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

U.S. Citizenship and Immigration Services

D2

[redacted]

DATE: JAN 03 2012 OFFICE: CALIFORNIA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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:

[redacted]

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner represented itself on the Form I-129 as a software products and services company with 75 employees. It seeks to employ the beneficiary as a programmer analyst 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 on the basis of her determination that the petitioner had failed to demonstrate: (1) that it qualifies for classification as a United States employer or agent; (2) that it submitted a valid labor condition application; and and (3) that the proposed position qualifies for classification as a specialty occupation. On appeal, counsel contends that the director erred in denying the petition.

U.S. Citizenship and Immigration Services (USCIS) records indicate that on February 1, 2010, a date subsequent to the denial of the instant petition, the petitioner filed a new petition seeking nonimmigrant classification of the beneficiary under section 101(a)(15)(H)(i)(b) of the Act, and USCIS records indicate that this petition was approved on February 9, 2010. Further, the petitioner filed another petition on behalf of the beneficiary on December 10, 2010, and that petition was approved on December 22, 2010.

Because the beneficiary of the instant petition has been approved for H-1B employment with the petitioner based upon the filing of two subsequent petitions, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed as moot.