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

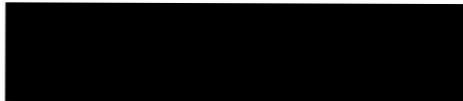
U.S. Citizenship  
and Immigration  
Services

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FILE: EAC 08 097 52104 Office: VERMONT SERVICE CENTER Date: SEP 29 2009

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:



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).

John F. Grissom  
Acting 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.

The petitioner is a software consulting company that seeks to employ the beneficiary as a programmer analyst. The petitioner, therefore, 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).

The director denied the petition, finding that the petitioner had failed to submit a valid labor condition application (LCA) for all work locations. The director also concluded that the petitioner had failed to establish that a qualifying position existed for the dates of intended employment. On appeal, counsel submits a brief and additional evidence.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on July 28, 2008, a date subsequent to the denial of the instant petition, the petitioner submitted a new Form I-129 on the beneficiary's behalf. USCIS records further indicate that this second petition was approved on July 31, 2008, which granted the beneficiary H-1B status from August 1, 2008 until October 1, 2010. Because the beneficiary in the instant petition has been approved for employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand is moot.

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