



U.S. Citizenship  
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FILE: LIN 04 183 53131 Office: NEBRASKA SERVICE CENTER Date: NOV 15 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 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 Pentecostal religious organization and place of worship that seeks to employ the beneficiary as a financial accountant. 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 on the basis that the petitioner had failed to establish that the proposed position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

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.

The term “specialty occupation” is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor’s degree or higher in a 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 proposed position.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director’s denial letter; and (3) the Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner, a Pentecostal religious organization and place of worship with 37 employees, was established in 1908 and has a gross annual income of \$1,310,000. It proposes to hire the beneficiary as a financial accountant. In the petitioner’s letter of support, the duties of the proposed position were set forth as follows:

In this capacity, [the beneficiary] will serve the church by maintaining appropriate and accurate accounting practices and business records in accordance with generally accepted accounting practices (GAAP) principles. Specifically, he will be responsible for preparing daily cash flows [sic] statements and monthly financial reports. He will prepare [p]rofit and [l]oss statements. He will also be responsible for processing payroll for the church (primary) and school (secondary).

As part of his professional duties, [the beneficiary] will be responsible for recording and reconciling accounts payables and receivables, and for preparing the appropriate supporting schedules of each. He will be responsible for compiling and analyzing key financial data and information relative to the church’s assets and liabilities. He will be responsible for maintaining all accounting records in the books of accounts, including general ledgers, in compliance with GAAP principles. He will prepare drafted financial statements for audit presentation. In addition, he will be responsible for collaborating with auditors during the audit process.

As a [f]inancial [a]ccountant for the church, [the beneficiary] will be responsible for attending to all other financial and accounting assignments as directed by the Operations Director and/or Senior Pastor. He will consult with Pastors, Directors[,] and Leaders to prepare budgets, and to ensure accountability and reporting of allowable expenditures. He will perform internal financial audits for [the petitioner’s] [s]chool and [p]reschool and records maintained by [the petitioner’s] PRISM of ministries. He will ensure timely and accurate tax reporting. In addition, he will be responsible for coordinating with the Operations Director the counting of the weekly offerings, and for receiving, recording[,] and acknowledging memorial gifts to the church. Finally, [the beneficiary] will prepare and main[tain] annual contribution statements to contributors annually or as requested.

The director denied the petition, finding that the petitioner had satisfied none of the four criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A), and therefore had not established that the proposed position qualifies for classification as a specialty occupation. In ruling that the proposed position was not a specialty occupation, the director found that the duties of the proposed position were essentially those of a bookkeeper or accounting and auditing clerk.

On appeal, counsel offers a detailed breakdown of the duties of the proposed position. Counsel also submits evidence including letters from practitioners in the field, income statements from the petitioner’s

school, and detailed information from the Milwaukee Parental Choice Program (with which he would be working). While some of the duties of the proposed position may reflect those of bookkeepers or accounting and auditing clerks, the majority are those normally performed by accountants, and the AAO agrees with counsel that the proposed position is that of an accountant.

In determining whether a proposed position qualifies as a specialty occupation, CIS looks beyond the title of the position and determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate degree in a specific specialty, as the minimum for entry into the occupation as required by the Act. The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) for its information about the duties and educational requirements of particular occupations.

The *Handbook* states that for an accountant, a bachelor's degree in accounting or a related field is required. Therefore, the proposed position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The record reflects that the beneficiary earned a master's degree in business administration from Cardinal Stritch University in Wisconsin in 2003, so he is qualified to perform the duties of this specialty occupation.

The petitioner has established that the proposed position qualifies as a specialty occupation and that the beneficiary is qualified to perform the duties of a specialty occupation. Accordingly, the director's order will be withdrawn and the petition approved.

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.