

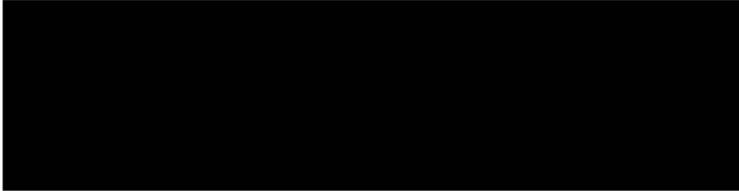
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U.S. Citizenship  
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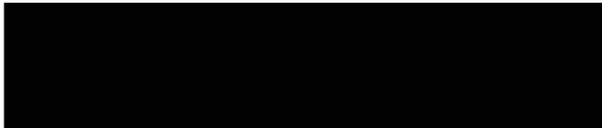
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FILE: WAC 04 800 54461 Office: CALIFORNIA SERVICE CENTER Date: SEP 12 2006

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:



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.

*for Michael T. Kelly*  
Robert P. Wiemann, Chief  
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 freight forwarding and custom brokerage company that seeks to employ the beneficiary as a writer/technical writer. 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 ground that the proffered position is not a specialty occupation. Counsel submits a timely appeal.

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 writer/technical writer. 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 the evidence of record, the beneficiary would perform duties that entail: translating promotional and advertising material such as flyers, product literature, and catalogues; translating, composing, and writing business letters and technical documents in Korean for Korean businesses, trading companies, and exporters and importers; translating incoming business letters and faxes and outgoing correspondence and documents; translating technical documents such as letters of credit, legal contracts, export documents, pro forma invoices, and business reports; reviewing, editing, and rewriting material and finalizing all translations for printing; and providing simultaneous interpretation between Korean businessmen and the petitioner's staff during meetings, conversations, and official communications. The petitioner requires documents to be translated from the Korean language into the English language and the reverse. The petitioner seeks to employ the beneficiary as she holds a bachelor's degree in Korean language and literature, a bachelor's degree in journalism, and a master's degree in education.

The director found that the proposed duties resemble those of a translator, and that the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) indicates that a translator does not normally require baccalaureate-level training in a specific specialty for entry into the occupation. The director stated that the submitted job postings do not indicate that the applicant must hold a specific baccalaureate degree. The director found the expert opinion letter from [REDACTED] of Seattle Pacific University unpersuasive in establishing that the offered position requires a baccalaureate degree. The director stated that the evidence failed to distinguish the proposed duties from those of a typical interpreter or translator.

On appeal, counsel states that the beneficiary will translate complex documents requiring a high level of language ability to ensure that the translations comply with linguistic, cultural, and industry norms. The beneficiary will deal with complex terms from trade agreements, contracts, bills of lading, commercial paper, U.S. Customs and Border Protection Office and Field Operation bulletins, legal materials, and technical documents, counsel asserts. Counsel maintains that it is crucial for the beneficiary to correctly convert information between languages to avoid changing the meaning of the information or including her own interpretation. Counsel states that the beneficiary will also translate documents to and from the Russian language. Counsel states that the beneficiary will handle documents involving the release of merchandise from Customs and that the documents contain data used for duty assessment and statistical purposes. According to counsel, the beneficiary will also respond to inquiries prior to the international shipment of goods to ensure the goods will not be barred from entry. The beneficiary will provide updates to clients regarding import rules and procedures from the Food and Drug Administration and the U.S. Department of Agriculture, and U.S. Customs rulings. Counsel states that although the *Handbook* does not explicitly state that there is a specific specialty as the minimum for entry into a translation position, the *Handbook* infers that the normal minimum requirement for entry into the occupation is a bachelor's degree in language, as it states that "it is acceptable to major in something other than a language." Accordingly, counsel contends that the

normal minimum requirement for entry into the occupation is a bachelor's degree in language. Counsel states that a bachelor's degree in some other major would be sufficient for basic translations, but the same is not true for technical translations. Counsel states that the beneficiary is qualified for the proposed position.

Upon review of the record, the petitioner has established one of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

To establish the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) the petitioner must show that the nature of the specific duties is so specialized and complex that the knowledge required to perform such duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. The evidence of record, the U.S. Customs compliance officer letter; the AMS News Release; the "FSIS Import Reinspection" document; the U.S. Customs and Border Protection Public Bulletin; and the application letters, indicate that the proposed duties entail translating a wide range of documents that involve technical or legal subjects. The AAO finds that the petitioner has demonstrated, in light of the submitted evidence and the proposed duties, that the offered position has a specialization or complexity that would require knowledge associated with the attainment of a baccalaureate degree in the Korean or Russian languages, or both. The petitioner therefore establishes the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The record reflects that the beneficiary is qualified for the proposed position as she holds a master of science degree in education with a concentration/option in Teaching English to Speakers of Other Languages from California State University, Fullerton; and the equivalent of a bachelor's degree in a foreign language and literature (Korean) from an accredited college in the United States, based on an evaluation of the beneficiary's certificate from the Institute of Practical Eastern Studies (Moscow) by e-ValReports. The record contains copies of the beneficiary's master's degree and transcript, and her certificate and transcript and the translation of the documents in the English language.

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

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.