



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: JUN 24 2013

OFFICE: CALIFORNIA SERVICE CENTER

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:

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.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

Page 2

DISCUSSION: The service center director denied the nonimmigrant visa petition, and the Administrative Appeals Office (AAO) dismissed a subsequently-filed appeal as moot. Upon reconsideration, the AAO hereby reopens the proceeding *sua sponte*. The appeal will be sustained. The petition will be approved.

On the Form I-129 visa petition, the petitioner describes itself as a 315-employee IT and wireless services firm established in 2000. In order to employ the beneficiary in what it designates as a Level IV RF Engineer position, the petitioner seeks to classify him 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, concluding that the petitioner failed to demonstrate that the proffered position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains in pertinent part the following: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's letter denying the petition; (5) the Form I-290B and supporting documentation submitted by counsel in support of the appeal; and (6) the AAO's letter dismissing the appeal as moot.

Upon reconsideration and review of the entire record of proceeding, the AAO finds that the petitioner has overcome the director's sole ground for denying this petition. More specifically, the AAO finds that the petitioner has established by a preponderance of the evidence that the particular position being offered to the beneficiary qualifies for classification as a specialty occupation as that term is defined at section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). Accordingly, the appeal will be sustained, and the petition will be approved.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The director's decision dated July 20, 2012 is withdrawn. The petition is approved.