



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

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

MATTER OF D-P-, LLC

DATE: NOV. 13, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a legal recruitment agency, seeks to employ the Beneficiary as a lawyer. 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 residence.

The Director of the Nebraska Service Center denied the petition on the ground that the Petitioner did not submit sufficient evidence to establish its continuing ability to pay the proffered wage from the priority date up to the present.

On appeal, the Petitioner submits additional documentation and asserts that it has established its continuing ability to pay the proffered wage. Upon *de novo* review, we will sustain the appeal.

The regulation at 8 C.F.R. § 204.5(g)(2) states that a petitioning U.S. employer must submit evidence establishing its ability to pay the proffered wage from the priority date of the petition and continuing until the Beneficiary obtains lawful permanent residence. The Petitioner's ability to pay the proffered wage is an essential element in evaluating whether a job offer is realistic. *See Matter of Great Wall*, 16 I&N Dec. 142 (Acting Reg'l Comm'r 1977).

Here, the proffered wage is \$124,426 per year and the priority date is June 27, 2016.¹ In this case, 2015 was the most recent year of relevant financial information available at the time of filing and the Director's decision. On appeal, the Petitioner provided its 2016 tax returns and other evidence establishing its ability to pay the proffered wage through its net income in 2016. As such, the Petitioner has established that it had the continuing ability to pay the proffered wage from the priority date onward.

¹ The date the labor certification is filed is called the "priority date." 8 C.F.R. § 204.5(d).

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ORDER: The appeal is sustained.

Cite as *Matter of D-P-, LLC*, ID# 595191 (AAO Nov. 13, 2017)