



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

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

MATTER OF J-&J-S-V-, INC.

DATE: JUNE 25, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an intraocular lens manufacturer and provider of eye care treatments and solutions, seeks to employ the Beneficiary as a principal engineer-electrical. 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 Nebraska Service Center denied the petition, finding that it was not supported by the requisite labor certification because the Petitioner did not establish that it is the successor-in-interest to the company that filed the labor certification.

On appeal the Petitioner asserts that the Director’s decision was erroneous, and that it is the successor-in-interest to the company that filed the labor certification.

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

A petition for an advanced degree professional must generally include a valid, individual labor certification. 8 C.F.R. § 204.5(k)(4)(i). A labor certification is valid only for the particular job opportunity, the particular beneficiary, and the area of intended employment stated on the document. 20 C.F.R. § 656.30(c)(2). A business may use another employer’s labor certification if it establishes itself as the employer’s successor-in-interest. *See Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm’r 1986). For immigration purposes, a successor must: 1) document its acquisition of a predecessor’s business; 2) establish that, but for the ownership change, the job opportunity remains the same as listed on the labor certification; and 3) demonstrate its eligibility as a petitioner, including the ability of it and its predecessor to continuously pay the proffered wage from the petition’s priority date onward. *Id.* at 482-83. In this case the only issue on appeal is whether the Petitioner has adequately documented its acquisition of the business that filed the labor certification.

On appeal the Petitioner submits a full copy of the stock purchase agreement which demonstrates that a specific business unit of the labor certification employer, in which the offered position was located, was transferred to the Petitioner as part of a complex ownership transaction. The documentation specifically describes the ownership transaction and the transfer of the essential

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rights and obligations required for the Petitioner to continue in the business of the transferred unit of the labor certification employer. As such, we find that for the petition before us, the Petitioner has established itself as the successor-in-interest of the labor certification employer for the specific position offered on the accompanying labor certification.

**ORDER:** The appeal is sustained.

Cite as *Matter of J-&J-S-V-, Inc.*, ID# 3863311 (AAO June 25, 2019)