



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: FEB 27 2014 OFFICE: CALIFORNIA SERVICE CENTER
IN RE: Petitioner:
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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

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.

On the Form I-129 visa petition, filed April 4, 2013, the petitioner described itself as a software development and consulting firm. In order to employ the beneficiary in what it designates as a software development and test engineer 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 June 13, 2013 because she determined that the petitioner (1) failed to demonstrate that it would employ the beneficiary in a specialty occupation position, (2) failed to demonstrate that it would have an employer-employee relationship with the beneficiary, and (3) failed to demonstrate that the Labor Condition Application submitted to support the visa petition is valid for all of the locations where the petitioner would employ the beneficiary.

On appeal, the petitioner contended 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 June 12, 2013, subsequent to the filing 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 September 23, 2013. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner based upon the filing of a subsequent petition, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed as moot.