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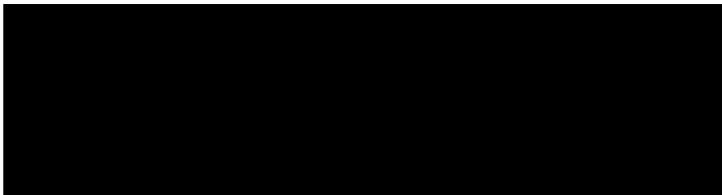
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FILE: LIN 03 261 52742 Office: NEBRASKA SERVICE CENTER Date: JUL 13 2005

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:



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 director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner provides language translation services. It seeks to employ the beneficiary as a network administrator. 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, counsel submits a brief and additional evidence.

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 network administrator. Evidence of the beneficiary's duties includes: the Form I-129; the attachments accompanying the Form I-129; the petitioner's support letter; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail analyzing network/data processing requirements to determine the best telecommunication systems; designing a local area network which will administer transfer of information in the most timely and inexpensive manner; implementing the design by overseeing the installation of the system software and its customization to requirements; communicating with current users; and providing technical support after implementation of the network. The petitioner's response to the request for evidence elaborated on the beneficiary's job duties. The petitioner stated that a candidate for the proffered position must possess a bachelor's degree or its equivalent in computer science, engineering, or a related analytic or scientific discipline.

The director stated that the proposed position resembles a network/computer systems administrator as that occupation is described in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*), and that the *Handbook* reports that a bachelor's degree in a specific specialty is not required for this occupation. The director found the submitted job postings unpersuasive in establishing that the degree requirement is common in the industry in parallel positions. According to the director, the evidence did not establish that the petitioner has a past practice of requiring a bachelor's degree in a specific specialty for the proposed position. The director indicated that the evidence in the record was insufficient to establish the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel states that the director erroneously minimized the complex nature of the proposed position. Counsel refers to letters from university professors to establish 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.

Upon review of the record, the petitioner has established that the proposed position qualifies as a specialty occupation under the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

As described by the petitioner, the proposed position has specialized and complex job duties requiring knowledge that is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty such as computer science, which is directly related to the proposed position.

As related in the discussion above, the petitioner has established that the proffered position is a specialty occupation.

The beneficiary is qualified to perform the duties of the proffered position: he holds a master's degree in computer science degree from Eastern Michigan University, Ypsilanti, Michigan.

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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.

**ORDER:** The appeal is sustained. The petition is approved.