



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: DEC 11 2014

OFFICE: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:

Beneficiary: [REDACTED]

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:

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

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DISCUSSION: The service center director denied the instant nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed as the matter is now moot.

In the Form I-129 visa petition, filed December 19, 2013, the petitioner described itself as an "Information Technology and Software Development Firm." In order to continue to employ the beneficiary in what it designates as a Programmer Analyst position, the petitioner seeks to classify him as a nonimmigrant worker in a specialty occupation 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).

The director denied the petition on March 17, 2014 because she determined that the petitioner failed to demonstrate that it meets the definition of a U.S. employer as defined at 8 C.F.R. § 214.2(h)(4)(ii). On appeal, counsel contends that the director's decision to deny the petition does not accord with the evidence of record and, therefore, should be overturned.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on October 1, 2014, subsequent to the denial of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on October 14, 2014. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed. The petition is denied.