



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

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

In Re: 8804409

Date: JUNE 1, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker

The Petitioner seeks to temporarily employ the Beneficiary as a “CAD 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 California Service Center Director denied the petition, concluding that the Petitioner had not established that the proposed position qualifies as a specialty occupation and that the Beneficiary will perform services in a specialty occupation for the requested period of intended employment. On appeal, the Petitioner asserts that the Director erred and it has established eligibility for this benefit.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit by a preponderance of the evidence.¹ The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*.² Upon *de novo* review, we will sustain the appeal.

On the certified labor condition application submitted in support of the petition, the Petitioner designates the proposed position as a Standard Occupation Classification code 17-2141, “Mechanical Engineers” occupation. The Petitioner describes the duties of a mechanical engineer, provides information on multiple in-house projects and the Beneficiary’s role within the projects, and submits purchase orders indicating that several of the proposed projects had begun. The totality of the record includes sufficient evidence that more likely than not the proposed position is a specialty occupation and that the Beneficiary will perform services in a specialty occupation for the requested employment period.

ORDER: The appeal is sustained.

¹ Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

² *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).