of a team” pursuant to section 214(c)(4)(A)(i)(III) of the Act. The petitioner failed to establish that a player in the ITF Junior Circuit is rendered ineligible to play in the NCAA by participating in the league pursuant to section 214(c)(4)(A)(i)(III)(bb) of the Act. Finally, the petitioner failed to establish that a significant number of amateur tennis players are drafted into the professional leagues pursuant to section 214(c)(4)(A)(i)(III)(cc) of the Act, or that there is even a draft in the sport of tennis. The record fails to establish that the beneficiary is eligible as a P-1 coach under the COMPETE Act of 2006. Accordingly, the director properly denied the petition.

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 director's decision dated March 13, 2014 is affirmed. The petition is denied.