



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

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

In Re: 10144475

Date: JUNE 8, 2020

Appeal of Vermont Service Center Decision

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

The Petitioner, a semiconductor manufacturer, seeks to temporarily employ the Beneficiary as an “Analog 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 Vermont Service Center denied the petition, concluding that the record did not establish that the proffered position is a specialty occupation.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we conclude that the Petitioner has established that the proffered position qualifies for classification as a specialty occupation as defined by section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii). The Petitioner provided new evidence on appeal that, when considered in conjunction with the job description previously submitted, establishes that the position duties are so complex or unique that they can only be performed by an individual with a baccalaureate or higher degree in a specific specialty or its equivalent, as required by the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). Further, the record establishes that the Beneficiary is qualified to perform the duties of the proffered position under section 214(i)(2) of the Act; 8 C.F.R. § 214.2(h)(4)(iii)(C)(I).

ORDER: The appeal is sustained.