

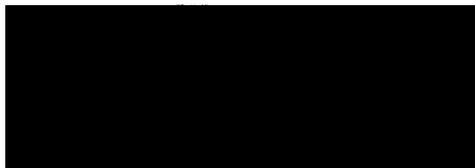
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U.S. Citizenship
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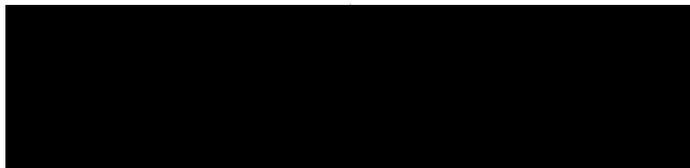
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FILE: LIN 04 002 53935 Office: NEBRASKA SERVICE CENTER Date: JUL 25 2005

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:

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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is an importer and wholesaler that seeks to employ the beneficiary as a database administrator. The petitioner, therefore, endeavors to classify the beneficiary 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 because the proffered position is not a specialty occupation. On appeal, counsel submits a brief and additional evidence.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the

director's denial letter; and (5) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a database administrator. Evidence of the beneficiary's duties includes: the Form I-129; the attachments accompanying the Form I-129; the petitioner's support letter; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail designing, developing, analyzing, implementing, and maintaining database and computer systems to meet project requirements; applying principles and theories from computer science or information systems to resolve all technical issues; troubleshooting problems related to database and networks; customizing computer applications to meet requirements; designing, implementing, and maintaining a web-based program to allow customers to transact business with the petitioner electronically; and using various software tools, languages, database systems technologies and web developing tools as needed. The petitioner's January 12, 2004 letter indicated that it relies heavily on its in-house-developed business information system, which contains sub-systems in contract management, product management, warehouse manage, supply chain management, and sales management, and has nearly 100 database tables and more than 25 mega bytes of data.

The director stated that the proposed position resembles that of a technical support specialist and network or computer systems administrator as those occupations are described in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*), and that the *Handbook* reports that these occupations do not require a bachelor's degree in a specific specialty. The director determined that no specific evidence establish that the degree requirement is common in the industry in parallel positions or that the petitioner previously employed someone in the proposed position.

On appeal, counsel states that the petitioner requires the services of a database administrator; the *Handbook* indicates that a bachelor's degree in a specific specialty is a normal prerequisite for a database administrator position; the submitted advertisements, including the Printing Industries of Michigan, reveal that a database administrator position requires a bachelor's degree; the petitioner normally requires a degree for the proposed position; and because the director of the Nebraska Service Center recognizes the occupation of programmer, which is the lowest position in the computer field, as a specialty occupation, then the occupation of database administration should also be a specialty occupation.

Counsel's contention that a specialty degree is a normal prerequisite for data base administrator positions is incorrect. However, upon review of the record, the petitioner has established that the proposed position qualifies as a specialty occupation under the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A). That is, as described by the petitioner, the proposed position has specialized and complex job duties that require knowledge usually associated with the attainment of a baccalaureate or higher degree in a specific specialty that is directly related to the proposed position, which in this case is a database administrator.

As related in the discussion above, the petitioner has established that the proffered position is a specialty occupation.

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The beneficiary is qualified to perform the duties of the proffered position in that she holds a master of science in information systems from the College of Management at Lawrence Technological University, which is located in Michigan.

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 sustained that burden.

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