



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

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

MATTER OF I-V-P- CORP.

DATE: JUNE 30, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a software services business, seeks to employ the Beneficiary as an associate director - consulting. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference (EB-2) immigrant classification. *See* Immigration and Nationality Act (the Act) § 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 of the Nebraska Service Center denied the petition and the subsequent motion to reopen and reconsider, concluding that the Beneficiary did not meet the educational requirements of the labor certification or the EB-2 classification.

On appeal, the Petitioner asserts that the Beneficiary's education satisfies the requirements of the labor certification and the EB-2 advanced degree professional classification. Upon *de novo* review, we will dismiss the appeal.

#### I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL).<sup>1</sup> *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. Section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national applies for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

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<sup>1</sup> The date the labor certification is filed, in cases such as this one, is called the "priority date."

To qualify for EB-2 classification, a beneficiary must possess an advanced degree. 8 C.F.R. § 204.5(k)(3). The regulations define the term “advanced degree” as “[a]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree.” 8 C.F.R. § 204.5(k)(2).

In addition, to be eligible for approval, a beneficiary must also have all the education, training, and experience specified on the labor certification as of the petition’s priority date. *See Matter of Wing’s Tea House*, 16 I&N 158 (Acting Reg’l Comm’r 1977).

## II. ANALYSIS

The petition is accompanied by an approved labor certification, certified by the DOL. *See* 8 C.F.R. § 204.5(a)(2). Section H of the labor certification states that the offered position requires a master’s degree in business administration or business management, management, management information systems, or any related equivalent field.

The record contains the Beneficiary’s diploma from [REDACTED] indicating that the Beneficiary obtained a bachelor of technology degree in mechanical engineering in 2003. The record also contains the Beneficiary’s postgraduate diploma in software enterprise management from the [REDACTED] awarded in 2008.

The record also contains two evaluations of the Beneficiary’s educational credentials. The first is from [REDACTED] Ph.D., for [REDACTED] who concludes that the Beneficiary’s bachelor of engineering degree and his post graduate diploma in software enterprise management together constitute the equivalent of a U.S. master’s degree in business administration. [REDACTED] evaluation states that the [REDACTED] postgraduate diploma program requires a bachelor’s degree for admission and that the Beneficiary “satisfied requirements substantially similar to those required towards the completion of academic studies leading to graduate-level Master of Business Administration from an accredited college or university in the United States.”

The second evaluation is from [REDACTED] in which the evaluator concludes that the Beneficiary’s bachelor’s degree and postgraduate diploma are respectively equivalent to a U.S. bachelor’s degree and a U.S. master’s degree. The [REDACTED] evaluation also states that the [REDACTED] postgraduate diploma is a part-time degree that requires a bachelor’s degree for admission.

However, according to the [REDACTED] website, the Beneficiary’s postgraduate diploma program is available to individuals with a three-year bachelor’s degree or equivalent qualification (defined as a minimum of three years of education after completing higher secondary schooling). *See*

[http://www. \[REDACTED\]](http://www. [REDACTED]) (last accessed June 28, 2017).

We have reviewed information from the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE).<sup>2</sup> EDGE states that the bachelor's degree in engineering from India "represents attainment of a level of education comparable to a bachelor's degree in the U.S." EDGE also states that "[t]he Postgraduate Diploma, following a three-year bachelor's degree, represents attainment of a level of education comparable to a bachelor's degree in the United States."

Regarding the admission requirement for the Beneficiary's [REDACTED] postgraduate diploma, EDGE states that a three-year bachelor's degree from India is comparable to three years of university study in the United States. Therefore, contrary to the two evaluations in the record, admission to the postgraduate diploma program only required the U.S. equivalent of three years of university study.<sup>3</sup> EDGE accordingly concludes that the postgraduate diploma does not build upon the Beneficiary's four-year bachelor's degree but instead results in a second bachelor's degree.

The academic record of the Beneficiary's [REDACTED] postgraduate diploma program states that "[t]he credit requirements for the postgraduate diploma are equivalent to that of the Post Graduate Diploma in Management of the [REDACTED] which has been recognized as equivalent to the MBA degree by the [REDACTED] and the Government of India." EDGE concludes, however, that a master's degree from India is equivalent to a U.S. bachelor's degree.

For these reasons, we affirm the Director's conclusion that the Beneficiary does not possess the foreign equivalent of a U.S. master's degree. Accordingly we find that the Petitioner has not established that the Beneficiary meets the educational requirements of the offered position set forth on the labor certification, or that he possesses an advanced degree as required for the EB-2 classification.

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<sup>2</sup> AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in over 40 countries." <http://www4.aacrao.org/centennial/about.htm> (last visited Jun. 28, 2017). According to its registration page, EDGE is "a web-based resource for the evaluation of foreign educational credentials." <http://edge.aacrao.org/info.php> (last visited Jun. 28, 2017).

<sup>3</sup> We may reject an expert opinion or afford it less evidentiary weight if it conflicts with evidence of record or "is in any way questionable." *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988).

### III. CONCLUSION

The Petitioner has not established that the Beneficiary possesses the foreign equivalent of a U.S. master's degree. Therefore the Beneficiary does not satisfy the minimum educational requirements of the labor certification or the requested advanced degree professional classification.

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-V-P- Corp.*, ID# 388119 (AAO June 30, 2017)