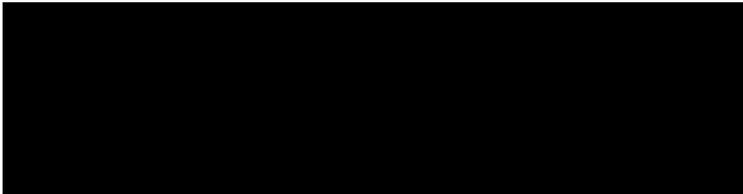




U.S. Citizenship
and Immigration
Services

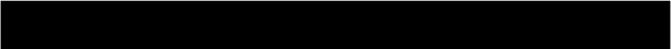
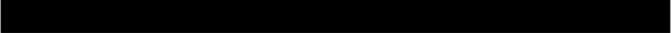
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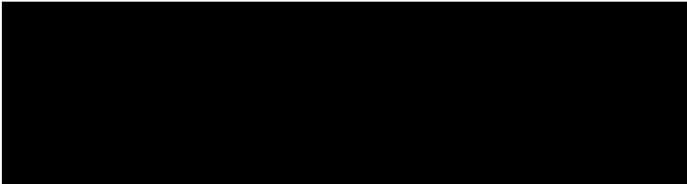
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FILE: SRC 06 043 51724 Office: TEXAS SERVICE CENTER Date: **SEP 12 2007**

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, 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 appeal will be sustained. The petition will be approved.

The petitioner is a company engaged in logistic control, supply chain management, and procurement of various electronic parts, computer systems components, peripherals, and other related products in support of research and development, design, assembly, service, debug, and manufacture of printed circuit boards, routers, switches, electronic communication devices, and computer systems. The petitioner seeks to employ the beneficiary as a buyer/purchasing agent/supply ops specialist 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 because the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information stating that the offered position qualifies as a specialty occupation.

The issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

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.

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

The nature of the specific duties are 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) the 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) the Form I-290B with supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary’s services as a buyer/purchasing agent/supply ops specialist. Evidence of the beneficiary’s duties includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Develop knowledge of raw materials, production processes, quality control, costs, and other techniques for maximizing the effective manufacture and distribution of goods;
- Use logic and reasoning to identify the strengths and weaknesses of alternative solutions, conclusions or approaches to problems;
- Cross check inventory and conduct research to see what competitors are carrying and selling;
- Target the proper market to prevent overstocking of products;
- Make follow-up telephone calls to potential buyers, vendors and the overseas factory/suppliers regarding orders, and monitor market demand to ensure the optimal stocking of products and goods;
- Maintain a knowledge of products and perform market research analysis, as well as maintain records of goods ordered and received;
- Locate vendors of materials, equipment or supplies, and interview them in order to determine product availability and terms of sale;
- Prepare and process requisitions and purchase orders for supplies and equipment;

- Control purchasing department budgets;
- Review purchase order claims and contracts for conformance to company policy;
- Analyze market and delivery systems in order to assess present and future material availability;
- Develop and implement purchasing and contract management instructions, policies, and procedures;
- Participate in the development of specifications for equipment, products or substitute materials;
- Consider the relative costs and benefits of potential actions to choose the most appropriate one;
- Analyze needs and product requirements to create a design;
- Bring others together and try to reconcile differences;
- Understand the implications of new information for both current and future problem solving and decision-making;
- Manage and forecast for a larger set of SKU's with often short life cycles;
- Build schedules and inventory availability;
- Understand and communicate supply chain planning business requirements internally and externally;
- Perform analysis and act as a consultant for other supply chain planners;
- Assess supply chain processes, research alternative approaches, and perform cost/benefit/risk analysis;
- Assist in project management for supply chain planning and cross functional-focused projects to support contract requirements;
- Generate supply chain improvement ideas;
- Understand supply chain planning metrics and exceed established goals;
- Serve as team leader for internal/external team initiatives and communicate initiatives to team members;
- Generate consumption reports and use them against forecast reports in order to buy future materials; and
- Communicate with suppliers and try to analyze and anticipate what is required from suppliers.

The petitioner requires a minimum of a bachelor's degree for entry into the proffered position, and finds the beneficiary qualified for the position by virtue of his bachelor's degree in economics from the University of Texas.

