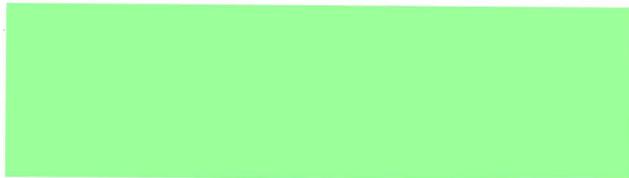


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



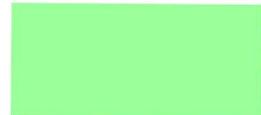
U.S. Citizenship
and Immigration
Services



DATE: JUN 30 2014

OFFICE: NEBRASKA SERVICE CENTER

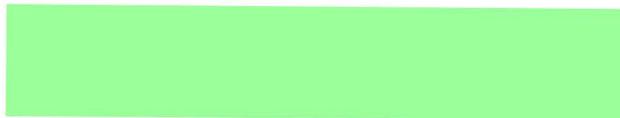
FILE:



IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to be "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center (Director). It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be sustained, and the petition approved.

The petitioner is a semiconductor development and sales company. It seeks to permanently employ the beneficiary in the United States as a “senior manager, information systems” pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, the petition is accompanied by an Application for Permanent Employment Certification, ETA Form 9089 (labor certification), that was certified by the United States Department of Labor (DOL).

The Director denied the petition on March 1, 2013, finding that the petitioner did not establish that the beneficiary has the requisite educational degree to qualify for the position offered under the terms of the labor certification.

The petitioner filed a timely appeal. The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Section 203(b)(2) of the Act provides for the granting of preference classification to members of the professions holding advanced degrees whose services are sought by employers in the United States. To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition’s priority date. See *Matter of Wing’s Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The petitioner must also establish its continuing ability to pay the proffered wage to the beneficiary from the priority date up to the present. See 8 C.F.R. § 204.5(g)(2). The priority date of the instant petition is September 28, 2012, which is the date the underlying labor certification was accepted for processing by the DOL. See 8 C.F.R. § 204.5(d).

Upon review of the entire record, including the materials submitted by the petitioner in support of the appeal, the AAO finds that the petitioner has overcome the grounds for denial in the Director's decision. The AAO determines that the petitioner has established that the beneficiary more likely than not had all the education, training, and experience specified on the ETA Form 9089 as of the priority date. The AAO also determines that the petitioner has established its continuing ability to pay the proffered wage from the priority date up to the present. Accordingly, the petition is approved under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), for classification of the beneficiary as an advanced degree professional.

The burden of proof in these proceedings rests solely with the petitioner. See Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

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