



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

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

In Re: 9969048

Date: JUNE 30, 2020

Appeal of California Service Center Decision

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

The Petitioner, a financial services company, seeks to temporarily employ the Beneficiary as a “software engineer” 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 California Service Center denied the petition, concluding that the evidence of record does not establish that the proffered position qualifies as a specialty occupation. Upon *de novo* review, we will withdraw the Director’s decision and remand the petition for further review of the record and a new decision.

Upon review, we find that the Director’s decision contains factual errors. Specifically, the Director erroneously referred to the Petitioner as a limited liability corporation and concluded that the Petitioner was no longer in existence as an active business. The Director further concluded that because the Petitioner was no longer in active business, the Beneficiary would not be able to perform the duties as described.

Therefore, we will remand the matter for the Director for further review of the record and to issue a decision based on correct recitation of the facts and documents.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.