



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

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

MATTER OF S-G- INC.

DATE: MAY 9, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an information technology company, seeks to employ the Beneficiary as a software developer. 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 of the Nebraska Service Center denied the petition, concluding that the Petitioner had not established that the Beneficiary has the required degree for the proffered job.

On appeal and in response to our request for evidence, the Petitioner submits additional evidence and asserts that the Beneficiary meets the minimum requirements for the proffered position.

Upon *de novo* review, we will sustain the appeal.

I. LAW

A. Employment-Based Immigration

Employment-based immigration generally follows a three-step process. First, an employer must obtain an approved labor certification from the U.S. Department of Labor (DOL).¹ *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the 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. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer may file 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

¹ The priority date of a petition is the date the DOL accepted the labor certification for processing, which in this case is May 1, 2015. *See* 8 C.F.R. § 204.5(d).

approves the petition, the foreign national may apply 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.

B. The Advanced Degree Classification

Section 203(b)(2) of the Act, provides immigrant classification to members of the professions holding advanced degrees. *See also* 8 C.F.R. § 204.5(k)(1). An advanced degree professional petition must establish that the beneficiary is a member of the professions holding an advanced degree, and that the offered position requires, at a minimum, a professional holding an advanced degree. *See* 8 C.F.R. § 204.5(k)(4)(i). Further, an “advanced degree” is a U.S. academic or professional degree (or a foreign equivalent degree) above a baccalaureate, or a U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive, post-baccalaureate experience in the specialty. *See* 8 C.F.R. § 204.5(k)(2).

A petitioner must also establish a beneficiary’s possession of all the education specified on an accompanying labor certification as of the priority date. *Matter of Wing’s Tea House*, 16 I&N Dec. 158, 160 (Acting Reg’l Comm’r 1977).

II. ANALYSIS

In this case, the labor certification states that the proffered position requires a master’s degree in computer science, computer information systems, engineering, math, or equivalent, and 12 months of experience in the job offered or as an assistant consultant, programmer analyst, or equivalent.²

Part J of the labor certification states that the Beneficiary possesses a master of computer information systems degree from [REDACTED] in India, completed in 2005. The record contains a copy of the Beneficiary’s master of computer applications degree and transcripts from [REDACTED]. The record also contains two credentials evaluations equating the Beneficiary’s education in India to a U.S.-awarded master of science degree in computer information systems.

The Director determined that the Beneficiary’s master of computer applications degree was not in a field of study permitted by the labor certification. Further, the Director noted a discrepancy in the names on the educational documents provided. Based on our review of the appellate record, we find that the Petitioner has established that the Beneficiary’s degree is the equivalent of a master’s degree in computer information systems and therefore meets the educational requirements for the offered position. The Petitioner has also overcome the name discrepancies on the educational documents with independent, objective evidence, including the Beneficiary’s birth certificate and passport. The Petitioner has established that the educational documents in the record belong to the Beneficiary in this case.

² Part H.14 of the labor certification also requires a number of specialized skills; however, as the record establishes the Beneficiary’s possession of these skills, we will not elaborate further.

III. CONCLUSION

The record on appeal establishes the Beneficiary's qualifications for the offered position. The record otherwise establishes the eligibility of the Petitioner and the Beneficiary for the requested benefit. We will therefore withdraw the Director's decision and sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of S-G- Inc.*, ID# 251215 (AAO May 9, 2017)