



U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

[REDACTED]

B6

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **MAY 09 2006**  
WAC-04-077-53566

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

PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3)  
of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

[REDACTED]

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a gourmet food and spices sales and distributing company. It seeks to employ the beneficiary permanently in the United States as an accountant. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. The director denied the petition because he determined that the petitioner did not present evidence that the beneficiary had the foreign equivalent of a United States bachelor's degree and possessed requisite experience. The director concluded that the petitioner had not established that the beneficiary was eligible for the visa classification sought.

On appeal, the petitioner's counsel contends that the beneficiary's credentials and experience verification letters are sufficient to meet the requirements of the labor certification and submits additional evidence.<sup>1</sup>

Section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii), provides for the granting of preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.<sup>2</sup>

The regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) states the following:

If the petition is for a professional, the petition must be accompanied by evidence that the alien holds a United States baccalaureate degree or a foreign equivalent degree and by evidence that the alien is a member of the professions. Evidence of a baccalaureate degree shall be in the form of an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study. To show that the alien is a member of the professions, the petitioner must submit evidence that the minimum of a baccalaureate degree is required for entry into the occupation.

To be eligible for approval, a beneficiary must have the education and experience specified on the labor certification as of the petition's filing date. *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Act. Reg. Comm. 1977). The filing date of the petition is the initial receipt in the Department of Labor's employment service system. 8 C.F.R. § 204.5(d). In this case, that date is November 23, 2001.

To determine whether a beneficiary is eligible for an employment based immigrant visa as set forth above, Citizenship and Immigration Services (CIS) must examine whether the alien's credentials meet the requirements set forth in the labor certification. The Application for Alien Employment Certification, Form ETA-750A, items

---

<sup>1</sup> The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 8 C.F.R. § 103.2(a)(1). The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988). The AAO will first evaluate the decision of the director, based on the evidence submitted prior to the director's decision. The evidence submitted for the first time on appeal will then be considered.

<sup>2</sup> In a responding letter to the director's request for additional evidence, the petitioner's counsel specifically stated that: "[his] office has made a mistake in the classification. It should be changed to INA Section 203(b)(3)(A)(ii): Qualified immigrants who hold baccalaureate degrees and who are members of the professions."

14 and 15, set forth the minimum education, training, and experience that an applicant must have for the position of accountant. In the instant case, item 14 describes the requirements of the proffered position as follows:

14.	Education	
	Grade School	8
	High School	4
	College	4
	College Degree Required	Bachelor
	Major Field of Study	<b>Accounting</b> or Business Administration

The applicant must also have one year of employment experience in the job offered. Additionally, Item 15 describes "Other Special Requirements" as follows: "1. Cash flow and budgetary projections experience. 2. Financial statement analysis experience."

The beneficiary set forth his credentials on Form ETA-750B. The first issue to be discussed is whether or not the beneficiary has the foreign equivalent of a U.S. bachelor's degree in accounting or business administration. On Part 11, eliciting information of the names and addresses of schools, colleges and universities attended (including trade or vocational training facilities), he indicated that he attended Tehran University in Tehran, Iran in the field of "Business Administration" from September 1976 through June 1980, culminating in the receipt of a "Bachelor's"; and that he attended ICT College in Los Angeles, CA in the field of "Computer Science" from August 1999 to January 2001 without receipt of any degree, diploma, or certificate. He provides no further information concerning his educational background on this form, which is signed by the beneficiary under a declaration under penalty of perjury that the information was true and correct.

In corroboration of the Form ETA-750B, the petitioner provided a copy of the beneficiary's Bachelor's Degree in Management issued by Tehran University on June 26, 1980 with English translation, and an Educational Evaluation Report drafted by Global Education Group, Inc. on August 2, 2000. The evaluation report stated the following:

[The beneficiary] was awarded the degree of Bachelor's degree in Management by Tehran University on June 26, 1980. This is the equivalent of the U.S. degree of Bachelor of Business Administration awarded by a regionally accredited university in the United States.

This report is of an advisory nature and is not binding on any agency or institution. Additionally, we assume no responsibility for the authenticity of the documents reviewed.

