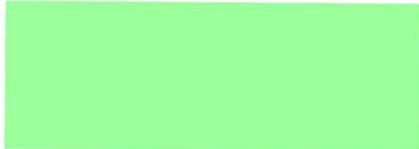




**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: **SEP 11 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE:

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: SELF-REPRESENTED

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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition, which is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

On the Form I-129 visa petition, the petitioner describes itself as an "IT Consulting and Services" firm. In order to employ the beneficiary in what it designates as a "Software Developer" 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).

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on January 24, 2014, subsequent to the denial of the instant petition and the filing of the instant appeal, another employer filed a Form I-129 petition seeking nonimmigrant classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on May 19, 2014.

On August 1, 2014, we issued a request to the petitioner. Noting that another company successfully petitioned to employ the beneficiary, we requested that the petitioner verify that it still wishes to pursue the appeal. We sent that request to the petitioner at the petitioner's address. The petitioner was accorded 33 days to respond to that request. The petitioner did not respond to that request.¹

Because the beneficiary in the instant petition has been approved for employment with another petitioner, and the instant petitioner, when requested, did not indicate any interest in pursuing the instant appeal, we consider further pursuit of the matter at hand to be moot.

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

¹ The record does contain a letter, dated August 27, 2014, from a company other than the petitioner, which is located at a different address. That letter does not mention the petitioner and does not state whether the petitioner wishes to pursue the instant appeal.

Further, that letter indicates that the other company, not the petitioner, has offered the beneficiary "permanent full-time employment" and that the beneficiary is currently working for that other company for \$27,000 more per year than the petitioner stated it would pay the beneficiary in the Form I-129.