U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 08 148 51812 Office: CALIFORNIA SERVICE CENTER Date: **NOV 18 2009**

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:

[redacted]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the service center director and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

On the Form I-129, Petition for a Nonimmigrant Worker, the petitioner states that it provides information technology services, that it was established in 2004, that it employs 11 persons, and that it had a gross annual income of $1,693,450. It seeks to employ the beneficiary as a "technical consultant" from October 1, 2008 to August 31, 2011. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

On August 19, 2008, the director denied the petition, determining that the petitioner failed to establish that: (1) it meets the regulatory definition of an intending United States employer at 8 C.F.R. § 214.2(h)(4)(ii); (2) it meets the definition of "agent" at 8 C.F.R. § 214.2(h)(2)(i)(F); (3) it submitted a valid labor condition application (LCA) for all locations; or (4) the proffered position is a specialty occupation. The Form I-129 was filed April 14, 2008.

The record shows that the beneficiary's current nonimmigrant status expires in July 2010. A review of U.S. Citizenship and Immigration Services (USCIS) records further show that on April 7, 2009, another petition was filed to extend or change the beneficiary's status. USCIS records further indicate that this petition was approved, for a validity period from October 1, 2009 to September 15, 2012. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently in a valid status and thus the issues in this proceeding are moot. Therefore, this appeal is dismissed as moot.

ORDER: The appeal is dismissed as moot.