



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

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

MATTER OF S-T- LLC

DATE: AUG. 18, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a quantitative tools design firm, seeks to employ the Beneficiary as a computer and information research scientist. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director, Texas Service Center, denied the petition. The Director found that the Petitioner did not submit primary evidence to establish its continuing ability to pay the Beneficiary's proffered wage of \$71,323 and denied the petition. On appeal, the Petitioner contends that it paid the Beneficiary more than the proffered wage and has, therefore, established its ability to pay the proffered wage from the priority date onwards. Upon *de novo* review, we will sustain the appeal and approve the petition.

As required by statute, the petition is accompanied by an approved ETA Form 9089, Application for Permanent Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL). The priority date of the labor certification is April 22, 2014. *See* 8 C.F.R. § 204.5(d). Pursuant to 8 C.F.R. § 204.5(g)(2) the petitioner must demonstrate its ability to pay the proffered wage at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence.

Upon review of the entire record, including evidence submitted on appeal, we conclude that the Petitioner has established that it had the continuing ability to pay the proffered wage. Accordingly, the petition is approved under section 203(b)(2) of the Act.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The petitioner has met that burden.

Matter of S-T- LLC

ORDER: The appeal is sustained.

Cite as *Matter of S-T- LLC*, ID# 16585 (AAO Aug. 18, 2016)