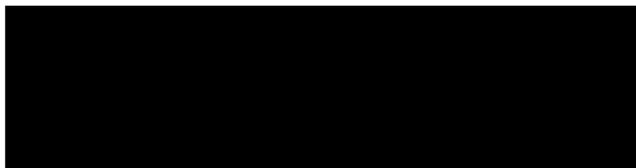


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U.S. Citizenship
and Immigration
Services

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FILE: SRC 05 173 51503 Office: TEXAS SERVICE CENTER Date: SEP 12 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas 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.

Established in 1998, the petitioner is a Florida company that provides aircraft repair services, with ten employees, and \$1,878,955.00 gross income. It seeks to hire the beneficiary as a technical translator. The petitioner, therefore, 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).

The record includes: (1) the Form I-129 and supporting documents; (2) the director's request for evidence (RFE); (3) counsel's response to the RFE; (4) the director's decision denying the petition; and (5) the Form I-290B and counsel's brief in support of the appeal. The AAO reviewed the record in its entirety before issuing its decision.

The director denied the petition on the basis that the petitioner had failed to establish that the proposed position qualifies for classification as a specialty occupation.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(1) defines the term "specialty occupation" as one that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

An occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its

particular position is so complex or unique that it can be performed only by an individual with a degree;

- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term “degree” in the above criteria to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The occupation of a translator may sometimes be a specialty occupation requiring a degree in a related field. The AAO finds that the totality of the evidence of record satisfies the fourth criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) by establishing that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate degree.

The petitioner states that it is seeking the beneficiary’s services as a technical translator. Evidence of the beneficiary’s duties includes: the petitioner’s May 17, 2005 letter; the petitioner’s June 20, 2005 response to the RFE; and counsel’s August 4, 2005 appeal brief. In its May 17, 2005 letter, the petitioner included the following duties:

[S]he will translate business documents from French to English, including negotiating contracts with clients, translating aircraft maintenance documents, aircraft repair and refurbishing documents and any information pamphlets and labels, in full technical language, for countries where French is the primary language.

In its response to the RFE, the petitioner added:

All of the documents are of a highly technical nature as they relate to aircraft maintenance and repair for major commercial aircrafts such as the 737’s, 747’s and 757’s, in compliance with FAA regulations and guidelines. The translation of these documents as well as the contract negotiations with clients involve complex business, financial, legal and technical terms.

The proposed duties and the details about the petitioner’s company establish that the proffered position involves the translation of highly technical documents regarding the maintenance and repair of commercial aircrafts. The AAO has determined that the proffered position is sufficiently complex and specialized to satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

As the evidence of record also establishes that the beneficiary holds the equivalent of a bachelor of arts degree in foreign languages and translation awarded by a regionally accredited university in the United

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States, which is a degree directly related to the pertinent specialty occupation, the beneficiary is qualified to serve in the occupation as required by the regulation at 8 C.F.R. §214.2(h)(4)(iii)(C) and (D).

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 sustained that burden.

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