U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-B-, LLC

DATE: AUG. 20, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a provider of information technology consulting services, seeks to employ the Beneficiary as a consultant. It requests her classification under the third-preference, immigrant category as a professional. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national for lawful permanent resident status to work in a position requiring at least a bachelor's degree.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not demonstrate its required ability to pay the proffered wage from the petition's priority date onward.[1] As of the Director's decision, required evidence of the Petitioner's ability to pay during the year of the priority date was not yet available. *See* 8 C.F.R. § 204.5(g)(2) (requiring evidence of ability to pay to include copies of annual reports, federal income tax returns, or audited financial statements). The Director based his decision on evidence of the Petitioner's finances during the prior year.

On appeal, the Petitioner submits required evidence for the year of the petition's priority date, demonstrating its ability to pay the proffered wage from that date forward. We will therefore withdraw the Director's contrary decision.

ORDER: The appeal is sustained.

Cite as *Matter of R-B-, LLC*, ID# 1561708 (AAO Aug. 20, 2018)

[1] This petition's priority date is June 30, 2017, the date the U.S. Department of Labor accepted the accompanying labor certification application for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).