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U.S. Department of Homeland Security
20 Mass, NW, Rm. A3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: JUN 27 2006
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IN RE: Petitioner: [REDACTED]

Beneficiary: [REDACTED]

PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a software development and consultancy firm. It seeks to employ the beneficiary permanently in the United States as a programmer/analyst. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. The director determined that the petitioner had not established that the beneficiary had the minimum education and experience required by the Form ETA 750.

On appeal, the petitioner states that the beneficiary possessed the foreign equivalent of a master's degree in information systems, which it asserts meets the minimum educational background specified on the ETA 750.

Section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii), provides for the granting of preference classification to qualified immigrants who hold baccalaureate degrees and who are members of the professions.

A labor certification is an integral part of this petition, but the issuance of a Form ETA 750 does not mandate the approval of the relating petition. 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. 8 C.F.R. § 204.5(d). In this instance, the priority date is September 12, 2003.

The Form ETA 750 indicated that the position of programmer/analyst requires a four-year Bachelor of Science degree in Computer Science or engineering or the equivalent.

In support of the petition, the petitioner submitted:

- An original certified Form ETA 750; and,
- The beneficiary's educational credentials.¹

In a decision dated August 1, 2005, the director determined that the evidence did not establish that the petitioner met the minimum job requirements or its equivalent as of the priority date specified in the ETA 750, and denied the petition.

On appeal, counsel submits:

- A credentials evaluation by Career Consulting International, dated August 19, 2005, of the petitioner's Master of Commerce degree from Osmania University, India, consisting of a three-year program and various certificates, which the evaluator found to be the equivalent of a master's degree in Management Information Systems (MIS) from an accredited U.S. institution of higher learning.;

¹The beneficiary's credentials include the following diplomas and related coursework transcripts: from Sul Ross State University, Alpine, Texas, Jan. 1992 to May 1993, MBA -; from Osmania University, India, Sept. 1988, Sept. 1991, Master of Commerce; from the Bharatiya Vidya Bhavan, Bombay, India, Sept. 1987 to July 1989, post-graduate diploma in Marketing and Sales Management; from University of Calcutta, July 1984 to Oct. 1986, Bachelor of Commerce. Cobol computer training, Institute of Modern Management (Calcutta); Oracle applications training certificate (Icfai Business School, Calcutta); Sysoft training certificate; Central Michigan University (computer workshop certificate).

- A credentials evaluation by Marquess Educational consultants, Ltd. (London), of the beneficiary's degree from Osmania University, that found the beneficiary's degree to be equivalent to a U.S. accredited institution of higher education's Master of Business Administration with specialization in MIS; and,
- Printouts explaining that an MIS degree prepares one for both managerial and technology careers; and,
- Printouts from various colleges comparing coursework requirements for an MIS degree.

On appeal, counsel states that the beneficiary has a master's in MIS that satisfies the ETA 750's educational requirement for a four-year Bachelor of Science degree in Computer Science.

CIS may, in its discretion, use credential evaluations as advisory opinions when 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 that evidence, or may give less weight to it. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988); *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988).

Neither of the submitted credential evaluations expressly find that the beneficiary holds a degree that is the foreign equivalent of either a BS degree in Computer Science or engineering. The evaluation, dated August 19, 2005, with little discussion, concludes that the beneficiary "may be considered to have completed studies, which are comparable to a US Regionally Accredited Master's Degree in Management Information Systems." The August 18, 2005 evaluation by Marquess Educational Consultants, Ltd., indicates that the beneficiary completed coursework similar to "core competency in the MIS area" comparable to MBA programs in the United States.

We note that a degree in either computer science or engineering is not the same as one in Management Information Systems, as the former includes a depth of technical knowledge while the latter focuses upon management issues, as indicated in the beneficiary's coursework.

A review of the beneficiary's later coursework at Sul Ross State University, from which he received a master's in business administration, reveals no computer science-related coursework. Similarly, his degree from Osmania University in Commerce indicates that his area of specialization were in industrial relations and personnel management and in labor legislation. The beneficiary's transcripts do not show that he had taken any computer science courses. Therefore, beyond earning training certificates in computer languages, the beneficiary's education does not satisfy the ETA 750 requirement of a four-year Bachelor of Science degree in computer science. Much of his college coursework involved such courses as marketing or management. Accordingly neither the record nor the evidence and other materials submitted for the first time on appeal therefore have overcome the director's decision.

The issue is whether the beneficiary met all of the requirements stated by the petitioner in block 14 of the labor certification as of the day it was filed with the Department of Labor. The petitioner has not sufficiently established that the beneficiary had the equivalent of a four-year Bachelor of Science degree in computer science, engineering as of September 12, 2003. Therefore, the director's decision denying the petition will be affirmed.

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 not met that burden.

ORDER: The appeal is dismissed.