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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**

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Date: **MAY 30 2012**

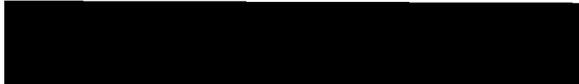
Office: TEXAS SERVICE CENTER

FILE: 

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:

SELF REPRESENTED

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,

Elizabeth M. Conmack

J 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 computer software development and consultancy company. It seeks to employ the beneficiary permanently in the United States as a business analyst. An ETA Form 9089, Application for Permanent Employment Certification approved by the Department of Labor (DOL), accompanied the petition. Upon reviewing the petition, the director determined that the beneficiary did not satisfy the minimum level of education stated on 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).¹

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.

The job qualifications requirements are found on Part H of the ETA Form 9089. As to the certified job's title, duties and minimum level of education and experience required for the proffered position in this matter, Part H-4 of the ETA Form 9089 indicates that the minimum educational requirements for the certified position of business analyst is a bachelor's degree in Computer Science, Engineering (any), Mathematics, Science, or Business. Part H-6 indicates that no work experience is required for the position. Part H-7 and H-8 indicate that there is no alternate field of study acceptable, nor will the employer accept an alternate combination of education and experience. Part H-9 states that a foreign educational equivalent is acceptable.

Based on the evidence submitted including the beneficiary's Bachelor of Science degree in Botany and his Diploma in Management Studies, two credential evaluations, and information provided by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE), the petitioner has demonstrated that the beneficiary holds the equivalent of a single degree which satisfies the requirements of the Form ETA 9089 and the regulation under section 8 C.F.R. § 204.5(l)(3)(ii)(C).

The beneficiary has a "United States baccalaureate degree or a foreign equivalent degree," and, thus, qualifies for preference visa classification under section 203(b)(3)(A)(ii) of the Act as a professional.

¹The procedural history of this case is documented in the record and is incorporated herein. Further references to the procedural history will only be made as necessary.

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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.