U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

[redacted]

PUBLIC COPY

JAN 26 2005

FILE: SRC 01 267 50276 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The Director of the Texas Service Center denied the nonimmigrant visa petition, and the petitioner filed an appeal. The Administrative Appeals Office (AAO) withdrew the director's decision and remanded the matter for further examination as to whether the proffered position qualified as a specialty occupation. The director denied the petition due to abandonment and certified her decision to the Administrative Appeals Office (AAO). The director's decision will be affirmed. The petition will be denied.

The petitioner is a software development business that seeks to employ the beneficiary as a systems analyst. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the proffered position is not a specialty occupation. In a subsequent appeal, the AAO withdrew the director's decision and remanded it to the director for further examination of issues related to the position and the employer.

The director requested additional evidence from the petitioner, but received no response. The director subsequently denied the petition because the petitioner had not established that the proffered position is a specialty occupation.

Counsel has not submitted any additional information in response to the director's notice of certification.

Pursuant to 8 C.F.R. § 103.2(a)(13):

> If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. . . .

The record reflects that on July 29, 2003, the director requested additional evidence from the petitioner concerning the instant petition. As no response was received, the director correctly concluded that the petitioner had abandoned the petition, and affirmed her decision to deny the petition.

ORDER: The director's December 13, 2001 decision is affirmed. The petition is denied.