Because the evidence was insufficient, the director requested additional evidence (RFE) on February 27, 2004 specifically requesting "a copy of the official college or university transcript as evidence that the beneficiary holds a United States baccalaureate degree or the foreign equivalent of a United States baccalaureate degree." The director's RFE also explained that "[e]vidence of education should be submitted on the institution's official letterhead or stationery indicating the courses taken and the credits received, and any conference of certificates or degrees."

In response to the director's RFE, the petitioner's counsel submitted a copy of the beneficiary's transcripts with English translation. Counsel submitted the degree and evaluation report again.

The director denied the petition on October 28, 2004, finding that the petitioner had not established that the beneficiary has the equivalent of a US baccalaureate degree indicated on the labor certification. The director

stated “[t]he evidence of record shows that the beneficiary completed three years of studies at the Tehran University. However, a United States baccalaureate degree typically consists of four years of studies. The Global Education Group, Inc. did not provide a detailed description as to why it believes three years of education at Tehran University is equivalent to four years of education at a regionally accredited university in the United States.”

On appeal, counsel asserts that the director’s contention that an intent to deny letter was sent in August 2003 is clearly erroneous. After reviewing the entire record of proceeding, the AAO finds that no intent to deny notice was issued and sent in the instant case. The first paragraph on Page 2 of the director’s decision is an error.

Counsel argues that the transcripts did not evidence three years of university but three and one half years since the beneficiary took summer classes and took a heavy load of units each term at the university. Counsel also submits a new Evaluation from Global Education Group, which counsel claims to have described in detail via reference to authoritative sources why the beneficiary’s education is equivalent to a U.S. four-year Bachelor Degree.

The new credential evaluation submitted on appeal is drafted by [REDACTED] President of Global Education Group, Inc. [REDACTED] summarizes her findings as follows:

The Bachelor’s degree program offered by Tehran University (also know as the University of Tehran) during the time period that [the beneficiary] attended was a four-year degree program. Information on degree programs in Iran is readily available in the NAFSA publication: A Guide to Educational Systems Around the World as well as in the IAU World Academic Database.

[T]he Iranian Bachelor’s degree is also know as the *Karshenasi* or Licence and has been a four-year program requiring from 130 to 148 units (credits) since 1964. As demonstrated on [the beneficiary]’s transcript (which includes heavy course loads in each semester of study as well as completion of a summer semester of study), he completed a total of 140 units (credits) which meets the requirement for the four-year degree program in Iran. As a result, we stand by our original assessment that [the beneficiary]’s education in Iran is equivalent to the U.S. degree of Bachelor of Business Administration.

also attached copies of the pertinent pages for Iranian degrees from A Guide to Educational Systems Around the World and/or the IAU World Academic Database. It states in pertinent parts that: “*Karshenasi* (formerly know as *Licence*, usually translated as Bachelor’s degree): prior to 1964, it was awarded after three years of study; since 1964, it requires a minimum of four years of education and 140-148 credits”; University of Tehran is a member of the International Association of Universities; and its degrees either in arts or in science require 4-6 years; Bachelor’s degree (Iran) is described as the first terminal degree awarded after four years’ university-level study. BA degrees are granted to graduates of arts and human science while BS degrees are granted to graduates in basic sciences, agriculture, engineering and medical science. Courses follow the credit and semester system. The bachelor’s degree (continual programme) requires 130-135 units (140 in technology) of which at least 60 must be in a major field. The non-continual bachelor’s degree first requires the award of an associate degree (67 to 72 credit units: two years study) and then two more years of study and 65 to 70 units.

The evaluation report and supporting documents establish that the beneficiary’s Bachelor degree program is a four year study program at Tehran University in Iran. The new evaluation report answers the director’s questions in his denial decision that the Global Education Group, Inc. did not provide a detailed description as to why it

believes three years of education at Tehran University is equivalent to four years of education at a regionally accredited university in the United States. However, the beneficiary completed his eight semesters program in seven semesters and met the graduate requirement one semester ahead. The beneficiary's transcripts show that he completed 139 units and fulfilled the four year Bachelor degree program (eight regular semester program) through the seven semesters with 19 units in the first semester, 20 units in the second semester, 22 units in the third semester, 23 units in the fourth semester, 9 units in the fifth (summer) semester, 24 units in the sixth semester and 22 units in the seventh semester.

