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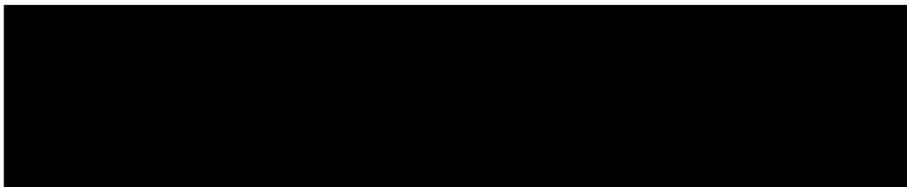
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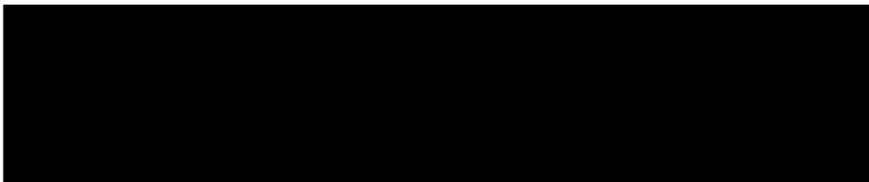
FILE: EAC 05 132 50242 Office: VERMONT SERVICE CENTER Date: JUL 31 2007

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.

*for*  
*Michael T. Kelly*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**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.

The petitioner is an international business, management and technical conference organizer that reports \$85,000,000 in gross annual income and approximately 300 employees. It seeks to employ the beneficiary as a marketing specialist and endeavors to classify her 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 because the position did not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information asserting that the proffered position is a specialty occupation.

The first issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation 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:

[A]n 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 are 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 criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B with counsel's brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a marketing specialist. Evidence of the beneficiary's duties was set forth in the petitioner's support letter dated March 31, 2005. According to this evidence the beneficiary would:

- Develop, manage and coordinate the marketing of the petitioner's business conferences and professional seminars;
- Coordinate marketing activities, formulating marketing and sales strategies, and implementing marketing plans;
- Coordinate direct mail and alternative media advertising of the petitioner's conferences and events;
- Prepare promotional materials;
- Write, edit and oversee printing of promotional materials;
- Negotiate supplier rates for promotional materials, mailing databases and partnership agreements for rentals, ad space, official endorsements, etc.;
- Research list of potential conference attendees, speakers and topics;
- Organize public relations events to promote conferences;
- Confer with trade associations and industry representatives;
- Recommend business objectives and long-term planning for the marketing of the petitioner's conference products; and

- Identify potential sponsorship revenue.

In planning and marketing the products and conferences of the petitioner, the beneficiary is required to conduct research in business topics in the fields of finance, e-commerce, biotechnology, energy and defense in order to develop conference topics and strategies to identify target audiences. She must also conduct feasibility studies for marketing programs, analyze and evaluate consumer dynamics, competitor activity and brand positioning, and perform cost-benefit analysis, as well as research lists of potential conference attendees and speakers.

The petitioner requires a minimum of a bachelor's degree in marketing or a liberal arts field for entry into the proffered position.

The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are varied and include duties normally performed by marketing professionals. Those duties, however, are not the same duties normally performed by advertising, marketing, promotions, public relations, and sales managers as described in the *Handbook*. They are more complex in nature as detailed by the petitioner in its business environment. The duties require not only an individual who can direct and create marketing campaigns, but one who has considerable research and analytical skills, coupled with management and communication skills. The beneficiary is required to research a wide range of possible seminar topics (finance, e-commerce, biotechnology, energy and defense) to develop potential attendee lists and arrange for qualified speakers. She will be required to write and edit promotional materials relative to those topics in the performance of her duties. The duties to be performed by the beneficiary in the petitioner's business environment are so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree. The proffered position does, therefore, qualify as a specialty occupation as it satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The final issue to be considered is whether the beneficiary is qualified to perform the duties of the offered position. The director did not comment on this issue as the petition was denied on another ground. The record is sufficient, however, for the AAO to make that determination. The petitioner presented an evaluation of the beneficiary's foreign education from a credentials evaluation service which indicates that the petitioner's education is equivalent to a bachelor's degree in history from an accredited college or university in the United States. In addition to that degree, the petitioner states that the petitioner has substantial experience that is closely related to the duties of the proffered position. She worked as a trainee with the petitioner, as a marketing manager for EMAP Conferences in London, and as a marketing executive for Centaur Conferences which is also in London. The *Handbook* indicates that a wide range of educational backgrounds is suitable for entry into the field of advertising, marketing, promotions and public relations. The beneficiary is thus qualified to perform the services of the occupation.

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.