

(b)(6)



U.S. Citizenship
and Immigration
Services

DATE: **SEP 11 2014**

OFFICE: VERMONT 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 "Ron Rosenberg".

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 Nonimmigrant Worker (Form I-129) to the Vermont Service Center on October 1, 2013. On the Form I-129 visa petition, the petitioner describes itself as an information technology services and staffing agency established in 2002. In order to employ the beneficiary in what it designates as a business analyst (quality assurance) position, the petitioner seeks to extend his classification as a nonimmigrant worker in a specialty occupation 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 December 5, 2013, the director denied the petition, finding that the petitioner failed to establish the availability of specialty occupation work as a business analyst at the time the Form I-129 petition was filed in accordance with the applicable statutory and regulatory provisions, and that it failed to submit a Labor Condition Application certified prior to the filing of the Form I-129 petition. The petitioner, through its counsel, filed a timely appeal.¹

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on January 13, 2014, a date subsequent to the denial of this petition, 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 February 18, 2014. 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.

¹ We fully and in-detail reviewed the Form I-290B and the documents submitted in support of the appeal. The submission does not identify specifically any errors in the director's decision. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify *specifically* any erroneous conclusion of law or statement of fact for the appeal (emphasis added)." In the instant case, the petitioner and its counsel have not specifically identified any erroneous conclusion of law or a statement of fact as a basis for the appeal. Thus, in the alternative, the appeal would be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).