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**U.S. Citizenship
and Immigration
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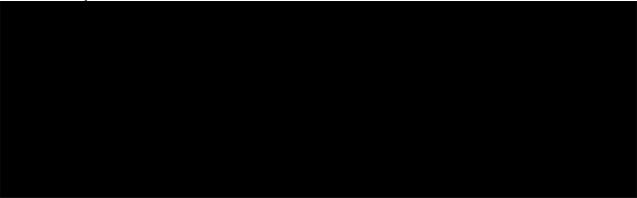
FILE: WAC 03 102 54185 Office: CALIFORNIA SERVICE CENTER Date: JUL 23 2004

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 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.

Mari Johnson

for 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 appeal will be dismissed. The petition will be denied.

The petitioner is a translation service that seeks to employ the beneficiary as a translator. The petitioner 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, counsel submits a brief and other documentation.

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.

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 translator. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's February 10, 2003 letter 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: translating written material from English to Arabic and Spanish; supervising other translators; and hiring new staff. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in an unspecified field.

The director found that the proffered position was not a specialty occupation. The director noted that the minimum requirement for entry into the position of translator was not a baccalaureate degree or its equivalent in a specific specialty. On appeal, counsel states that the proffered position is associated with the attainment of a bachelor's degree, and the petitioner normally requires its translators to hold bachelors' degrees. The AAO notes, however, that nowhere in the record does the petitioner specify which bachelor's degree the beneficiary must hold. Due to the vagueness of the petitioner's own requirement, the petitioner has not established the criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) or (2).

In support of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), the petitioner provided the resumes of several of its employees. The record does not contain any evidence showing that these individuals are or were in the petitioner's employ. Furthermore, the translators in question hold degrees in various fields rather than in a specific specialty. The petitioner has not met its burden of proof in this regard. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Regarding the criterion at 8 C.F.R. § 214.2(h)(iii)(A)(4), counsel asserts that 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. To the extent that they are depicted in the record, the duties do not appear so specialized and complex as to require the highly specialized knowledge associated with a baccalaureate or higher degree, or its equivalent, in a specific specialty. The areas of translation include political, legal, commercial, scientific, literary, and religious material. While it may be true that the beneficiary must possess a rich and varied vocabulary in several languages, the job description does not reflect the need for a bachelor's degree in any one field, be it law, business, science, or religion. Therefore, the evidence does not establish that the proffered position is a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

As related in the discussion above, the petitioner has failed to establish that the proffered position is a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

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 not sustained that burden.

ORDER: The appeal is dismissed. The petition is denied.