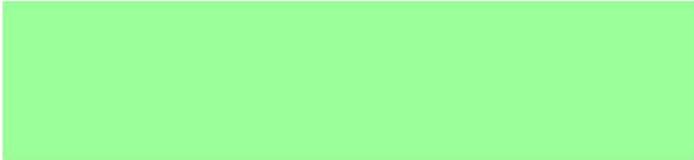




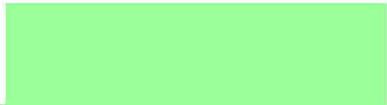
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: FEB 10 2014

OFFICE: TEXAS SERVICE CENTER



IN RE:           Petitioner:  
                  Beneficiary:



PETITION:     Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the immigrant visa petition on November 14, 2012. The matter is now before the Administrative Appeals Office (AAO). The appeal will be sustained. The petition will be approved.

The petitioner describes itself as an IT consulting firm. It seeks to employ the beneficiary permanently in the United States as a systems analyst. As required by statute, an ETA Form 9089, Application for Permanent Employment Certification approved by the Department of Labor (DOL), accompanied the petition.

The director denied the petition on November 14, 2012 concluding that the petitioner had failed to establish that the beneficiary possessed the education as required by the terms of the labor certification. The petitioner filed an appeal, asserting the that the beneficiary's credentials satisfied the terms of the labor certification.

The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Based on a review of the record, including the materials submitted on appeal and in response to the AAO's request for evidence, the AAO finds that the petitioner has established that the beneficiary's qualifications meet the requirements of the labor certification and that the petition merits approval as a second preference advanced degree professional.<sup>1</sup>

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<sup>1</sup> Section 203(b) of the Immigration and Nationality Act (the Act) states in pertinent part that:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability.--

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

In pertinent part, section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. An advanced degree is a United States academic or professional degree or a foreign equivalent degree above the baccalaureate level. 8 C.F.R. § 204.5(k)(2). The regulation further states: "A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree." *Id.*

The burden of proof in these proceedings rests solely with the petitioner. The petitioner has met that burden. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The appeal is sustained. The prior decision of the director is withdrawn and the appeal is sustained. The petition is approved.