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U.S. Citizenship  
and Immigration  
Services

D2

FILE: LIN 02 160 51191 Office: NEBRASKA SERVICE CENTER Date: MAY 03 2004

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

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

ON BEHALF OF PETITIONER:

[REDACTED]

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.

*Marj Johnson*

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 janitorial services company. In order to employ the beneficiary as an accountant, 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

There is no dispute about the fact that a *bona fide* accountant position is a specialty occupation within the meaning of 8 C.F.R. § 214.2(h)(4)(iii)(A). The director, however, determined that the petitioner had failed to establish that the proffered position is actually an accountant position, rather than one for a bookkeeper or accounting clerk. On appeal, counsel submits a four-page brief which contends that the duties described in the record clearly comport with those of an accountant.

In reaching its decision, the AAO considered the entire record of proceeding, including: (1) the petitioner's Form I-129 and supporting documentation; (2) the director's request for additional evidence (RFE); (3) the matters submitted in response to the RFE; (4) the director's denial letter; and (5) the Form I-290B and the petitioner's brief.

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 petitioner's Form I-129 described the proposed duties as "monthly bookkeeping utilizing double-entry accounting, bank reconciliations, monthly payroll handling, quarterly and year-end payroll tax returns, [and] income tax returns." Although the reply to the RFE expanded the description of the duties, it did so in general terms that did not convey any sense of the range or complexity of the actual business matters of the petitioner upon which these duties would be applied.

The evidence of record clearly establishes that the proffered position requires the application of accounting principles. However, this still leaves the decisive question of whether the position requires the theoretical and practical application of the level of highly specialized accounting knowledge that is acquired by at least a baccalaureate degree in accounting or the equivalent in accounting training, education, and/or work experience.

The AAO recognizes the Department of Labor's *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of a wide variety of occupations. The AAO consulted the 2002-2003 edition of the *Handbook*, which is the version that both the director and the petitioner relied.

The *Handbook* indicates that financial clerks who lack a baccalaureate degree in accounting, or the equivalent, can handle a wide range of accounting activities. For instance, at page 387, the 2002-2003 edition of the *Handbook* notes, "In a small business, a bookkeeper may handle all financial transactions, as well as payroll and billing duties." The *Handbook's* reference, at page 388, to the "Certified Bookkeeper" designation, awarded by the American Institute of Professional Bookkeepers, further reflects that persons who lack a baccalaureate in accounting or equivalent training, education, and/or experience may yet have the skills and knowledge required to perform a wide range of accounting functions. In the same vein, page 390 notes:

In small establishments, bookkeeping clerks handle all financial transactions and recordkeeping. They record all transactions, post debits and credits, produce financial statements, and prepare reports and summaries for supervisors and managers. Bookkeepers also prepare bank deposits by compiling data from cashiers, verifying and balancing receipts, and sending cash, checks, or other forms of payment to the bank. They also may handle the payroll, make purchases, prepare invoices, and keep track of overdue accounts.

Also, the *Handbook* indicates a trend for financial clerks to assume an increasing amount of accounting responsibilities: at page 390, it is noted that "many bookkeeping, accounting, and auditing clerks use specialized accounting software on personal computers," and that "[w]ide spread use of computers also has enabled bookkeeping, accounting, and auditing clerks to take on additional responsibilities, such as payroll, procurement, and billing"; page 391 includes the comment "[d]emand for full-charge bookkeepers is expected to increase as they are called upon to do much of the work of accountants."

The AAO also notes that the *Handbook's* segment on tax preparers, at page 595, indicates that preparation of tax returns for small businesses does not necessarily require the accounting knowledge endowed by a baccalaureate degree in accounting.

Against this background on the wide range of accounting functions performed by non-accountants, the petitioner's descriptions of the proposed duties are too generic and generalized to establish that the

beneficiary would have to apply the highly specialized accounting knowledge that is attained only by at least a baccalaureate degree or the equivalent in accounting.

Because the evidence of record does not demonstrate that the proposed duties exceed those of financial clerks without baccalaureate degrees in accounting, the petitioner has not established that the proffered position is a specialty occupation in accordance with any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

Accordingly, the director's decision shall not be disturbed.

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.