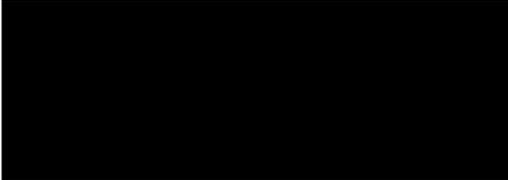


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FILE: EAC 05 241 50590 Office: VERMONT SERVICE CENTER Date: **SEP 19 2007**

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.

Handwritten signature of Robert P. Wiemann in black ink.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 an information technology firm that employs 280 personnel. It seeks to employ the beneficiary as a software engineer. Accordingly, the petitioner 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).

On March 16, 2006, the director denied the petition determining: (1) if the petitioner contended that the beneficiary qualified for the proffered position of software engineer with the equivalent of a bachelor's degree in business administration with a major in accounting, the position did not qualify as a specialty occupation; and (2) the record did not establish that the beneficiary is qualified to perform services in a specialty occupation. On appeal, counsel for the petitioner asserts the beneficiary is qualified to perform the services of the proffered position and that the petitioner recognizes the economic need for employees who are "cross-trained." Counsel asserts that the beneficiary's business accounting degree directly relates to the proffered position that requires knowledge of business software/systems. In addition, counsel submits an evaluation of the beneficiary's training and work experience from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(I).

Although the director did not make a direct determination regarding the nature of the proffered position and whether it was a specialty occupation, the AAO finds that the petitioner in this matter has provided sufficient evidence on appeal to demonstrate the specifics of the beneficiary's employment duties and has defined the beneficiary's ultimate tasks. The description is sufficient to establish that the duties require the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree, or its equivalent, in the specific specialty as the minimum for entry into the occupation as required by the Act. The AAO finds sufficient evidence in the record that the petitioner requires the proffered position of software engineer to work with business and accounting software applications and thus requires the successful incumbent to have an understanding of business and accounting processes to analyze users' business needs as those needs relate to the design and development of business applications using Oracle Enterprise Resource Planning Application and Oracle Database to modify and customize software. Upon review of the totality of the record, the record is sufficient to demonstrate that the proffered position requires cross training at the university-level in business administration/accounting and software engineering. The AAO finds in this matter that the nature of the specific duties of the proffered position are so complex and specialized that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree. The petitioner has established that the proffered position is a specialty occupation pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO has also reviewed the record regarding the beneficiary's qualifications. The AAO observes that the beneficiary obtained a foreign diploma that has been evaluated to be the equivalent of a bachelor's of science degree with a major in accounting. However, the beneficiary's foreign diploma is based on a three-year course of study at the Andhra University in India and is not equivalent to a bachelor's degree issued by an accredited

university in the United States. *See Matter of Shah*, 17 I&N Dec. 244 (Comm. 1977). Although the record also contains evidence that the beneficiary completed an additional year of post-graduate study in computer applications, the record does not establish that the study of computer applications in India is more than vocational training. Thus, the evidence of record is insufficient to establish the beneficiary's foreign degree and training is the equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university.

The evidence offered on appeal, however, includes an evaluation of the beneficiary's training and work experience in the field of computer science from an official who has authority to grant college-level credit for training and/or experience in computer science and engineering and computer information systems at an accredited university which has a program for granting such credit based on an individual's training and/or work experience is sufficient to establish that the beneficiary is qualified to perform the duties of a specialty occupation. Upon review of the totality of evidence in the record, the AAO determines that the record is sufficient in this matter, based on a review of the beneficiary's employment experience, to qualify the beneficiary to perform the duties of the specialty occupation pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

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