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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

[Redacted]

DATE: **MAY 24 2013**

OFFICE: CALIFORNIA SERVICE CENTER

FILE: [Redacted]

IN RE: Petitioner:
 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:

[Redacted]

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", with a stylized flourish below it.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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DISCUSSION: The service center director 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.

On the Form I-129 visa petition and supporting documentation, the petitioner describes itself as a twelve-employee office of a 198-employee computer hardware manufacturing company established in 2004. It seeks 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 director denied the petition, concluding that the petitioner had failed to demonstrate that the proffered position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains the following: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's decision denying the petition; and (5) the Form I-290B and supporting documentation.

Upon review of the entire record of proceeding, the AAO finds that, on appeal, the petitioner has overcome the director's sole ground for denying this petition. Accordingly, as eligibility for the requested benefit has otherwise been established, the appeal will be sustained, and the petition will be approved.

The evidence of record establishes on appeal that the claimed specialty degree requirement is common to the petitioner's industry in parallel positions among similar organizations, as required by the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). Further, and based on the same evidence, the AAO finds that the petitioner has also established by a preponderance of the evidence that the particular position being offered to the beneficiary qualifies for classification as a specialty occupation as that term is defined at section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii).

Finally, the AAO has reviewed the qualifications of the beneficiary and finds her qualified to perform the duties of the proffered position. The beneficiary was awarded a master's degree by [REDACTED] in 2012 in a specific specialty directly related to the duties and responsibilities of the particular position here proffered.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The director's decision dated September 8, 2012 is withdrawn. The petition is approved.