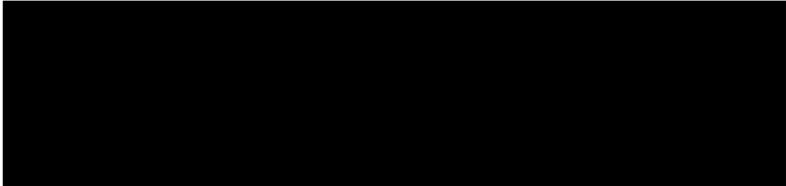




U.S. Citizenship
and Immigration
Services

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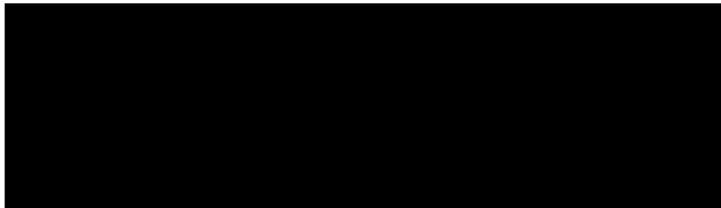
FILE: WAC 03 239 50213 Office: CALIFORNIA SERVICE CENTER Date: **AUG 15 2006**

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:



PUBLIC COPY

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The petitioner filed an appeal, which was dismissed by the AAO. Exercising its discretion under 8 C.F.R. § 103.5(a)(5), the AAO will reconsider its decision, withdraw its previous decision, and sustain the appeal. The petition will be approved.

The petitioner is a chain restaurant business. It seeks to employ the beneficiary as a management analyst and to classify him 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 petition was previously denied by the director and the AAO on the ground that the record failed to establish that the beneficiary is qualified to perform services in the specialty occupation.

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.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), provides 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, [and]
- (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.

As further explained in 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation the alien must meet one of the following criteria:

- (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 record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's responses to the RFE; (4) the notice of decision; (5) Form I-290B, counsel's appeal brief, and supporting materials; and (6) the AAO's initial decision. The AAO has reviewed the record in its entirety before issuing its decision upon reconsideration.

The only issue before the AAO is whether the beneficiary is qualified to perform the services of a management analyst. The Department of Labor's *Occupational Outlook Handbook (Handbook)*, which the AAO routinely consults as an authoritative source of information about the educational requirements of particular occupations, states the following with respect to management analysts:

Educational requirements for entry-level jobs in this field vary widely between private industry and government. Most employers in private industry generally seek individuals with a master's degree in business administration or a related discipline. Some employers also require additional years of experience in the field or industry in which the worker plans to consult Some will hire workers with a bachelor's degree as a research analyst or associate Most government agencies hire people with a bachelor's degree and no pertinent work experience for entry-level management analyst positions.

Few universities or colleges offer formal programs of study in management consulting; however, many fields of study provide a suitable educational background for this occupation because of the wide range of areas addressed by management analysts. Common educational backgrounds include most academic programs in business and management, such as accounting and marketing, as well as economics, computer and information sciences, and engineering

Handbook, 2006-07 edition, at 93-94. The foregoing information indicates that a baccalaureate level of education in business, management, accounting, marketing, economics, computer and information sciences, engineering, or other business and management specialties may be sufficient for entry into the occupation.

The record includes a copy of the beneficiary's academic degree showing that he graduated from Adamson University in Manila, the Philippines, with a bachelor of science in electrical engineering, on May 26, 1990. The AAO notes that the beneficiary's degree is in one of the disciplines cited in the *Handbook* as common for management analysts. The record also includes an evaluation of the beneficiary's educational and work experience which concludes that the beneficiary's academic background and twelve years of work experience in progressively responsible management positions in private industry are equivalent to at least a baccalaureate degree in business administration, with a concentration in management, from an accredited U.S. college or university.

Based on the evidence of record, the AAO determines that the beneficiary qualifies under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) to perform services as a management analyst.

The petitioner bears the burden of proof in these proceedings. *See* section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The AAO withdraws its previous decision. The appeal is sustained. The petition is approved.