U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF H-A-, INC.

DATE: JULY 18, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an IT and engineering services business, seeks to employ the Beneficiary as a "Business Analyst I." It requests classification of the Beneficiary as a skilled worker under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based immigrant classification allows a U.S. employer to sponsor a foreign national for lawful permanent resident status to work in a position that requires at least two years of training or experience.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not established that the Beneficiary met the educational requirements of the labor certification.

On appeal, the Petitioner asserts that the Beneficiary meets the terms of the labor certification as shown by the evaluations of his education and experience credentials. Upon *de novo* review, we will sustain the appeal.

A beneficiary must meet all of the requirements of the offered position set forth on the labor certification by the priority date of the petition. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977). In this case, Section H.4 of the ETA Form 9089, Application for Permanent Employment Certification (labor certification), requires a bachelor's degree in computer science. Section H.14 states the following, in pertinent part:

> Requires Bachelor's degree* or foreign equivalent in Business Administration, Management, Statistics, Computer Science, Engineering, Information Technology, Computer Technology, Computer Information Systems, Management Information Systems or related field. *Employer will accept a combination of education and experience as determined by a qualified evaluation service as equivalent to a Bachelor's degree.

The record contains an evaluation of the Beneficiary's education and experience from [redacted] for the [redacted] and an evaluation from [redacted] a professor of computer and information sciences at [redacted] Both evaluators conclude that the Beneficiary's employment experience and education equates to a U.S. bachelor of science degree with a dual major in information technology and business administration.

At issue here is whether the Beneficiary meets the terms of the labor certification by satisfying the requirements of Section H.14 despite the indication in Section H.4 that a bachelor's degree is required. As indicated above, the skilled worker classification requires at least two years of training or experience and does not require a bachelor's degree. Accordingly, we look at the plain meaning of the terms used on the labor certification to determine whether the Beneficiary meets these terms. The advertisements for the position offered state that the Petitioner "will accept a combination of education and experience as determined by a qualified evaluation service as equivalent to a Bachelor's degree." The evaluations in the record state that the Beneficiary's education and experience is equivalent to a U.S. bachelor's degree. Therefore, we conclude that the language in Section H.14 modifies H.4 and the Petitioner has established that the Beneficiary meets the terms of the labor certification.

The Petitioner has established that the Beneficiary meets the minimum requirements of the labor certification for classification as a skilled worker under section 203(b)(3)(A)(i) of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of H-A-, Inc.*, ID# 389632 (AAO July 18, 2017)