



U.S. Citizenship
and Immigration
Services

b2

[REDACTED]

DATE: NOV 29 2012 OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

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:

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,

Ron Rosenberg
Acting 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.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a designer and marketer of computer games with 286 employees. It seeks to employ 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, finding that the petitioner failed to establish that the beneficiary is qualified to perform the duties of a specialty occupation.

Upon review of the entire record, we find that the petitioner has overcome the director's sole ground for denying this petition. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The evidence presented in this particular record of proceeding establishes that the beneficiary is more likely than not qualified to perform the duties of the proffered position. *See* 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) and (D)(1).

The burden of proof in visa petition 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 The director's November 28, 2011 decision is withdrawn, and the petition is approved.