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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

DATE: **SEP 19 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
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

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

On the Form I-129 visa petition, the petitioner describes itself as an information technology services business established in 2002. In order 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, finding that the petitioner failed to establish eligibility for the benefit sought in accordance with the applicable statutory and regulatory provisions. On appeal, counsel for the petitioner asserts that the director's bases for denial of the petition were erroneous and contends that the petitioner satisfied all evidentiary requirements.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that 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 July 23, 2014, we sent a request, asking the petitioner for verification of its intent to pursue the appeal. The petitioner was afforded 30 days, plus three days for service by mail, to respond. The petitioner did not respond within the allotted time period, or any time since then. If a petitioner fails to respond to a request by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i).

As the petitioner has not responded, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed, and the petition will be summarily denied as abandoned. Further, 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.