U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 9092892

Date: JUNE 30, 2020

Appeal of California Service Center Decision

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

The Petitioner, an international staffing and consulting services company, seeks to temporarily employ the Beneficiary as a "responsive web developer" 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 (1) the Petitioner will have an employer-employee relationship with the Beneficiary, and (2) the proffered position qualifies as a specialty occupation. Upon *de novo* review, we will remand the matter for the entry of a new decision.

The Petitioner submits additional evidence on appeal including a new letter from the client. The Petitioner asserts that the evidence submitted demonstrates that the proffered position qualifies as a specialty occupation and that it will have an employer-employee relationship with the Beneficiary. Because the Director has not yet addressed the additional evidence, we shall return the matter for the Director to consider the Petitioner's claim anew.

ORDER: The decision of the Director is withdrawn.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