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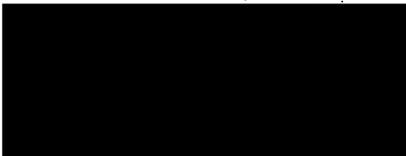
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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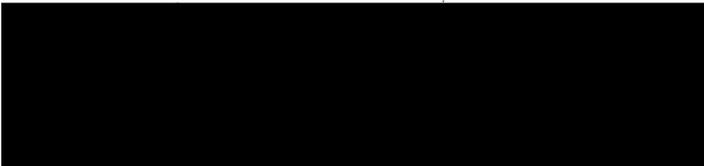


FILE: EAC 05 130 52512 Office: VERMONT SERVICE CENTER Date: APR 25 2007

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 financial services company that provides financial services to its clients, including, purchase order financing and other activities. It seeks to employ the beneficiary as a transaction analyst and endeavors to classify her 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 stating that while it is stipulated that the job description furnished by the petitioner appeared to describe a specialty occupation, the record failed to reveal that the petitioner had a volume of business that was sufficient to employ the beneficiary in the proffered position on a full-time basis. On appeal, counsel states that the proffered position qualifies as a specialty occupation and the petition should be approved.

The first issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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 are 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) the Form I-129 and supporting documentation; (2) the director's requests for additional evidence; (3) the petitioner's response to the director's requests; (4) the director's denial letter; and (5) the Form I-290B with counsel's brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a transaction analyst. Evidence of the beneficiary's duties includes the Form I-129 petition with attachment and the petitioner's response to the director's requests for evidence. According to this evidence the beneficiary would:

- Gather financial information, assemble spreadsheets, write reports, and review all non-legal pertinent information about prospective clients and loan worthiness;
- Determine the credit risk and financial needs of potential clients and recommend an appropriate level of financing for projects;
- Monitor the market price of labor and supplies required by potential clients;
- Recommend guidelines for collecting on credit extended to clients;
- Analyze accounting and financial statements for the petitioner and its clients; and
- Develop and maintain timely financial reports that forecast cash flow and asset management.

The duties of the position were further discussed in the petitioner's response to the director's request for evidence. The petitioner requires a minimum of a bachelor's degree in economics or finance for entry into the proffered position.

The AAO routinely consults the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position fall within those noted for credit analysts. While the *Handbook* does not provide a detailed

analysis of the duties and educational requirements for credit analysts, it does note that the most significant source of training for such positions is a bachelor's degree. The position is further discussed in the Department of Labor's *Occupational Information Network (O*NET)* that describes the duties of the position (a credit analyst) as follows:

- Analyze credit data and financial statements to determine the degree of risk involved in extending credit or lending money.
- Prepare reports that include the degree of risk involved in extending credit or lending money.
- Evaluate customer records and recommend payment plans based on earnings, savings data, payment history, and purchase activity.
- Confer with credit association and other business representatives to exchange credit information.
- Complete loan applications, including credit analyses and summaries of loan requests, and submit to loan committees for approval.
- Generate financial ratios, using computer programs, to evaluate customers' financial status.
- Review individual or commercial customer files to identify and select delinquent accounts for collection.
- Compare liquidity, profitability, and credit histories of establishments being evaluated with those of similar establishments in the same industries and geographic locations.
- Consult with customers to resolve complaints and verify financial and credit transactions.
- Analyze financial data such as income growth, quality of management, and market share to determine expected profitability of loans.

The duties noted above are consistent with the duties of the proffered position. The *O*NET* indicates that most positions in this category require a college education, and require a knowledge, among other things, of economics and accounting.

On appeal, counsel submitted a brief and additional information. The record reflects that the petitioner began operations in 2002, but did little business until 2004. In 2004, the petitioner's tax returns indicate that the petitioner had gross receipts or sales in the amount of \$58,654. The petitioner submitted pictures of its place of business and copies of three contracts that it had entered into to provide financial services to corporate clients. The petitioner also submitted copies of its bank statements for 2005 showing increased business activity. The petitioner reported an average of 50 transactions per month related to his business activity and a checking account balance exceeding \$285,000. The petitioner has established that it is a valid employer operating a going concern.

The evidence demonstrates that the petitioner is an expanding financial services firm that provides complex transactional analysis to existing clients and utilizes the beneficiary to examine new financial services opportunities and to maintain high quality services on existing contracts. The proffered position qualifies as a specialty occupation as a baccalaureate degree or higher in a related field is normally the minimum requirement for entry into the position. The director's decision to the contrary is withdrawn.

The final issue to be determined is whether the beneficiary is qualified to perform the duties of the proffered position. The director did not make that determination as the petition was denied on another ground. The record is, however, sufficient for the AAO to make that determination. The beneficiary holds a bachelor's degree in economics from Adelphi University in New York. That degree is closely related to the duties of the proffered position. The beneficiary is, therefore, qualified to perform the duties of the offered specialty occupation. 8 C.F.R. § 214.2(h)(4)(iii)(C)(I).

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 and the appeal shall accordingly be sustained.

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