



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

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

In Re: 8770230

Date: JUNE 17, 2020

Appeal of California Service Center Decision

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

The Petitioner, a software development and implementation company, seeks to temporarily employ the Beneficiary as an “computer systems analyst” 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 Director of the California Service Center denied the petition, concluding that the record does not establish that the Beneficiary is qualified for the proffered position. On appeal, the Petitioner asserts that the Director erred in the decision.

While we conduct *de novo* review on appeal, we conclude that a remand is warranted in this case because the Director’s decision is insufficient for review. Specifically, the Director is required to follow long-standing legal standards and determine first, whether the proffered position qualifies for classification as a specialty occupation, and second, whether the Beneficiary was qualified for the position at the time the nonimmigrant visa petition was filed. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm’r 1988) (“The facts of a beneficiary’s background only come at issue after it is found that the position in which the petitioner intends to employ him falls within [a specialty occupation].”).

As presently constituted, the record does not demonstrate that the proffered position qualifies as a specialty occupation. *See* 8 C.F.R. § 214.2(h)(4)(iii)(A). The Petitioner has not provided sufficient documentation from a probative, authoritative source to substantiate its assertion regarding the minimum requirement for entry into this particular position. The labor condition application (LCA)¹ submitted in support of the H-1B petition classifies the proffered position as being located within the occupational category of “Computer Systems Analysts” corresponding to the Standard Occupational Classification (SOC) code 15-1121. We reviewed the *Handbook’s* subchapter entitled “How to Become a Computer Systems Analyst,” which states, in pertinent part, that “a bachelor’s degree in a

¹ A petitioner submits the LCA to DOL to demonstrate that it will pay an H-1B worker the higher of either the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to other employees with similar duties, experience, and qualifications. Section 212(n)(1) of the Act; 20 C.F.R. § 655.731(a).

computer or information science field is common, although not always a requirement.”² According to the *Handbook*, some firms hire analysts with business or liberal arts degrees, many analysts have technical degrees, and many analysts gain programming or technical expertise elsewhere.³ Further, the *Handbook* does not specify a degree level (e.g., associate’s degree) for these business, technical, and liberal arts degrees. Similarly, the DOL’s Occupational Information Network (O*NET) summary report for “Computer Systems Analysts” under SOC 15-1121.00 does not indicate that a bachelor’s degree *in a specific specialty*, or the equivalent, is normally required. It states that “most of these occupations require a four-year bachelor’s degree, but some do not.”⁴ Therefore, the *Handbook* and O*NET do not support the assertion that at least a bachelor’s degree in a specific specialty, or its equivalent, is normally the minimum requirement for these positions.

Accordingly, the matter will be remanded to the Director to consider the specialty-occupation issue and enter a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issue. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

² Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Computer Systems Analysts, <https://www.bls.gov/ooh/computer-and-information-technology/computer-systems-analysts.htm#tab-4> (last visited Jun. 17, 2020).

³ *Id.*

⁴ For additional information, see the O*NET Online Help webpage available at <http://www.onetonline.org/help/online/svp>.