

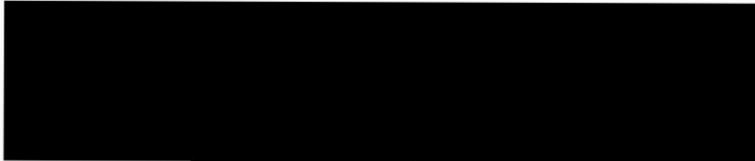
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**U.S. Citizenship
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Services**

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FILE:

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Office: NEBRASKA SERVICE CENTER

Date: MAY 03 2006

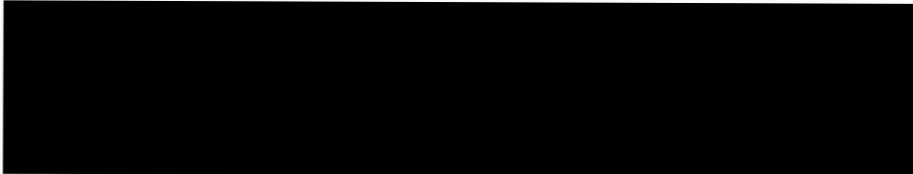
IN RE:

Petitioner:
Beneficiary:



PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a software-consulting corporation. It seeks to employ the beneficiary permanently in the United States as a programmer analyst. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the U. S. Department of Labor. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director denied the petition accordingly.

U.S. Citizenship and Immigration Services (CIS) has learned that the U.S. Department of Labor has, as the result of its investigation, made a finding that the petitioner has failed to follow requirements set forth at Section 212(n)(1) of the Immigration and Nationality Act (Act) and/or misrepresented a material fact as part of an application before the U. S. Department of Labor. Therefore, pursuant to Section 212(n)(2)(C)(ii) of the Act, immigrant and nonimmigrant petitions shall not be approved with respect to the named employer, in this case, the petitioner.

The U. S. Department of Labor has informed CIS that the prohibition of the approval of the petitions from the petitioner will last from August 1, 2005 until July 31, 2007. Therefore, CIS is precluded from approving the instant petition. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is summarily dismissed.