

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

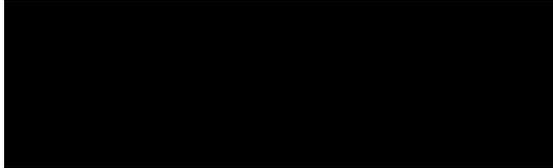
U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

*DD*



FILE: SRC 02 133 50240 Office: TEXAS SERVICE CENTER Date: FEB 26 2004

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

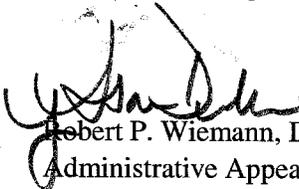
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H) (i) (b) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i) (b)

ON BEHALF OF PETITIONER:

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, Director  
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 The director's decision will be withdrawn. The petition will be approved.

The petitioner is an architectural company that seeks to employ the beneficiary as a Computer Assisted Drafting/Design (CADD) draftsman. The petitioner, therefore, 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).

The director denied the petition because the proffered position is not a specialty occupation. On appeal, the petitioner submits additional documentation.

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.

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.

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) 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) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a CADD draftsman. Evidence of the beneficiary's

duties includes: the I-129 petition; the petitioner's letter dated February 28, 2002 in support of the petition; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail: responsibility for interior and furniture specifications; provision of CADD support during project deadlines, and production of architectural renderings for project presentation and marketing materials for both the petitioner and its clients.

The director found that the proffered position was not a specialty occupation because the position of drafter is not a specialty occupation. Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, the director noted that the minimum requirement for entry into a drafting position was not a baccalaureate degree or its equivalent in a specific specialty. The director found further that the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner submits examples of the work performed by the beneficiary, and also a description of his work contained in the petitioner's personnel materials. The petitioner states that the design, renderings, and detailed drawings of millwork and interior finishes require a significant amount of training, education and experience- not only to produce the drawings, but to ensure that it can also actually be constructed as drawn. Finally the petitioner states that it is not a large firm, and the beneficiary is typically solely responsible for the interiors package of its projects.

Upon review of the record, the petitioner has established the criterion outlined in 8 C.F.R. § 214.2(h)(iii)(A)(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 director is correct in her determination that the position of drafter is not a specialty occupation. Nevertheless, the petitioner, in its cover letter and on appeal, outlined job duties of the proffered position that require far more specialized knowledge and training than that of a drafter. For example, the petitioner indicated that the beneficiary was responsible for the design and the constructability of the interior designs for its architectural projects. On appeal, the petitioner submitted a description of the beneficiary's work duties that detailed the furniture and finish design work he had performed for four community colleges in the central Florida region. While renderings of buildings were identified as part of the beneficiary's work on these projects, each project contained elements of design of large areas of furniture and the production of finish specifications. The description also states that the beneficiary is responsible for managing the interior/s furniture selection portion of the petitioner's contracts, including design, selection and presentation, and coordination between clients and representatives.

To the extent that the proffered position combines the design of constructible interiors, the production of architectural drawings and finishing specifications, as well as coordination of projects, the proffered position appears to have specialized duties. The size of the beneficiary's work done on the four projects and the sample drawings submitted by the petitioner also suggest that these duties could be viewed as complex. It does not appear excessive that an architectural firm would require an applicant for this position to have both a baccalaureate degree in architecture and extensive experience in CADD architectural drawings.

As related in the discussion above, the petitioner has established that the proffered position is a specialty occupation. 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. The director's decision of September 27, 2002 will be withdrawn. The petition will be approved.

**ORDER:** The director's decision of September 27, 2002 is withdrawn. The petition is approved.