



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

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

In Re: 9301121

Date: JULY 2, 2020

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker

The Petitioner, an information technology company, seeks to temporarily employ the Beneficiary as an “implementation specialist” 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 record does not establish that the Beneficiary is qualified for the proffered position. On appeal, the Petitioner asserts that the Director erred in denying the petition.

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, although the Director references a discussion of the proffered position and states that the Petitioner has “not shown that the proffered position is a specialty occupation,” the decision does not include any such discussion.

The Director should, therefore, determine whether the Petitioner has 1) sufficiently described the duties of the proffered position¹ and 2) otherwise established that the position qualifies as a specialty occupation. If the Director determines that the position does not qualify as a specialty occupation, she must provide a sufficient explanation for her conclusion.

If the Director determines that the position does qualify as a specialty occupation, she should then consider whether the Beneficiary is qualified. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558,

¹ For example, the Petitioner provided a generalized list of job duties without explaining how duties such as onboarding key clients projects, describing and recommending communication protocols, aligning sales and implementation, managing client expectations, providing clients with strategic business recommendations, and coordinating resources of clients’ third-party providers actually require the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline.

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].").

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.

ORDER: The decision of the Director is withdrawn.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