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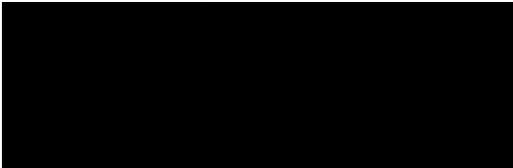
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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536



FILE: WAC-01-213-50485

OFFICE: CALIFORNIA SERVICE CENTER

DATE:

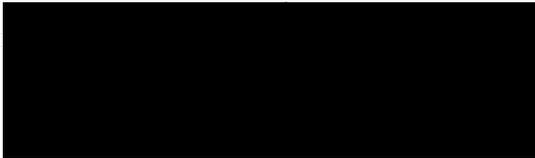
DEC 18 2003

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)

IN BEHALF OF PETITIONER:



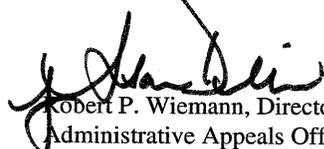
INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a translation services company that employs 15 persons and has a gross annual income of \$1.3 million. It seeks to employ the beneficiary as a translator I. The director denied the petition because the petitioner failed to establish that the beneficiary was qualified for the specialty occupation.

On appeal, counsel submits a brief and previously submitted evidence. Counsel states that the beneficiary qualifies for the specialty occupation of translator I.

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), provides for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

The issue to be discussed in this proceeding is whether the beneficiary is qualified to perform the duties of a specialty occupation.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and
 - (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, the alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent

to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

In a letter accompanying the petition, the beneficiary's duties are delineated as follows:

The translator will translate business and technical documents and other material from one language to another. The position entails reading material and rewriting material in specified language or languages, following established rules pertaining to factors, such as word meanings, grammar, punctuation, and mechanics.

The letter further explained that candidates for the translator I position are required to possess a bachelor's degree in translation or related degrees such as interpretation or foreign languages and two years of experience, or a master's degree in translation and interpretation.

The petitioner submitted, along with other documents, copies of the following: (1) the beneficiary's master's degree in translation and interpretation - Spanish - English, from the Monterey Institute of International Studies, Monterey, California, and her transcripts; (2) the beneficiary's diploma in foreign languages in the English option from the National University of Honduras; (3) the English translation of her bachelor's degree and transcripts; (4) an educational evaluation that states that the beneficiary's bachelor's degree is equivalent to a bachelor's degree in foreign language (English) granted by regionally accredited colleges and universities in the United States; (5) the beneficiary's Form I-20; and (6) the beneficiary's resume.

On August 22, 2001, the director requested the following evidence: a detailed description of the work to be done, and specifying the duties; the percentage of time that will be spent performing each duty; the position's level of responsibility; the hours per week

of work; the types of employees supervised; and the minimum education, training, and experience necessary to do the job. Also, the director requested an explanation of why the position requires a person holding a college degree or its equivalent in the occupational field.

In response, the petitioner submitted a letter describing the beneficiary's duties as combining those of a translator and a technical writer. The letter stated that the beneficiary's primary duty was to translate and edit complex Spanish language text. The letter further stated that the beneficiary would manage health and medical related projects, ranging from health care plans to technical medical devices. The letter stated that, when necessary, the beneficiary would provide conference interpretation. The letter explained that about 85 percent of the beneficiary's time each week would involve direct translation, and that the remaining time would be spent on project coordination and supervision. According to the letter, about 60 percent of the beneficiary's time would involve Spanish translation and project coordination for Health Net, and the remaining time would be spent on translating and editing materials for other clients.

The letter stated that the position is not entry level, and explained that the beneficiary will supervise two to twelve freelance commercial translators, evaluating their competence, coordinating their workload, and reviewing and supervising their work product. According to the letter, the beneficiary's duties require the services of a person possessing a college degree or its equivalent in the occupational field because translation, for Fortune 500 companies, requires knowledge of language construction, grammar, the meaning of words, punctuation, and the mechanics of languages. The letter, for example, described that in translating medical documents, an incorrect translation could have severe medical implications if customers or doctors rely on erroneous information.

On November 8, 2001, the director denied the petition. He stated that the offered position is a specialty occupation, and that candidates must possess a baccalaureate or higher degree or its equivalent in fields such as medicine or law because the position's primary duty is to translate complex medical and legal terminology. The director found that the beneficiary was not qualified to perform the duties of the offered position because she did not possess a degree in medicine or law.

On appeal, counsel avers that the beneficiary is qualified to perform the duties of the offered position, translator I. Counsel maintains that candidates for translator positions possess degrees relating to translation such as English, foreign languages or translation and that candidates are not required to hold a baccalaureate or higher degree relating to the subject that he or she is translating.

The regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C) describes the methods that a petitioner can use to establish that the beneficiary qualifies to perform services in a specialty occupation. Under 8 C.F.R. § 214.2(h)(4)(iii)(C)(1), the petitioner may provide evidence that the beneficiary holds a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university.

The Department of Labor's *Occupational Outlook Handbook* (*Handbook*) provides a comprehensive description of the nature of a particular occupation and the education, training, and experience normally required to enter into an occupation and advance within that occupation. According to the 2002-2003 edition of the *Handbook*, at page 146, technical writers put scientific and technical information into easily understandable language, and they prepare scientific and technical reports such as operating and maintenance manuals and catalogs, and they also impart research findings for scientific and medical professions, organizing information for advertising and interpreting data and other information for a general readership. The *Handbook* portrays editors as reviewing, rewriting, and editing the work of writers. For technical writer and editor positions, the *Handbook* states that most employers prefer to hire people with degrees in communications, journalism, or English. Moreover, the *Handbook* states that technical writing requires a degree in, or some knowledge about a specialized field such as engineering, business, or one of the sciences.

According to the *Handbook*, interpreter and translator positions translate or interpret written, oral, or sign language text into another language for others, and the source of training is usually long-term on-the-job training.

In this proceeding, the petitioner has submitted: (1) the beneficiary's master's degree in translation and interpretation - Spanish - English, from the Monterey Institute of International Studies, Monterey, California, and her transcripts; (2) the beneficiary's diploma in foreign languages in the English option from the National University of Honduras; (3) the English translation of her bachelor's degree and transcripts; and (4) an educational evaluation that states that the beneficiary's bachelor's degree is the equivalent to a bachelor's degree in foreign language (English) granted by regionally accredited colleges and universities in the United States.

The beneficiary's transcript shows that, along with other courses, she completed course work in translating scientific and technical texts into the Spanish language, and translating economic texts into the Spanish and English languages.

The evidence contained in the record shows that the position's primary duty is to translate, from the English language into the

Spanish language, medical documents written by technical writers; therefore, candidates for the offered position should possess a relevant occupational degree that involves the translation of documents into these languages. Based on the evidence contained in the record, the beneficiary's diploma in foreign languages in the English option and her master's degree in translation and interpretation (Spanish-English) provide her with relevant occupational degrees to perform the duties of the offered position.

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.