



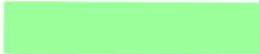
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAY 31 2013**

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

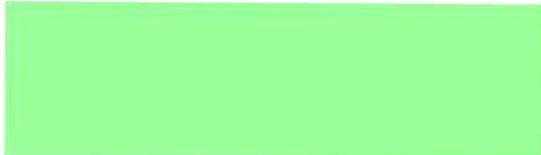
Petitioner:

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:

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 Director, California Service Center, (“the director”) denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

On the Form I-129, Petition for a Nonimmigrant Worker, the petitioner describes itself as a medical office management systems software business that seeks to employ the beneficiary in a specialty occupation. Accordingly, the petitioner endeavors to classify 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 on January 20, 2012, finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. The director also found that the record did not establish that the petitioner had sufficient specialty occupation work available for the beneficiary for the duration of the requested validity period. On appeal, counsel for the petitioner contends that the director’s basis for denial of the petition was erroneous.

Upon review of the record as supplemented on appeal, the AAO issued a request for further evidence (RFE) requesting, *inter alia*, additional information regarding the beneficiary’s role in the petitioner’s organization. In response to the AAO’s RFE, the petitioner provided sufficient evidence to overcome the director’s determination that the petitioner had not established that the proffered position qualifies as a specialty occupation and that it had sufficient specialty occupation work available for the beneficiary to perform for the duration of the requested validity period. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The totality of the evidence presented in this record of proceeding establishes that the nature of the specific duties is so specialized and complex that knowledge required to perform them is usually associated with the attainment of a bachelor’s degree in a specific specialty directly related to the duties and responsibilities of the particular position. *See* 8 C.F.R. § 214.2(h)(4)(iii)(A)(4); *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing “a degree requirement in a specific specialty” as “one that relates directly to the duties and responsibilities of a particular position”). The petitioner has established by a preponderance of the evidence that the beneficiary will be employed in the proffered position as described and that this position qualifies for classification as a specialty occupation as that term is defined by section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). In addition, the AAO reviewed the qualifications of the beneficiary and finds him qualified to perform the duties of the proffered position.

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 January 20, 2012 decision is withdrawn, and the petition is approved.