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

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ADMINISTRATIVE APPEALS OFFICE
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Washington, D.C. 20536

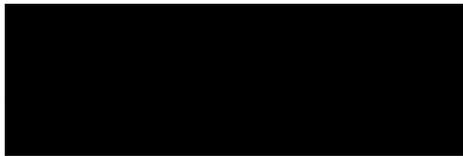


File: WAC 02 206 53059 Office: CALIFORNIA SERVICE CENTER Date: OCT 14 2003

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:



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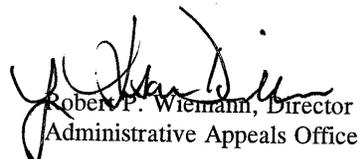
INSTRUCTIONS:

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 dismissed.

The petitioner is a corporation that provides marketing services and database services/analysis to a variety of clients. It has 33 employees and a gross annual income of \$2,551,259. The petitioner seeks to employ the beneficiary as a systems analyst programmer for a period of three years. The director determined that the beneficiary was not qualified to perform the duties associated with a specialty occupation.

On appeal, counsel submits a brief. Counsel states, in part, that the petitioner has established the beneficiary's qualifications to perform the duties associated with the proffered position by submitting a credentials evaluation from a reliable credentials evaluation service that specializes in evaluating foreign educational credentials.

Implicit in the director's denial letter is his conclusion that the proffered position qualifies as a specialty occupation. The director's determination denying the I-129 petition was based solely on the beneficiary's qualifications to perform the duties of a specialty occupation.

Pursuant to 8 C.F.R. § 214.2 (h) (4) (iii) (C), one of the following criteria must be met 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.

With regard to degree equivalence, the regulation at 8 C.F.R. § 214.2 (h) (4) (iii) (D) (1) provides, in part, as follows:

- (D) *Equivalence to completion of a college degree.* For purposes of paragraph (h) (4) (iii) (C) (4) of this section, equivalence to completion of a United States baccalaureate or higher degree shall mean achievement of a level of knowledge, competence, and practice in the specialty occupation that has been determined to be equal to that of an individual who has a baccalaureate or higher degree in the specialty and shall be determined by one or more of the following:
- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;

. . . .

The petitioner seeks to qualify the beneficiary to perform the duties of a specialty occupation by establishing that the beneficiary meets the requirements of 8 C.F.R. § 214.2 (h) (4) (iii) (C) (4). The petitioner did not establish, however, that the credentials evaluation tendered to establish this premise was performed by an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university having a program for granting such credit based on the beneficiary's training and/or work experience. 8 C.F.R. § 214.2 (h) (4) (iii) (D) (1). The evaluation is, therefore, of little evidentiary value and the petitioner has failed to establish that the beneficiary is qualified to perform the duties associated with a specialty occupation based upon his education and work experience. The credentials evaluation does indicate that the beneficiary has the equivalent of bachelor's degree of business administration in accounting from an accredited university in the United States based solely on his foreign degree. That degree, however, does not qualify the beneficiary to perform the duties of a systems analyst programmer. Accordingly, the director's decision will not be disturbed.

ORDER: The appeal is dismissed.