



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: MAY 04 2015

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

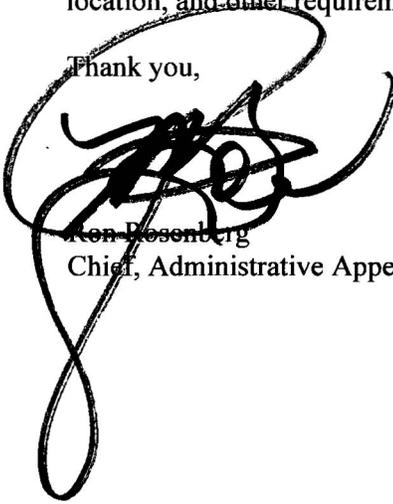
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


Anton Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the nonimmigrant visa petition. Upon subsequent review of the record, the Director issued a notice of intent to revoke (NOIR) the approval of the petition, and ultimately did revoke the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

ANALYSIS

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the California Service Center. In the Form I-129 petition, the petitioner describes itself as an information technology provider that was established in [REDACTED]. In order to employ the beneficiary in what it designated as a programmer analyst position, the petitioner sought 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The petition was initially granted. Thereafter, the Director reviewed the record and issued a NOIR. The NOIR contained a detailed statement regarding the new information that U.S. Citizenship and Immigration Services (USCIS) had obtained and notified the petitioner that it was afforded an opportunity to submit evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval of the petition. The petitioner submitted a response. The Director reviewed the response and, on September 17, 2014, the Director revoked the approval of the petition. Thereafter, the petitioner submitted an appeal of the decision.

A review of USCIS records indicates that on a date subsequent to the denial of the instant petition, the petitioner submitted a new Form I-129 petition on behalf of the beneficiary. USCIS records further indicate that this new petition was approved.¹ Because the beneficiary in the instant petition has been approved for H-1B employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand is moot.²

ORDER: The appeal is dismissed.

¹ The petition was filed on April 11, 2014 and was approved for a period from May 20, 2014 to November 24, 2015.

² As the matter is moot, we will not discuss the grounds for the revocation and appeal other than to note that a change in the place of employment of a beneficiary to a geographical area requiring a corresponding Labor Condition Application (LCA) be certified to the U.S. Department of Homeland Security (USCIS) with respect to that beneficiary may affect eligibility for H-1B status and is, therefore, a material change for purposes of 8 C.F.R. § 214.2(h)(2)(i)(E) and (11)(i)(A). *Matter of Simeio Solutions*, 26 I&N Dec. 542 (AAO 2015). When there is a material change in the terms and conditions of employment, the petitioner must file an amended or new H-1B petition with the corresponding LCA. *Id.*