



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

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

MATTER OF I-M-, INC.

DATE: JULY 31, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a financial technology company, seeks to employ the Beneficiary as a senior systems architect.¹ It requests his classification as an individual of exceptional ability. Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This second-preference classification makes immigrant visas available to foreign nationals with a degree of expertise significantly above that normally encountered in the sciences, arts, or business.

Without considering whether the Beneficiary has exceptional ability, the Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate the Beneficiary's eligibility as a member of the professions holding an advanced degree, the other immigrant visa classification described under section 203(b)(2)(A) of the Act.

On appeal, the Petitioner argues that the Director mistreated its filing as a petition for an advanced degree professional. It contends that the Director overlooked evidence of the petition's request for the Beneficiary's classification as an individual of exceptional ability.

Part 2 of the Form I-140 indicates that the Petitioner checked box 1.d. That box corresponded to a request for classification as *either* an advanced degree professional *or* an individual of exceptional ability (who is not seeking a waiver of the labor certification requirement). The form did not require, or even allow, the Petitioner to specify which sub-classification it sought.

The Director found that "no representations have been made that the beneficiary has exceptional ability." As the Petitioner argues, however, the petition included letters from a company official and counsel requesting the Beneficiary's classification as "an Alien of Exceptional Ability." The record therefore establishes that the Petitioner sought the Beneficiary's classification as an individual of exceptional ability.

¹ The Form I-140, Immigrant Petition for Alien Worker, and the Petitioner's accompanying employment letter identify the offered position as "senior systems analyst." We will refer to the position as senior systems architect, however, the job title stated on the accompanying certification from the U.S. Department of Labor.

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Because of the filing's mistaken treatment as a petition for an advanced degree professional, we will withdraw the Director's decision and remand the matter. On remand, the Director must enter a new decision after considering the Beneficiary's qualifications as an individual of exceptional ability.

ORDER: The decision of the Director is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.

Cite as *Matter of I-M-, Inc.*, ID# 5600132 (AAO July 31, 2019)