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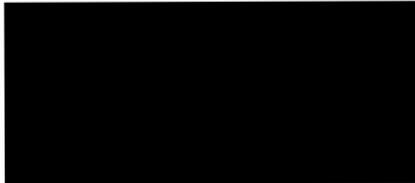
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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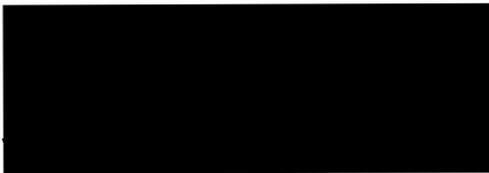


FILE: LIN 04 180 50302 Office: NEBRASKA SERVICE CENTER Date: JUL 18 200

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

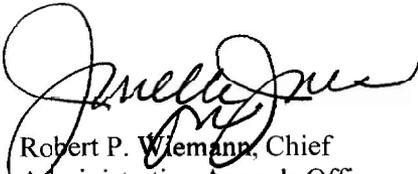
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The service center director 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 a convention and resort hotel that seeks to employ the beneficiary as an assistant hotel manager and 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).

The director denied the petition on the basis that the petitioner did not establish that the proposed position is a specialty occupation. On appeal, the petitioner submits a brief.

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 bachelor's or higher degree, but one in a specific field of study that is directly related to the proposed position.

The record of proceeding before the AAO contains: (1) Form I-129 with supporting documents, including the company support letter; (2) the director's request for additional evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's denial letter; and (5) Form I-290B with accompanying brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner lists the proposed position as an assistant manager for housekeeping. Evidence of the beneficiary's duties includes the Form I-129 with accompanying support letter, the petitioner's response to the RFE, and petitioner's brief on appeal. According to this evidence, the beneficiary would perform duties that entail: coordinating activities for meetings, conventions, and special events; meeting with representatives of groups or organizations to plan desired configuration of hotel meeting space and banquet services; ensuring that convention rooms and areas are set up as required by hotel guests; ensuring efficient and orderly maintenance of convention rooms and areas; ensuring smooth functioning of hotel equipment, specialized services, and business services provided by the hotel to make the stay enjoyable for hotel guests; scheduling available meeting rooms and electronic equipment; ensuring that slide projectors and fax machines are available as needed; ensuring that guests are treated courteously, that complaints and problems are resolved, and that requests for special services are carried out; resolving unexpected problems; monitoring activities to ensure that hotel operations conform to the expectations of the convention group; ensuring guest, meeting, and banquet rooms, and public areas are clean, orderly, and well-maintained; training, scheduling, and supervising the work of housekeepers; inspecting rooms; and ordering cleaning supplies. The petitioner stated that it required the candidate for the position to hold at least a bachelor's degree in hotel administration, hospitality, management, or a related field.

The director noted that the Department of Labor's *Occupational Outlook Handbook (Handbook)* indicates that hotels sometimes prefer hotel management degrees for managerial positions, but do not require them, and found that the proposed position did not qualify as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). The director stated that the recruiting announcement from Hyatt Hotels did not establish a degree requirement common to the industry in parallel positions among similar organizations so that the position did not qualify as a specialty occupation under the first alternative prong under 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). The director found that the petitioner failed to establish that the position qualified as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), because the diplomas the petitioner submitted did not specifically support the assertion that the petitioner normally required a specific degree for the position of assistant hotel manager. The director listed the proposed duties and stated that they did not appear so complex and specialized that the attainment of a bachelors' degree in a specific specialty was necessary to complete them.

On appeal, the petitioner asserts that the proposed position satisfies all the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

To determine whether a position qualifies as a specialty occupation, CIS looks beyond the title of the position and determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's degree in a specific field of study as the minimum for entry into the occupation as required by the Act.

The AAO routinely consults the *Handbook* for information about the duties and educational requirements of particular occupations. The duties of the proposed position are essentially those of a hotel manager at a large-scale convention hotel. The *Handbook* indicates that some employers prefer hotel managers at large hotels to hold bachelor's degrees but not that a degree in a specific field is normally the minimum requirement for entry into the proposed position under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). Therefore, the petitioner has not established that the proposed position is a specialty occupation under this criterion. The record also does not indicate that the position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) or 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

The petitioner, however, has established eligibility under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4) which requires that the petitioner establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree. The record demonstrates that the proposed position includes various hotel managerial functions, that when reviewed in terms of the petitioner's operations and size – a convention and resort hotel with 1,225 guest rooms, 92 executive suites, and 125,000 square feet of meeting space – exceed the scope of a typical hotel manager. The petitioner's organizational chart reflects that the beneficiary will supervise the petitioner's executive housekeeper, supervisors, and housekeeping staff. The petitioner established that between 2002 and 2004, it hired individuals in similar positions with degrees in hotel management or related fields by submitting their degrees or foreign degree evaluations. Taking these factors into consideration, the AAO is persuaded that the nature of the duties, in the context of the petitioner's organization, is specialized and complex and that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree in hotel management or a related field. The petitioner has, therefore, satisfied the requirements of 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

Thus, the petitioner has established that the proposed position is a specialty occupation.

The beneficiary is qualified to perform the duties of the proposed position: he holds a four-year degree in tourism and hotel management from the College of Tourism and Hotel Management at Canakkale Onsekiz Mart University located in Terzioglu, Turkey. The academic equivalency evaluation from the foreign academic credentials evaluation service, International Credentials Evaluators (ICE), Inc., states that the beneficiary's degree is the equivalent of a U.S. bachelor's degree in hotel management. A review of the beneficiary's transcript leads the AAO to concur with the ICE assessment.

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.