The AAO routinely consults the *Handbook* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are essentially those noted for buyers or purchasing managers. Purchasing managers, buyers and purchasing agents seek to obtain the highest quality merchandise at the lowest possible purchase cost for their employers. In general, *purchasers* buy goods and services for their company or organization, whereas *buyers* typically buy items for resale. Purchasers and buyers determine which commodities or services are best, choose the suppliers of the product or service, negotiate the lowest price, and award contracts that ensure that the correct amount of the product or service is received at the appropriate time. In order to accomplish these tasks successfully, purchasing managers, buyers, and purchasing agents study sales records and inventory levels of current stock, identify foreign and domestic suppliers, and keep abreast of changes affecting both the supply of and demand for needed products and materials.

The *Handbook* notes that qualified individuals for purchasing managers, buyers and purchasing agents positions may begin as trainees, purchasing clerks, expeditors, junior buyers, or assistant buyers. Retail and wholesale firms prefer to hire applicants with a college degree and familiarity with the products they sell, as well as wholesale and retail practices. It is also noted, however, that some retail firms promote qualified employees to assistant buyer positions, while others recruit and train college graduates. Most employers use a combination of methods for filling these positions. Educational requirements tend to vary with the size of the organization. Large stores and distributors prefer applicants who have completed a bachelor's degree program with a business emphasis, and many manufacturing firms put a greater emphasis on formal training, preferring applicants with a bachelor's or master's degree in engineering, business, economics, or one of the applied sciences. The fact remains, however, that while some employers prefer applicants with a bachelor's degree, a degree requirement in a specific specialty is not the minimum requirement for entry into the offered position. Many employers still fill buyer positions by promoting experienced employees who qualify for the position through work experience and training rather than a bachelor's level education in a specific specialty. The petitioner has failed to satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The petitioner contends that a degree in a specific specialty is common for the position in the industry in parallel positions among similar organizations. In support of that assertion, the petitioner submitted copies of several job advertisements for buyers. These advertisements, however, do not establish the petitioner's assertion. Three of the advertisements require a bachelor's degree, but do not state that the degree need be in any particular discipline. One advertisement does not list any education requirement, but states that two or more years of purchasing experience is required. Two require a bachelor's degree in business, and two others require either a bachelor's degree in business or one to two years of related experience and/or training. The advertisements do not establish that a degree in a specific specialty is common for the proffered position in the industry in parallel positions among similar organizations. 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). The advertisements do, in fact, confirm the findings in the *Handbook* for the educational requirements of the position, that a bachelor's degree in a specific specialty is not normally required for the position.

The petitioner also submitted an opinion letter from [REDACTED] a credentials evaluator with Multinational Education & Information Services, Inc. [REDACTED] states that due to the specialized and complex nature of the duties to be performed, an individual would need a minimum of a bachelor's degree in business administration, economics or a closely related field to perform those duties. [REDACTED] resume does not indicate his field of advanced study, and does not establish his credentials to render an opinion on the educational requirements for the position of buyer/purchaser in the electronics industry. [REDACTED]s conclusions are not supported by reference to corroborating information such as a labor market survey or any other authoritative source of labor market information, and they are contrary to the *Handbook's* findings for the educational requirements of the position. Simply going on the record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N 190 (Reg. Comm. 1972)). CIS may, in its discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, CIS is not required to accept, or may give less weight, to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). The opinion letter is of little evidentiary value and does not establish the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The petitioner contends that it normally requires a degree for the proffered position and states that all other employees in the proffered position hold bachelor's degrees. In support of that assertion, the petitioner listed 16 other employees in its procurement department and provided copies of their resumes to establish that they are bachelor degree holders. The petitioner did not, however, provide copies of their diplomas or statements from their respective universities confirming that they are degree holders. It should also be noted that the degrees listed are not in a specific field of study. Some are in business fields, and others are in computer science fields. The petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

The record does establish, however, that the duties of the proffered position are so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. The petitioner reports gross annual sales of \$17,000,000, and it is engaged in a complex and competitive business environment. The petitioner provided a detailed and extensive list of the duties to be performed by the beneficiary, and the record establishes that those duties are, in the petitioner's business environment, so specialized and complex that they would normally be performed by individuals with a baccalaureate level education. As noted in the *Handbook*, large stores and distributors prefer applicants who have completed a bachelor's degree program with a business emphasis. The petitioner has, therefore, established that the offered position qualifies as a specialty occupation as it meets the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The final issue to be determined is whether the beneficiary qualifies to perform the duties of a specialty occupation. The director did not address that issue as the petition was denied on another ground. The record is, however, sufficient for the AAO to make that determination. The petitioner holds a bachelor's degree in economics from the University of Texas. That degree is closely related to the duties of the proffered position and qualifies the beneficiary to perform the duties of the proffered position.

SRC 06 043 51724

Page 7

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 and the appeal shall accordingly be sustained.

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