The AAO finds the new evaluation from the Global Education Group, Inc. acceptable. The AAO concurs with counsel's assertion that the petitioner has established that the beneficiary possessed the equivalent to a US Bachelor's degree in Accounting or Business Administration as required on the Form ETA 750 prior to the priority date.

The second issue to be discussed is whether the petitioner established that the beneficiary possessed one year of experience in the job and the special experience required as other special requirements in Part 15 of the Form ETA 750A as of November 23, 2001, the priority date.

The certified Form ETA 750 in the instant case states that the position of accountant also requires one (1) year experience in the job offered, and cash flow and budgetary protections experience and financial statement analysis experience. On the Form ETA 750B, signed by the beneficiary on November 19, 2001, the beneficiary set forth his work experience. He listed his experience as a full-time "Accountant" with the petitioner from January 2, 2001 to the present (i.e. the date of the preparation of the Form ETA 750B which was dated November 19, 2001, for ten (10) months); and as a full-time "Accountant" with Shahrvand Company in Tehran, Iran from February 1995 to October 1998.

The regulation at 8 C.F.R. § 204.5(g)(1) states in pertinent part:

Evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) of trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received. If such evidence is unavailable, other documentation relating to the alien's experience or training will be considered.

An experience letter from Shahrvand Company was submitted with the instant I-140 petition. This letter was on the company letterhead, but without the name and title of the writer or signature. The letter did not describe the duties performed by the beneficiary and did not indicate the hours per week the beneficiary worked for the company. The letter did not meet the requirements as evidence of the beneficiary's prior experience as set forth at 8 C.F.R. § 204.5(g)(1). Therefore, the director in his RFE issued on February 27, 2004 requested the petitioner submit an original experience letter(s), signed and on the employer's letterhead showing the name, title, address, and phone number of the person verifying this information; the beneficiary's title, specific duties, specific dates of employment/experience (at least including month and year), and number of hours worked per week. In response to the RFE, counsel claimed that Shahrvand Company has closed its doors, and therefore, cannot provide a more detailed letter. The regulation allows other documentation relating to the alien's experience or training be considered, however, the petitioner chose to obtain and submit an experience letter from another employer for whom the beneficiary worked prior to Shahrvand. However, this letter did not indicate the name or address of the company. As such, the information contained in the letter cannot be verified. The petitioner also submitted a letter claiming the beneficiary worked for the petitioner for 10 months from January

2001 until the priority date. However, the petitioner's letter did not indicate the hours the beneficiary worked and the letter was on another company's letterhead.

On appeal counsel submits a letter from [REDACTED] Vice President of the petitioner. This letter verifies further that the beneficiary worked for the petitioner between twenty to thirty hours per week from January 2001 to the priority date and also explains that the petitioner is doing business in its trade name of Sadaf International Gourmet Foods. Nonetheless, the beneficiary's five months full-time (ten months part time experience equals five months full time only) experience as an accountant is not sufficient to evidence that the beneficiary possessed one year experience in the job offered prior to the priority date.

On appeal counsel also submits a copy of the letter from Kooheije International Co. This letter is on the company's letterhead with company's name, address, telephone number, and also with the writer's name, title and signature. The letter indicates that the beneficiary worked for the company as an accountant from August 1993 to January 1995, one year and five months. The letter verifies that the beneficiary worked for five and a half days per week (forty-five hours per week) and provides a detail description of the duties the beneficiary performed. In the meantime, the letter also confirms that the beneficiary had cash flow budgetary protection experience and financial statement analysis experience. The AAO concurs with counsel's assertion that the experience letter from Kooheije International Co. meets the standard set forth by the regulation at 8 C.F.R. § 204.5(g)(1). Therefore, the petitioner has established with the experience letter that the beneficiary possessed the requisite one year experience as an accountant, and had cash flow budgetary protections experience and financial statement analysis experience prior to the priority date.

Counsel's assertions on appeal have overcome the director's findings and demonstrate that the petitioner has established the beneficiary held the equivalent to a US Bachelor's Degree in Business Administration and possessed one year experience in the job offered and the experience required as other special requirements on the Form ETA 750 prior to the priority date.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

**ORDER:** The appeal is sustained. The petition is approved.