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**U.S. Citizenship  
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FILE: WAC 04 168 54525 Office: CALIFORNIA SERVICE CENTER Date: NOV 01 2005

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.

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 is a travel service with 40 employees and a gross annual income of \$20,000,000. In order to employ the beneficiary as its controller, 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 on the basis that the petitioner had failed to establish that the beneficiary was qualified to serve as the petitioner's controller, which the director's decision implicitly recognized as a specialty occupation position that requires at least a U.S. baccalaureate degree, or its equivalent, in a specific specialty. Citing *Matter of Ling*, 13 I&N Dec. 35 (Reg. Comm. 1968), the director determined that the beneficiary's U.S. degree in business administration was not sufficient because the petitioner had not demonstrated that the coursework and associated knowledge underlying the degree were realistic prerequisites for the position.

On appeal, counsel maintains that the requisite correlation between the beneficiary's educational credentials and the controller duties are established by comparing the Department of Labor's *Occupational Information Network (O\*NET)* Details Report on Accountants and the list of courses on the beneficiary's academic transcript.

As will be discussed below, the director's decision was not correct. The AAO bases this determination upon its consideration of the entire record of proceeding before it, including all the evidence presented by the petitioner in (1) the Form I-129 and the supporting documentation filed with it; (2) its response to the director's request for additional evidence (RFE); (3) the Form I-290B; and (4) counsel's letter on appeal, dated November 22, 2004, and the documents submitted with it, including copies of the beneficiary's college diploma, the related academic transcript, and the *O\*NET* Details Report on Accountants.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and  
(ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The degree referenced by section 214(i)(1)(B) of the Act means one in a specific specialty that is characterized by a body of highly specialized knowledge that must be theoretically and practically applied in performing the duties of the proffered position.

In implementing 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C) states that an alien must meet one of the following criteria 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.

The appeal will be sustained because the evidence of record establishes that the beneficiary's U.S. bachelor's degree satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(I): it is a degree "required by the specialty occupation."

To meet the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(I) and the H-1B provisions of the Act from which it derives, the petitioner must demonstrate that the beneficiary's bachelor's degree is based substantially on coursework that constitutes a body of highly specialized knowledge which must be theoretically and practically applied to perform the proffered position. A generalized bachelor's degree in business administration will not usually meet this criterion. See *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988) (holding that the requirement of a degree with a generalized title, such as business administration or liberal arts, without further specification, does not establish a position as requiring distinguished merit and ability (under the provision of the Act that has been superseded by the H-1B specialty occupation provisions), since there must be a close corollary between the required specialized studies and the position); *Matter of Ling* 13 I&N Dec. 35 (holding that a degree in business administration alone is insufficient to qualify its holder as a member of the professions under section 101(a)(32) of the Act, unless the academic courses pursued and knowledge gained is a realistic prerequisite to a particular occupation in the field of business administration in which the beneficiary would be engaged).

The record establishes that, at the time that the petition was filed, the beneficiary held a bachelor's degree in business administration with a concentration in marketing that was conferred by the University of Central Arkansas. The record reflects that the beneficiary also has 21 credit hours of accounting courses.

The petitioner's letter of reply to the RFE stated that the beneficiary "will supervise the employees working in the accounting department, including accounting and accounting clerks," and it described the duties proposed for the beneficiary as follows:

1. [The beneficiary] will analyze past, present, and expected operations and prepare budget reports. She will also prepare reports summarizing [the petitioner's] current and forecasted financial positions and business activity.
2. [The beneficiary] will develop policies and procedures for account collection and extension of credit to customers. And she will direct internal auditing, which involves reviewing financial and administrative records.
3. [The beneficiary] will communicate with different internal departments and reconcile financial data with them.
4. [The beneficiary] will advise management on economic objectives and policies for short - and long-range financial plans.

The section on financial managers in the 2004-2005 edition of the Department of Labor's *Occupational Outlook Handbook (Handbook)*, which the AAO recognizes as an authoritative source on the duties and educational requirements of a wide variety of occupations, states:

A bachelor's degree in finance, accounting, or a related field is the minimum academic preparation for this occupational category, but many employers increasingly seek graduates with a master's degree.

[“Significant Points,” *Handbook* at page 39.]

The *Handbook* also states:

A bachelor's degree in finance, accounting, economics, or business administration is the minimum academic preparation for financial managers. However, many employers now seek graduates with a master's degree, preferably in business administration, economics, finance, or risk management. These academic programs develop analytical skills and provide knowledge of the latest financial analysis methods and technology.

[*Handbook*, at page 40.]

The record establishes that, at the time that the petition was filed, the beneficiary held a bachelor's degree in business administration with a concentration in marketing that was conferred by the University of Central Arkansas. The record reflects that the beneficiary also has 21 credit hours of accounting courses. The AAO

finds that these educational credentials establish that the beneficiary holds a bachelor degree required to perform the duties of the specialty occupation. Therefore, the appeal will be sustained, and the petition will be approved.

As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

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