



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

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

In Re: 10188227

Date: JULY 20, 2020

Appeal California Center Decision

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

The Petitioner, a company engaged in software development, seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. 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 sufficiently establish that the certified labor condition application (LCA) corresponds to and supports the H-1B petition. On appeal, the Petitioner submits a brief and asserts that the Director erred in denying the petition. Upon *de novo* review, we will sustain the appeal.

Based upon our review of the entire record of proceedings, including the submissions on appeal addressing the grounds for the Director's decision, we conclude that the Petitioner has overcome the basis of the Director's denial. The Petitioner provided a detailed job description for the proffered position and explained how the duties correspond with the occupational category listed on the certified LCA. Upon review, the LCA was certified for the appropriate occupational category and prevailing wage level, and therefore properly corresponds with and supports the petition.

In addition, the duties of the proffered position, when performed within the context of its specific business operation, are specialized and complex. Specifically, we conclude that the nature of the specific 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, as required by 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). Further, we conclude that Petitioner has established, by a preponderance of the evidence, that the particular position being offered to the Beneficiary qualifies for classification as a specialty occupation as the term is defined at section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii).

ORDER: The appeal is sustained.