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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

D2



FILE: EAC 09 141 53646 Office: VERMONT SERVICE CENTER Date: APR 29 2010

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:

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).

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary in the position of assistant project manager as an H-1B nonimmigrant 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 petitioner describes itself as a computer software development and consultancy company and indicates that it currently employs over 60,000 persons worldwide, including 11,942 persons in the United States.

The director denied the petition because the petitioner failed to establish that: (1) the proffered position qualifies as a specialty occupation; or (2) a valid Labor Condition Application (LCA) was submitted for all work locations. On appeal, counsel for the petitioner submitted a brief and additional evidence.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on October 13, 2009, 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 October 19, 2009, which granted the beneficiary H-1B status from October 23, 2009 until May 17, 2012. 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.