

(b)(6)



U.S. Citizenship
and Immigration
Services

DATE: **MAY 29 2014** Office: CALIFORNIA SERVICE CENTER File: [REDACTED]

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "N. Rosenberg" with a stylized flourish below it.

Ron Rosenberg
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 submitted a Petition for a Nonimmigrant Worker (Form I-129) to the California Service Center on September 9, 2013. On the Form I-129 visa petition, the petitioner describes itself as an Information Technology Services company with approximately 125 employees, established in 1995. In order to employ the beneficiary in a position to which it assigned the job title "Technology Lead - US," 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 on November 4, 2013, finding that the petitioner failed to establish that it will have a valid employer-employee relationship with the beneficiary. The petitioner, through counsel, submitted a timely appeal of the decision. On appeal, counsel for the petitioner contends that the director's basis for denial of the petition was erroneous. In support of this contention, counsel for the petitioner submits a brief and additional evidence.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on November 26, 2013, a date subsequent to the denial, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on December 14, 2013, with dates of validity from December 13, 2013 through September 3, 2016. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, further pursuit of the matter at hand is moot.

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