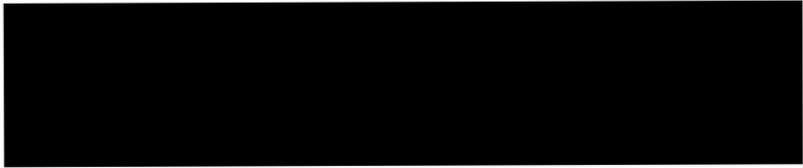


identifying data deleted to
prevent disclosure of unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



DI

NOV 03 2006

FILE: WAC 02 239 53454 Office: CALIFORNIA SERVICE CENTER Date:

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 director of the California Service Center director denied the nonimmigrant visa petition and the petitioner appealed the matter to the Administrative Appeals Office (AAO). The AAO withdrew the director's decision and remanded the matter to the director for entry of a new decision. The director again denied the petition and certified his decision to the AAO. The director's decision will be withdrawn and the petition will be approved.

The petitioner is a fabric import agency, with five employees. It seeks to employ the beneficiary as a financial analyst 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 he determined the beneficiary was not qualified to perform the duties of a specialty occupation.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's initial request for additional evidence; (3) counsel's response to the director's request; (4) the director's initial denial of the petition; (5) Form I-290B, with counsel's brief; (6) the AAO's remand of the petition to the director; (7) the director's second request for evidence; and (7) the director's subsequent denial letter. Although the director issued a request for evidence to allow the petitioner to submit additional information related to the beneficiary's qualifications, no response was received within the 12 week period allowed by regulation. *See* 8 C.F.R. § 103.2(b)(8). Accordingly, the evidence of record is that which existed at the time of the petitioner's appeal. That record has, again, been reviewed by the AAO in its entirety.

The issue before the AAO is whether the beneficiary is qualified to perform the duties of the proffered position, which the AAO has previously found to reflect the duties of a management/budget analyst.

As discussed in its March 1, 2006 decision remanding the instant petition to the director, the AAO finds the proffered position to qualify as a proffered position based on those of its duties that reflect the employment of management analysts. The Department of Labor's *Occupational Outlook Handbook (Handbook)*, the resource on which the AAO routinely relies for information on occupations and the preparation required to perform them, reports that for management analysts:

[e]ducational requirements for entry-level jobs . . . vary widely between private industry and government. Most employers in private industry generally seek individuals with a master's degree in business administration or a related discipline Some will hire workers with a bachelor's degree as a research analyst or associate. Research analysts usually need to pursue a master's degree in order to advance to a consulting position. [*Handbook* at page 93].

Although the AAO previously found the *Handbook's* discussion of the occupation of management analysts to indicate that the proffered position would require a master's degree in business administration or a related discipline, it also noted, as discussed above, that certain aspects of management analysis employment may be performed by management research assistants or associates with baccalaureate degrees. A subsequent review of the proffered position's management analysis duties finds them to describe a level of analysis that might be performed by a management research assistant or associate. As a result, the AAO amends its earlier conclusion regarding the proffered position's degree requirement and finds, instead, that the position requires

the beneficiary to hold a baccalaureate degree in a specialty directly related to management research/analysis or its equivalent.

Specific discussion of how an alien qualifies to perform services in a specialty occupation is found at 8 C.F.R. § 214.2(h)(4)(iii)(C), and requires the individual to:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The petitioner seeks to establish the beneficiary's qualifications to perform the duties of a specialty occupation based on the degree awarded him by the Far Eastern University in The Philippines. As proof that the beneficiary holds the equivalent of a U.S. degree required by the proffered position, the petitioner has submitted a copy of the beneficiary's bachelor of science degree in commerce from the Far Eastern University, a copy of his academic transcripts from that institution; and an evaluation of the beneficiary's academic experience by the Global Education Group (GEG), Inc. in Miami Beach, Florida. The GEG evaluation finds the beneficiary to have the equivalent of a bachelor of business administration in banking and finance awarded by a regionally-accredited U.S. university. Based on its review of the record, the AAO concurs with the GEG evaluation and finds the beneficiary to hold the equivalent of a baccalaureate degree in a field directly related to the duties of the proffered position. Therefore, the petitioner has established the beneficiary's qualifications to perform the duties of a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(2).

For reasons related in the preceding discussion, the petitioner has established that the beneficiary is qualified to perform the duties of a specialty occupation. Accordingly, the AAO will withdraw the director's decision. The petition will be approved.

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 director's September 25, 2006 decision is withdrawn. The petition is approved.