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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

[REDACTED]

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Date: **SEP 17 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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
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 dismissed. The petition will be denied.

On the Form I-129 visa petition, the petitioner stated that it is a used automobile parts firm with eight employees. To employ the beneficiary in a position it designates as a full-time accountant position, the petitioner endeavors to classify him 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 work in a specialty occupation position and failed to demonstrate that there is a reasonable and credible offer of employment in this case. The finding that the petitioner had failed to show that the job offer is reasonable and credible is based on the director's determination that the duties of the proffered position mark it as a bookkeeper position, rather than as an accountant position.

On appeal, counsel asserted that the director's bases for denial were erroneous, and contended that the petitioner satisfied all evidentiary requirements.

The AAO bases its decision upon its review of the entire record of proceeding, which includes: (1) the petitioner's Form I-129 and the supporting documentation filed with it; (2) the service center's request for additional evidence (RFE); (3) the response to the RFE; (4) the director's denial letter; and (5) the Form I-290B and counsel's submissions on appeal.

The AAO will first address the issue of whether the petitioner has made a reasonable and credible offer of an accountant position to the beneficiary.

As was observed above, the petitioner designated the proffered position as an accountant position on the Form I-129 visa petition. With the visa petition, counsel submitted evidence sufficient to show that the beneficiary has a bachelor's degree in political science from [REDACTED] Hawaii; and a master's of business administration degree from [REDACTED], also in Hawaii.

Counsel also submitted a letter, dated May 10, 2010, from the petitioner's president. That letter contains the following description of the duties of the proffered position:

Provide analysis and interpret financial information President needs to make appropriate business decision. Prepare financial reports for internal management use. Apply principles of accounting to analyze financial information to prepare entries to accounts, such as general ledger accounts, documenting business transactions. Analyze financial information detailing assets, liabilities, and capital, and prepares balance sheet, profit and loss statement, and other reports summarize current and projected company financial position, using calculator or computer for internal management. May establish, modify, document and coordinate implementation of accounting and accounting control

procedures. Utilize off-the-shelf [windows-based] accounting software. Act as a liaison with outside CPA firm.

The petitioner's president cited the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)*, and *O\*Net* for the proposition that the proffered position, because it is an accountant position, requires a bachelor's degree.

The petitioner's president further stated,

The nature of Accountant's duties is so specialized and complex that knowledge required to be an Accountant is usually associated with the attainment of a bachelor's or higher degree. The position of Accountant must have specialized knowledge and education in accounting or a related field to perform tasks involving important financial aspect of the company operation. This special knowledge and education is obtainable through their higher education specialized in accounting or a related field. Basically, the position is so complex or specialized that it can be performed only by an individual with a college degree or higher. Please see under Nature of the Position below for more detailed explanation for our requirement for our Accountant to have a Bachelor's degree.

Although the petitioner's president asserted that the proffered position requires education in accounting or a related field, he did not, then or subsequently, expand upon that statement. Whether he was asserting that the proffered position requires a minimum of a bachelor's degree or the equivalent in accounting, or in any other specific specialty, is unclear.

In any event, the petitioner stated that it sells automobile parts. An organizational chart in the record designates two of the petitioner's eight employees as "Inventory/Dismantler," which suggests that the petitioner acquires automobiles to disassemble for the parts it sells. Two of the petitioner's employees, including the beneficiary, are in the Accounting department. Another, although listed in "Sales Crews," is designated assistant finance clerk. Further, the description of the duties of the proffered position indicates that, if permitted to employ the beneficiary, the petitioner would still utilize the services of outside accountants.

On appeal, counsel asserted that the volume of the petitioner's business demonstrates that they need an accountant, citing the petitioner's 300 wholesale transactions per month, in addition to retail sales.

The petitioner's business appears to consist primarily of dismantling cars and selling their parts. The petitioner has not demonstrated that the accounting, bookkeeping, and finance aspects of such a business is so demanding that the petitioner's eight-person operation, with roughly ten wholesale transactions in addition to some retail transactions per day, could utilize three employees in accounting and finance, in addition to the services of outside accountants. That the petitioner would employ the beneficiary as an accountant is neither reasonable nor credible.<sup>1</sup> The decision of the

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<sup>1</sup> In the decision of denial, the director appeared to concede that, if the proffered position were a true

director was not in error and, therefore, will not be disturbed. The appeal will be dismissed and the visa petition denied on this basis.

The remaining basis for the decision of denial is the director's finding that the petitioner has not demonstrated that the beneficiary is qualified in a specialty occupation. The beneficiary has a master's degree in business administration. An otherwise undifferentiated master's degree in business administration, however, is not a minimum of a bachelor's degree or the equivalent in a specific specialty, and does not qualify one to work in a specialty occupation, unless the academic courses pursued and knowledge gained is a realistic prerequisite to a particular occupation in the field. *Matter of Ling*, 13 I&N Dec. 35 (Reg. Comm'r 1968).

The beneficiary's other degree is a bachelor's degree in political science. Because the beneficiary has that degree, the AAO does not agree that the beneficiary could not qualify for any specialty occupation position. The beneficiary could qualify for a specialty occupation position that required a minimum of a bachelor's degree or the equivalent in political science.

Pursuant to the instant visa category, however, a beneficiary's credentials to perform a particular job are relevant only when the job is found to qualify as a specialty occupation. As discussed in this decision, the petitioner has not demonstrated that it made a reasonable and credible offer of an accountant position to the beneficiary. In the event that the visa petition were approved, the duties that the beneficiary would actually perform, if any, are unknown to the AAO. Because the finding that the petitioner failed to demonstrate that a reasonable and credible offer exists in this case is dispositive, the AAO need not reach the issue of the beneficiary's qualifications.

The AAO observes, though, that if the petitioner had demonstrated that (1) the job offer in this case were reasonable and credible and (2) the position thus proffered required a minimum of a bachelor's degree or the equivalent in accounting, the petitioner would be obliged, in order for the visa petition to be approvable, to demonstrate, not only that the beneficiary has a bachelor's degree or the equivalent, but that the beneficiary has a minimum of a bachelor's degree or the equivalent *in that specific specialty*. See *Matter of Matter of Ling*, 13 I&N Dec. 35. Here and as previously discussed, the petitioner failed to demonstrate that the beneficiary possesses a bachelor's or higher degree in accounting, or its equivalent. Therefore, it cannot be found that the beneficiary would qualify to perform the duties of a specialty occupation requiring such a degree, and the petition could not be approved even if eligibility had otherwise been established.

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291

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accountant position, it would then necessarily qualify as a specialty occupation position. The AAO does not concur with that position and does not find that the *Handbook*, cited by counsel, supports it. However, as the petitioner has not demonstrated that the proffered position actually is an accountant position, the AAO need not further address that issue.

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of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The appeal will be dismissed and the petition denied.

**ORDER:** The appeal is dismissed. The petition is denied.