



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

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

In Re: 9452323

Date: JUNE 8, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker

The Petitioner seeks to temporarily employ the Beneficiary as a data analyst III under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). 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 Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the position qualified as a specialty occupation under any of the criteria in 8 C.F.R. § 214.2(h)(4)(iii)(A). The matter is now before us on appeal. On appeal, the Petitioner asserts that the Director's decision was in error because the position's duties are so specialized and complex that the knowledge required to perform the duties is associated with the attainment of a baccalaureate or higher degree in a specific specialty.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will sustain the appeal.

The record demonstrates that the proffered position is a specialty occupation. The Petitioner provided a sufficiently detailed job description and explained the Beneficiary's proposed duties as they relate to the Petitioner's business operations. The proposed duties, when reviewed within the context of the Petitioner's business operations, are sufficient to demonstrate that, more likely than not, the duties of the position require a "body of highly specialized knowledge" attained through a precise and specific course of study that relates directly and closely to the proffered position. The Petitioner also appropriately accounted for the level of experience and responsibility of the position with the certification of the wage level on the Labor Condition Application for Nonimmigrant Workers.

Our review of the Beneficiary's academic credentials, the Petitioner's detailed description of the duties and the requirements necessary to perform those duties, as well as evidence of the relationship between

the duties and the Beneficiary's academic degree establish that the Beneficiary is also qualified to perform the duties of the proffered position.

The totality of the record establishes that, more likely than not, the Petitioner's particular position requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entering into the occupation in the United States. And further, that the Beneficiary's academic degree is directly related to the duties of the proffered position.

ORDER: The appeal is sustained.