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U.S. Citizenship
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Services

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FILE: WAC 05 003 50510 Office: CALIFORNIA SERVICE CENTER Date: JUL 31 2007

IN RE: Petitioner:
Beneficiary:



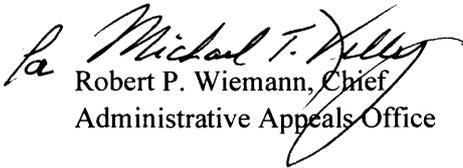
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 law office. It seeks to employ the beneficiary as an accountant 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 the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information stating that the offered position qualifies as a specialty occupation.

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 request for additional evidence; (3) the petitioner’s response to the director’s request; (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 an accountant. Evidence of the beneficiary’s duties includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Analyze and interpret current financial data for the purpose of developing appropriate accounting and financial policies;
- Develop and implement new accounting methods, processes and improvements with the goal of automating the accounting systems;
- Analyze records of financial transactions to determine the accuracy, integrity and completeness of entries;
- Analyze operations, trends, costs, revenues, financial commitments and obligations incurred, to project future revenues and expenses;
- Provide modification and coordination, as well as implementation of accounting and accounting control procedures;
- Prepare budgets, evaluate performance, and perform cost and asset management;
- Handle financial activities of the law firm with special emphasis on accounts receivables and accounts payables;
- Examine, analyze and interpret accounting records for the purpose of giving management advice and overseeing accuracy of statements;
- Install and/or advise on accounting systems recording costs and other financial budgetary data;

- Advise on and recommend to management tax strategies, as well as establish assumptions that underlie the budget forecasts;
- Advise on advantages and disadvantages of certain business decisions or transactions in relation to the financial standing of the law firm;
- Oversee the firm's balance sheets, profit and loss statements, necessary checks, bi-monthly payroll, tax remittances and other reports to summarize the petitioner's current and projected financial position; and
- Meet with external auditors and discuss accounting matters concerning the petitioner's business.

The petitioner requires a minimum of a bachelor's degree in accounting for entry into the proffered position.

Upon review of the record, the petitioner has established that the proffered position qualifies as a specialty occupation. 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 appear to be those noted for accountants. The *Handbook* notes that management accountants record and analyze the financial information of the companies for which they work. Other responsibilities include budgeting, performance evaluation, cost management, and asset management. Management accountants are usually part of executive teams involved in strategic planning or new-product development. They analyze and interpret the financial information that corporate executives need to make sound business decisions. Management accountants also prepare financial reports for nonmanagement groups such as stockholders, creditors, regulatory agencies, and tax authorities.

A close review of the record, including a review of the nature of the petitioner's business and the scope of its operations, establishes that the proffered position is that of a management accountant whose work will require the application of at least a bachelor's degree level of specialized accounting knowledge. The job duties of the proffered position include: analyzing business operations, trends, costs, revenues, financial commitments and obligations incurred to project future revenues and expenses; preparing budgets, evaluating performance and performing cost and asset management; examining, analyzing and interpreting accounting records for the purpose of giving management advice, and overseeing the accuracy of financial statements; recommending tax strategies to management; establishing assumptions that underlie budget forecasts; advising management on the advantages and disadvantages of business decisions or transactions in relation to the petitioner's financial standing; and meeting with external auditors to discuss accounting matters concerning the petitioner's business. The nature and scope of services provided by the petitioner, and the duties detailed for the position relative thereto, establish that the duties of the proffered position are of such complexity that their performance requires the theoretical and practical application of a body of highly specialized knowledge. The proffered position does, therefore, qualify as a specialty occupation as it satisfies the regulatory criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

The final issue to be considered is whether the beneficiary qualifies to perform the duties of a specialty occupation. The director did not comment on this issue as the petition was denied on another ground. The record is, however, sufficient for the AAO to make that determination. A credentials evaluation service has determined that the petitioner's foreign education is equivalent to a bachelor's degree in business administration with a concentration in accounting from an accredited college or university in the United States. The beneficiary is, therefore, qualified to perform the duties of the proffered position.

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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.