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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



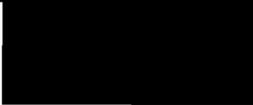
U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER Date:

NOV 04 2010

IN RE:

Petitioner:

Beneficiary:



PETITION:

Immigrant 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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a project management, training and consulting company. It seeks to employ the beneficiary permanently in the United States as a management analyst. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to demonstrate that the beneficiary satisfied the minimum level of education stated on the labor certification.

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)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States. Section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(3)(A)(ii), also provides for the granting of preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

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). Here, the Form ETA 750 was accepted for processing on January 8, 2004. The Immigrant Petition for Alien Worker (Form I-140) was filed on January 30, 2007.

The job qualifications for the certified position of management analyst are found on Form ETA 750 Part A. Item 13 describes the job duties to be performed as follows:

Research and analyze company's operations, policies and procedures. Compile and analyze financial data based on statistical duties. Analyze and oversee flow of cash and credits and study data to determine costs of business activities. Analyze past and present operations, costs and estimated revenues, develop programs to eliminate problems related to management operations, analyze and evaluate business plans in connection with the offer and demand for training and consulting services in the United States and abroad. Suggest alternate and/or complimentary methods of conducting business.

Regarding the minimum level of education and experience required for the proffered position in this matter, Part A, Block 14 of the labor certification indicates that the minimum educational requirement for the proffered position is four years of college and a bachelor's degree in "management or business." The position also requires one year of experience in the job offered.

To determine whether a beneficiary is eligible for a preference immigrant visa, U.S. Citizenship and Immigration Services (USCIS) must ascertain whether the alien is, in fact, qualified for the certified job. USCIS will not accept a degree equivalency or an unrelated degree when a labor certification plainly and expressly requires a candidate with a specific degree. In evaluating the beneficiary's qualifications, USCIS must look to the job offer portion of the labor certification to determine the required qualifications for the position. USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. See *Matter of Silver Dragon Chinese Restaurant*, 19 I&N Dec. 401, 406 (Comm. 1986). See also *Madany v. Smith*, 696 F.2d 1008 (D.C. Cir. 1983); *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006 (9th Cir. 1983); *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981).

On the Form ETA 750B, signed by the beneficiary, the beneficiary indicated that she received a Bachelor of Arts degree in Financial Management from the University of Asia and the Pacific in 2000.

In addition, on the Form ETA 750B the beneficiary listed her experience as follows:

Employer	Position	Dates of Employment
	Management Analyst	November, 2002 – present
	Management Analyst	May, 2001 – November, 2002
	Office Administrator	April, 2000 – September, 2000
	Project Assistant	April, 1999 – October, 1999

In support of the Form I-140 petition, the petitioner submitted a copy of the beneficiary's Bachelor of Arts degree from the University of Asia and the Pacific. The degree indicates that the beneficiary's major was in humanities. The degree also indicates that the beneficiary received a professional certificate in management. The petitioner also submitted a copy of the beneficiary's transcript from the University of Asia and the Pacific.

The director denied the petition on December 28, 2007. He determined that the beneficiary's bachelor of arts degree with a major in humanities and professional certificate in management did not meet the requirements of the certified Form ETA 750, which requires a bachelor's degree in management or business.

On appeal, counsel states that the beneficiary meets the educational requirements of the Form ETA 750. In support of this, counsel submitted an evaluation of the beneficiary's degree from [REDACTED]. The evaluation states that the beneficiary's degree is "the equivalent of a Bachelor of Arts Degree with a concentration in financial management from an accredited institution of higher education in the United States." Counsel also submitted copies of syllabi for courses completed by the beneficiary in the fields of business, finance, accounting and management.

Upon review, the AAO concludes that the director erred and that it is more likely than not that the beneficiary earned a foreign degree equivalent to a U.S. bachelor's degree in business or management. As noted above, the record contains a copy of the beneficiary's Bachelor of Arts

degree in Humanities with a professional certificate in management. The record also contains copies of transcripts listing all of the courses taken by the beneficiary, as well as a syllabus for each course completed by the beneficiary in the field of business and/or management. In all, the beneficiary completed 22 courses related to business or management. At least six of these were upper-level courses including Marketing Management, Management Accounting, Managing People in Organizations, Basic Financial Management, Industrial and Regional Market Analysis, and Business Ethics.

The transcripts show that the beneficiary attended the University of Asia and the Pacific for over four years. In addition, as noted above, the record contains an evaluation which concludes that the beneficiary's diploma is the equivalent of a U.S. bachelor's degree in financial management.¹ There is nothing in the record to suggest that the beneficiary obtained her degree in less than four years, or that the degree is less than the equivalent of a U.S. bachelor's degree. A bachelor degree is generally found to require four years of education. *Matter of Shah*, 17 I&N Dec. 244, 245 (Comm. 1977). The petitioner has established that the beneficiary possesses a degree which is, more likely than not, a foreign equivalent degree to a United States Bachelor's degree in management or business.

In addition, the record contains a letter from [REDACTED] of [REDACTED]. The letter states that the beneficiary was employed by [REDACTED] as a Management Analyst from September 2001 until November 2002.

As noted above, 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. The petitioner has established that, as of the priority date, the beneficiary possessed a degree which was the foreign equivalent to a U.S. bachelor's degree in business or management and that the beneficiary possessed one year of experience in the job offered, as required by the labor certification.

¹ The AAO has also reviewed the [REDACTED] created by the American Association of Collegiate Registrars and Admissions Officer (AACRAO). AACRAO, according to its website, [REDACTED] is "a nonprofit, voluntary, professional association of more than 10,000 higher education admissions and registration professionals who represent approximately 2,500 institutions in more than 30 countries." Its mission "is to provide professional development, guidelines and voluntary standards to be used by higher education officials regarding the best practices in records management, admissions, enrollment management, administrative information technology and student services." According to the registration page for EDGE, [REDACTED], EDGE is "a web-based resource for the evaluation of foreign educational credentials." EDGE indicates that a bachelor's degree from the Philippines "represents attainment of a level of education comparable to a bachelor's degree in the United States." [REDACTED]

In *Confluence Intern., Inc. v. Holder*, 2009 WL 825793 (D.Minn. March 27, 2009), the District Court in Minnesota determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision.



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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 met that burden.

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