



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF R-B-E- INC.

DATE: DEC. 6, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a music entertainment business, seeks O-2 nonimmigrant visa classification for the Beneficiaries as accompanying individuals to [REDACTED] a singer whose petition for O-1 classification was filed concurrently. See Immigration and Nationality Act (the Act) section 101(a)(15)(O)(ii), 8 U.S.C. § 1101(a)(15)(O)(ii).

The Director of the California Service Center approved the O-1 petition, but denied the Petitioner's request to extend the Beneficiaries' O-2 status for three years.<sup>1</sup> The Director determined that the Petitioner did not submit copies of any contracts or summaries of any oral employment agreements with the Beneficiaries, as required by 8 C.F.R. § 214.2(o)(2)(ii)(B).

On appeal, the Petitioner submits copies of its contracts with the Beneficiaries, and asserts that the evidence satisfies the regulatory requirements and thus they are eligible for O-2 classification.

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

#### I. LAW

Section 101(a)(15)(O)(ii) of the Act provides classification to a qualified alien who:

- (I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events;
- (II) is an integral part of such actual performance,
- (III) (a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals . . . .

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<sup>1</sup> Pursuant to 8 C.F.R. § 214.2(o)(12)(ii), an extension of stay may be authorized in increments of up to one year for an O-2 beneficiary to continue or complete the same activity for which he or she was admitted plus an additional 10 days to allow the beneficiary to get his or her personal affairs in order.

- (IV) has a foreign residence which the alien has no intention of abandoning.

The regulations at 8 C.F.R. § 214.2(o)(4) provide, in pertinent part, the following requirements for an O-2 accompanying alien:

- (i) General. An O-2 accompanying alien provides essential support to an O-1 artist or athlete. Such aliens may not accompany O-1 aliens in the fields of science, business or education. Although the O-2 alien must obtain his or her own classification, this classification does not entitle him or her to work separate and apart from the O-1 alien to whom he or she provides support. An O-2 alien must be petitioned for in conjunction with the services of the O-1 alien.

In addition, the regulations at 8 C.F.R. § 214.2(o)(2)(ii) provide that petitions for O foreign nationals shall be accompanied by the following evidence:

- (A) The evidence specified in the particular section 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 will be employed;
- (C) An explanation of the nature of the events, or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written advisory opinion(s) from the appropriate consulting entity or entities.

## II. ANALYSIS

As stated above, the regulations at 8 C.F.R. § 214.2(o)(2)(ii)(B) require that the Petitioner must submit copies of any written contracts for the Beneficiaries or summaries of any oral agreement under which they will be employed. The Director determined that the Petitioner did not submit any such evidence on behalf of the Beneficiaries prior to the adjudication of the petition, and had therefore not satisfied these evidentiary requirements. A review of the record reveals that the Petitioner's initial submission and response to the Director's Request for Evidence did not contain copies of any written contracts for the Beneficiaries, or summaries of any oral agreement under which they will be employed.

On appeal, the Petitioner states that "the original petition did have their contracts but must have been mishandled by the Postal Service when packing the document." It now submits copies of written contracts for the Beneficiaries dated May 4, 2018, but it does not indicate that they had executed the

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employment contract as of the date the petition was filed on April 24, 2018.<sup>2</sup> Nor does the Petitioner indicate that its written contracts with the Beneficiaries represent the terms of a pre-existing oral agreement it had with them. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied at the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

Based on the foregoing, we agree with the Director's determination that the Petitioner did not satisfy the evidentiary requirements set forth in the regulations at 8 C.F.R. § 214.2(o)(ii)(B). Consequently, the Beneficiaries are ineligible for classification as O-2 nonimmigrants under section 101(a)(15)(O)(ii) of the Act.<sup>3</sup>

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-B-E- Inc.*, ID# 1891870 (AAO Dec. 6, 2018)

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<sup>2</sup> We note that the Petitioner states that it has "included the contract again" on appeal. To the extent that the Petitioner indicates that the contract provided on appeal was submitted at the time of filing the petition, the execution date of the contract does not support this assertion.

<sup>3</sup> A review of U.S. Citizenship and Immigration Services records indicates that the Beneficiaries are currently the beneficiaries of an approved I-129 nonimmigrant petition filed by the Petitioner, granting them P-3 status from December 1, 2018 until November 30, 2019.