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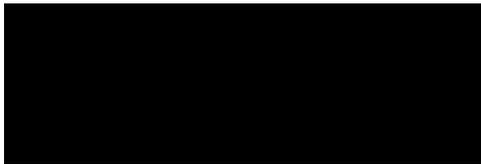
Dr

FILE: WAC 00 206 52825 Office: CALIFORNIA SERVICE CENTER Date: JUN 01 2006

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

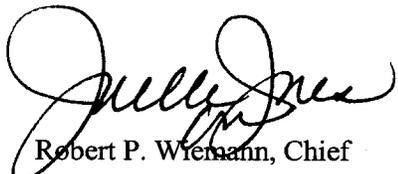
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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, Chief
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 The director's decision will be withdrawn. The petition will be remanded to the director for entry of a new decision.

The petitioner is an information technology consulting firm that seeks to employ the beneficiary as a systems administrator, and endeavors 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 director denied the petition stating that the beneficiary was inadmissible to the United States based on his interpretation of Executive Orders imposing economic sanctions against Iran. On appeal, counsel for the petitioner states that the beneficiary is not inadmissible, and that the petitioner is entitled to an adjudication of the merits of its petition.

The issue in this proceeding is governed by 8 CFR § 560.505(c), which provides in part that persons otherwise qualified for H category visas, are authorized to carry out in the United States those activities for which the visa was granted, provided that the person seeking the visa is not coming to the United States to work as an agent, employee or contractor of the Government of Iran or a business entity or other organization in Iran. The record before the AAO does not indicate that the beneficiary is an agent, employee or contractor of the Government of Iran. Nor does it indicate that the beneficiary is coming to the United States to work as an agent, employee or contractor of a business entity or other organization in Iran. The director's determination is accordingly withdrawn, and this matter shall be remanded to the director to decide the petition on its merits. If it is determined that the proffered position qualifies as a specialty occupation, and that the beneficiary is qualified to perform the duties of a specialty occupation, the issue of admissibility will be addressed by the Department of State when the beneficiary applies for admission to the United States.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director to enter a new decision commensurate with the directives of this opinion. The director shall certify the matter to the AAO should his determination be adverse to the petitioner.