



U.S. Citizenship
and Immigration
Services

D2

[REDACTED]

Date: **NOV 09 2012**

Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:

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:

[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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Director, California Service Center, (“the 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 now moot.

The petitioner states on the Form I-129, Petition for a Nonimmigrant Worker, that it provides information technology services, was established in 2006 and currently has four employees and a gross annual income of \$702,939. It seeks to employ the beneficiary as a software engineer (regulatory publisher) 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 Form I-129 petition on April 11, 2011, determining that the petitioner failed to establish: (1) it meets the regulatory definition of an intending United States employer as defined at 8 C.F.R. § 214.2(h)(4)(ii); (2) it submitted a valid labor condition application (LCA) for all locations; and (3) that the proffered position is a specialty occupation. On appeal, counsel for the petitioner asserts that the director’s decision is in error and submits a brief in support of the appeal.

A review of the records of United States Citizenship and Immigration Services (USCIS) shows that on September 28, 2011, a date subsequent to the filing of the instant petition, another petitioner submitted a Form I-129 on the beneficiary’s behalf. The September 28, 2011 petition was approved, which granted the beneficiary H-1B status from December 8, 2011 until September 30, 2014. Because the beneficiary in the instant petition has been approved for employment with another petitioner based upon the filing of a Form I-129 petition, further pursuit of the matter at hand is moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.