



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

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

MATTER OF S-I- LLC

DATE: FEB. 15, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a software development and IT services company, seeks to employ the Beneficiary as a software engineer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based “EB-2” immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Texas Service Center initially approved the petition. The Director subsequently revoked the approval on the ground that the Petitioner did not establish its continuing ability to pay the proffered wage to the Beneficiary (\$80,955 per year), as well as all of the proffered wages owed to its other beneficiaries of Form I-140 employment-based immigrant petitions (I-140 beneficiaries), from the priority date of the this petition, November 23, 2009, onward.

On appeal the Petitioner submits a brief and supporting documentation, and asserts that the evidence establishes its ability to pay the proffered wages of all its beneficiaries. Upon *de novo* review, we will sustain the appeal.

A petitioner must establish that it has the ability to pay the beneficiary the proffered wage, as stated on the labor certification, from the priority date onward. See 8 C.F.R. § 204.5(g)(2). To show that the job offer to a beneficiary is realistic the petitioner must also establish its ability to pay the proffered wages of its other I-140 beneficiaries.¹ In our analysis, therefore, we have considered the amount of wages the Petitioner paid to the Beneficiary each year; the Petitioner’s net income and net current assets each year; and the proffered wages and wages paid by the Petitioner to its other I-140 beneficiaries for the time period in question. In addition to the foregoing figures we have considered the totality of the Petitioner’s circumstances, including the overall magnitude of its business activities, since the priority date of November 23, 2009, in accord with *Matter of Sonogawa*, 12 I&N Dec. 612 (Reg’l Comm’r 1967). Based on the entire record in this case, we find that the Petitioner

¹ See *Patel v. Johnson*, 2 F.Supp. 3d 108, 124, upholding our denial of a petition when the petitioner did not demonstrate its ability to pay multiple beneficiaries.

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has established, by a preponderance of the evidence, its continuing ability to pay the proffered wage of the Beneficiary, as well as the proffered wages of its other I-140 beneficiaries.

Accordingly, we will withdraw the Director's decision to revoke the approval of the petition.

ORDER: The appeal is sustained.

Cite as *Matter of S-I- LLC*, ID# 1269416 (AAO Feb. 15, 2019)