



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 10471801

Date: JULY 2, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner, a media planning and buying company, seeks to employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations.<sup>1</sup> The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both: (a) the theoretical and practical application of a body of highly specialized knowledge; and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Vermont Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker, concluding that the record did not establish that the proffered position qualified as a specialty occupation. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Upon *de novo* review<sup>2</sup>, we will sustain the appeal.

Considering the aggregate of the evidence within the present record, the Petitioner has demonstrated that it is more likely than not, that the nature of the position's duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.<sup>3</sup> The Petitioner has also established that the position satisfies the statutory definition of a specialty occupation found within section 214(i)(1) of the Act.

**ORDER:** The appeal is sustained.

---

<sup>1</sup> See Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

<sup>2</sup> Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

<sup>3</sup> 8 C.F.R. § 214.2(h)(4)(iii)(A).