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U.S. Citizenship
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FILE: EAC 06 157 54285 Office: VERMONT SERVICE CENTER Date: DEC 26 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 Director, Texas 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 information technology firm that employs 50 personnel. It seeks to employ the beneficiary as a programmer analyst. Accordingly, the petitioner 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).

On November 3, 2006, the director denied the petition determining that the petitioner had not established that the beneficiary was qualified to perform the duties of the proffered position. The director observed that the beneficiary had obtained a Bachelor's Degree in Mechanical Engineering; but found it unclear how the beneficiary's degree was relevant to performing the duties of a programmer analyst. The director acknowledged that the record contained evidence of the beneficiary's three years and four months of work experience in a computer related field but determined that the work experience was not the equivalent of a bachelors of science degree in computer science, information science, or management information systems.

Although the director did not make a direct determination regarding the nature of the proffered position and whether it was a specialty occupation, the AAO finds that the petitioner in this matter has provided sufficient evidence on appeal to demonstrate the specifics of the beneficiary's employment duties and has defined the beneficiary's ultimate tasks. The description is sufficient to establish that the duties require the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree, or its equivalent, in the specific specialty as the minimum for entry into the occupation as required by the Act. The AAO finds sufficient evidence in the record that the petitioner requires the proffered position of programming analyst to apply a theoretical and practical application of specialized knowledge to problem solve and analyze issues related to usage of new and adapted hardware and software programs. The AAO finds in this matter that the nature of the specific duties of the proffered position are so complex and specialized that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree. The petitioner has established that the proffered position is a specialty occupation pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO has also reviewed the record regarding the beneficiary's qualifications. The AAO observes that the beneficiary obtained a foreign diploma that has been evaluated to be the equivalent of a Bachelor's of Science degree in Engineering. In addition, the record contains an evaluation of the beneficiary's work experience in computer management systems. The evaluator offered his opinion that the beneficiary's foreign work experience, as detailed in a letter of reference and in a hiring letter, was characterized by increasingly advanced responsibility and complexity under the supervision of managers and together with peers at a bachelor's-level of practical experience. The evaluator concluded that the beneficiary's work experience is equivalent to at least one year of college-level training in management information systems. The record also contains a letter from the dean at the evaluator's university stating that the university has a policy of granting college-level credit to students based on foreign academic studies, training, and professional experience and that the evaluator in this matter has authority to make such determinations.

Upon review of the totality of evidence in the record, the AAO determines that the record is sufficient in this

matter, based on a review of the beneficiary's employment experience, to qualify the beneficiary to perform the duties of the specialty occupation pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

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