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U.S. Citizenship
and Immigration
Services



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FILE: WAC 03 123 53990 Office: CALIFORNIA SERVICE CENTER Date: JAN 05 2005

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:
[Redacted]

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.

Robert P. Wiemann, Director
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 a manufacturer of quality supplies and parts for copiers, facsimiles, and printers and is also a major distributor of quality supplies and parts for copiers, facsimiles, and printers for other companies, including [REDACTED]. It seeks to employ the beneficiary as a purchasing agent. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 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 proffered position is not a specialty occupation. On appeal, the petitioner's new counsel submits a brief.

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.

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 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) 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) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a purchasing agent. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's February 1, 2003 letter in support of the petition; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail: negotiating prices with domestic and international vendors; purchasing sufficient products to support sales department; searching and updating product lines; collecting product information for marketing purposes; and coordinating inventory transfer among branches. The petitioner indicated that a qualified candidate for the job would possess a related master's degree.

The director found that the proffered position was not a specialty occupation because the proposed duties are not so complex as to require a baccalaureate degree. The director found further that the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel states, in part, that the proffered position, which is that of a purchasing agent for a manufacturer and distributor of products in the office business industry, with over 500 employees and 30 distribution and manufacturing locations worldwide, is so complex that a baccalaureate or higher degree in a related field is required. Counsel cites to the Department of Labor's *Occupational Outlook Handbook (Handbook)* as supporting documentation.

The proffered position is that of a purchasing agent for a manufacturer and distributor of office products. A review of the *Handbook*, 2004-2005 edition, at page 63, finds that educational requirements for purchasing managers, buyers, and purchasing agents tend to vary with the size of the organization. Large stores and distributors, especially those in wholesale and retail trade, prefer individuals who have completed a bachelor's program with a business emphasis. Many manufacturing firms, however, place a greater emphasis on formal training, preferring applicants with a bachelor's or master's degree in engineering, business, economics, or one of the applied sciences. In this case, the beneficiary holds a master's degree in business administration conferred by a U.S. institution. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered position is a specialty occupation within the meaning of regulations.

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. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained. The director's order is withdrawn and the petition is approved.