U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-I-, INC.

DATE: JAN. 2, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a provider of thermal cooling modules for computers and other electronic equipment, seeks to employ the Beneficiary as a sales account executive. It requests his 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 Acting Director of the Nebraska Service Center denied the petition. The Director concluded that, contrary to the offered position's requirements, the Petitioner did not establish the Beneficiary's possession of at least one year of experience in the job offered.

On appeal, the Petitioner asserts that the Director erred by focusing on the job title of the Beneficiary's former position, rather than on its job duties. The Petitioner also contends that the Director should have deferred to the U.S. Department of Labor's (DOL) prior finding on the issue.

In response to our notice of intent to dismiss the appeal, the Petitioner submitted additional evidence demonstrating the Beneficiary's possession of the minimum experience required for the offered position. The Petitioner also submitted evidence resolving our concerns about the validity of the accompanying labor certification from the DOL and the company's ability to pay the position's proffered wage. A preponderance of evidence therefore establishes the petition's approvability.

ORDER: The appeal is sustained.

Cite as *Matter of A-I-, Inc.*, ID# 1714603 (AAO Jan. 2, 2019)