



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF K- INC.

DATE: SEPT. 27, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a specialty staffing firm, seeks to temporarily employ the Beneficiary as a programmer analyst under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the California Service Center denied the petition, concluding that: (1) the proffered position is not a specialty occupation; (2) the Petitioner would not engage the Beneficiary in an employer-employee relationship; and (3) the Petitioner did not submit a valid labor condition application. On appeal, the Petitioner submits additional evidence and contends that the petition should be approved. We will dismiss the appeal.

U.S. Citizenship and Immigration Services (USCIS) records indicate that after the instant petition was filed, the Petitioner filed a petition seeking nonimmigrant H-1B classification on behalf of the Beneficiary. USCIS records further indicate that the other petition was approved. We sent a letter to the Petitioner requesting verification of its intent to pursue this appeal, and have not received a response. A benefit request may be denied as abandoned, denied based on the record, or denied for both reasons if a petitioner does not respond to a request for evidence or a notice of intent to deny by the required date. 8 C.F.R. § 103.2(b)(13)(i). Therefore, the appeal will be dismissed as abandoned because the Petitioner did not respond to our request within the time permitted.

ORDER: The appeal is dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

Cite as *Matter of K- Inc.*, ID# 661106 (AAO Sept. 27, 2017)