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U.S. Department of Homeland Security  
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 MASS. 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536

**NOV 12 2003**

File: WAC 02 097 51700 Office: CALIFORNIA SERVICE CENTER

Date:

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:

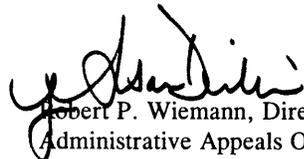
**INSTRUCTIONS:**

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 which 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 which 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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded to the director to determine whether the beneficiary is qualified to perform the duties of the proffered position.

The petitioner is a building and property management company. It has four employees and a gross annual income of \$500,000. The petitioner seeks to employ the beneficiary as an accountant for a period of three years. The director denied the petition on the ground that the proffered position failed to qualify as a specialty occupation.

On appeal, counsel submits a brief. Counsel asserts that the proffered position is that of an accountant, that the duties of the position are so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree, and that a bachelor's degree is normally the minimum requirement for entry into the position.

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

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

Section 214(i)(1) of the Immigration and Nationality Act (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:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in field 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 is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The duties of the proffered position were detailed with the filing of the I-129 petition:

As an Accountant, [the beneficiary] will create subsidiary ledgers for individual accounts[,] such as accounts receivable and accounts payable[,] and monitor these accounts. She will compile and analyze financial information to prepare entries to accounts, such as ledger accounts, documenting business transactions. [The beneficiary] will construct special purpose journals, such as purchases journals, cash receipts journal and others as needed.

In addition, [the beneficiary] will apply horizontal analysis, trend analysis and vertical analysis to financial statements. She will apply ratio analysis to financial statements in the study of the company's liquidity, profitability, long-term solvency and market tests. [The beneficiary] will analyze financial information detailing assets, liabilities and capital and prepare balance sheet[s], financial statements, profit and loss statements and other reports to summarize current and projected company financial position using computer software. She will prepare on a monthly basis, income statement [sic], balance sheets and statement [sic] of cash flow. [The beneficiary]

will be involved in the calculation and budget of the company's projects.

Furthermore, [the beneficiary] will audit contracts, orders and vouchers and prepare reports to substantiate individual transactions prior to settlement. She will set up voucher system [sic] to give documentary proof of and written authorization for business transactions. She will establish a petty cash fund and prepare petty cash vouchers for each expenditure. [The beneficiary] will reimburse petty cash fund at specific intervals. She will have to track down losses on uncollectible accounts (bad debts) and math them with company's [sic] profits.

Subsequent to the filing of the initiating petition, the director requested additional evidence. Specifically, the director asked that the petitioner submit: information describing, in greater detail, the petitioner's business operation; and a detailed job description setting forth the per centage of time spent on individual duties, types and numbers of employees to be supervised, minimum education necessary for the position, and hours per week to be worked.

In response to the director's request for evidence, the petitioner stated that the complexity of the duties to be performed required an individual with a minimum of a bachelor's degree with courses in accounting or finance, or its equivalent. The following job description was also provided:

In the capacity of an Accountant, [the beneficiary] will perform the following services:

Analyze financial information detailing assets, liabilities and capital and prepare balance sheet, financial statements, profit and loss statements and other reports to summarize current and projected company financial position using computer software. Prepare on a monthly basis, income statement, balance sheet and statement of cash flow. Prepare on a semiannual basis, an owner's equity statement. Prepare on a weekly basis, a cash flow statement. Prepare bank reconciliation. Calculate the pricing of inventory. Apply accounting principles to inventory valuation. Estimate cost of ending inventory. Identify, compute and record determinable and estimated current liabilities. Compute periodic depreciation. Record property and equipment transactions. Apply the matching rule to the allocation of expired cost for capital and expenditures and revenue expenditures. Account for disposal of depreciable assets. Apply the matching rule to goodwill. Classify variable costs, semi-variable cost and fixed assets. Compute the break-even points. Use contribution margin

analysis to estimate levels of sales that will produce planned profits. Prepare periodic and cash budgets. (25%)

Compare and analyze financial information to prepare entries to accounts, such as general ledger accounts, documenting business transactions. Create subsidiary ledger for individual accounts such as accounts receivable and accounts payable and monitor those accounts. Construct special purpose journals, such as purchases journal, cash receipts journal, cash payment journal and others as needed by the company. Apply horizontal analysis, trend analysis and vertical analysis to financial statements. Apply ratio analysis to financial statements in the study of the company's liquidity, profitability, long-term solvency and market tests. (30%)

Set up voucher system to give documentary proof and written authorization for business transactions. Establish a petty cash fund and prepare and prepare (sic) petty cash vouchers for each expenditure. Reimburse petty cash fund at specific intervals. Track down losses on uncollectible accounts (bad debts) and match them against company's profits. Estimate uncollectible accounts expense. Write off uncollectible accounts. Account for cash and short-term investments. Prepare payroll and checks of employees. (20%)

Analyze the forms, records, procedures, processing methods, and reports used by the business. Make minor or major revision where appropriate. Integrate control measures throughout the accounting system. (20%)

Negotiate Dental HMO and Medical contracts, negotiate fee and prepare fee schedule for health services. (5%)

In denying the petitioner's I-129 petition, the director determined that many of the duties to be performed by the beneficiary are performed by bookkeepers, bookkeeping clerks and accounting clerks. The director noted that those positions do not require a minimum of a baccalaureate degree for entry into the position and, as such, the proffered position does not qualify as a specialty occupation. See U.S. Department of Labor's *Occupational Outlook Handbook*, 2002-03, (*Handbook*), at 387.

While it is true that some of the duties to be performed by the beneficiary in this instance are performed by bookkeepers, accounting and financial clerks, other assigned duties are more complex. For example, the beneficiary will be required to: analyze financial information and extract from that information

data necessary to prepare reports detailing the petitioner's financial position; prepare detailed financial reports such as an owner's equity statement; calculate the pricing of inventory and apply accounting principles to inventory evaluation; compute asset depreciation; apply accounting principles to the allocation of expired cost for capital and revenue expenditures; apply accounting principles to the valuation of company good will; classify variable costs and compute break even points for company profitability; analyze financial data to determine the petitioner's liquidity and profitability; etc. These duties are normally performed by accountants and involve the theoretical and practical application of highly specialized knowledge.

The beneficiary will record and analyze financial information necessary for budgeting, performance evaluation, cost management and asset management. The information will be relied on by company management in making strategic business decisions. Most accountant positions require at least a bachelor's degree in accounting or a related field. *Id.* at 22. The petitioner has, therefore, established that the proffered position is a specialty occupation. 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). The director's decision to the contrary will be withdrawn.

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

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

- (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.

The petitioner asserts that the beneficiary possesses a Bachelor of Science Degree in Commerce, with a major in Accounting, from a foreign university. The petitioner did not, however, submit an evaluation of the beneficiary's foreign education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials, to establish that the beneficiary's degree is equivalent to a United States baccalaureate, or higher degree, required by the specialty occupation from an accredited college or university. 8 C.F.R. § 214.2 (h)(4)(iii)(D)(3). The director did not address the beneficiary's qualifications in her decision denying the I-129 petition. As such, this matter shall be remanded to the director to ascertain whether the beneficiary is qualified to perform the duties of a specialty occupation.

**ORDER:** The director's March 27, 2002, decision is withdrawn. The matter is remanded to the director for entry of a new decision consistent with the directives of this opinion.