U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF T-C-, INC.

DATE: JUNE 29, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a manufacturer of composite decking, seeks to employ the Beneficiary as an information systems analyst. It requests classification of the Beneficiary as a professional under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary had a degree in the field of study specified on the labor certification.

On appeal, the Petitioner submits a brief and additional evidence and asserts that the Beneficiary meets the educational requirements of the labor certification.

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

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL).[1] *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third,

[1] The date the labor certification is filed, in cases such as this one, is called the "priority date." *See* 8 C.F.R. § 204.5(d). The Petitioner must establish that all eligibility requirements for the petition have been satisfied from the priority date onward.

if USCIS approves the petition, the foreign national applies for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

One of the requirements of the requested immigrant visa classification is that the beneficiary must meet all of the education, training, experience and other requirements specified on the labor certification as of 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 evaluating the beneficiary's qualifications, we must look to the job offer portion of the labor certification to determine the required qualifications for the position. We may not ignore a term of the labor certification, nor may we impose additional requirements. *See Madany v. Smith*, 696 F.2d 1008 (D.C. Cir. 1983); *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006 (9th Cir. 1983); *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981).

II. ANALYSIS

The Form I-140, Immigrant Petition for Alien Worker, was accompanied, as statutorily required, by a certified ETA Form 9089, Application for Permanent Employment Certification (labor certification). The date the labor certification was received by the DOL, December 28, 2015, is the priority date of the petition. *See* 8 C.F.R. § 204.5(d).

In section H of the labor certification the Petitioner specified the following with respect to the education, training, and experience required to qualify for the job of information systems analyst:

4.	Education: Minimum level required:	Bachelor's degree
4-B.	Major Field of Study:	Computer Science
5.	Is training required in the job opportunity?	No
6.	Is experience in the job offered required?	Yes
6-A.	How long?	36 months
7.	Is an alternate field of study acceptable?	No
8.	Is an alternate combination of education and experience acceptable?	No
9.	Is a foreign educational equivalent acceptable?	Yes
10.	Is experience in an alternate occupation acceptable?	No

At section H.14 of the labor certification ("Specific skills or other requirements") the Petitioner restated that the minimum educational requirement is a bachelor's degree in computer science and also specified that the 36 months of qualifying experience must include three years in SQL programming, three years in Cognos data warehouse modeling, and three years in Cognos business report writing in sales and finance.

In section J of the labor certification the Beneficiary claimed that he met and exceeded the educational requirement for the proffered position with a master's degree in information systems management from [redacted] in [redacted] Pennsylvania.

As evidence of the Beneficiary's educational credentials, the Petitioner submitted documentation showing that he was awarded a bachelor of engineering degree from [redacted] in India on March 1, 2005, and a master's degree in information systems management from [redacted] on May 17, 2009. The Petitioner also submitted an evaluation of the Beneficiary's academic credentials from [redacted] of [redacted] which asserted that the master of information systems management was comparable to a master of science degree in computer science and thus satisfied the minimum labor certification requirement of a bachelor's degree in computer science.

The Director found that neither of the Beneficiary's degrees – his bachelor of engineering from [redacted] or his master of information systems management from [redacted] – was in the required field of computer science. The Director pointed out that the Petitioner did not identify any alternative field of study on the labor certification that would be acceptable. Accordingly, the Director denied the petition on the ground that the Beneficiary did not meet the minimum educational requirement of the labor certification.

On appeal the Petitioner claims that the Beneficiary's master of information systems management is a degree within the field of computer science. Citing a supplemental academic evaluation from [redacted] the Petitioner asserts that information systems management is a sub-discipline within the broader field of computer science. The [redacted] evaluation examined the computer science coursework in the Beneficiary's bachelor's and master's degree programs and concluded that the Beneficiary had completed the requirements for a bachelor's degree in computer science at an accredited U.S. university. Viewing the Beneficiary's master's degree field as a sub-discipline of computer science, the Petitioner contends that the Beneficiary met the requirements of a bachelor's degree in computer science while earning his master's degree in information systems management, and thereby satisfies the educational requirement of the labor certification.

Although the Petitioner claims that information systems management is a sub-discipline of computer science, they are not the same field of study. For example, at [redacted] where the Beneficiary earned his master's degree, computer science degrees are offered by the computer science department, while master's degrees in information systems management (which is described as a "blended business-technology program") are offered by the [redacted]

Furthermore, the labor certification made no mention of information systems management as an acceptable field of study to meet the minimum educational requirement of the job offered. At box H.4-B the Petitioner stated that the baccalaureate degree must be in the field of computer science. No other field of study was identified. Box H.7 specifically asks whether an alternate field of study was acceptable, to which the Petitioner answered "No." At box H.14 the Petitioner reiterated that

[2] *See* http://www.[redacted] (last accessed June 27, 2017).

the minimum educational requirement is a bachelor's degree in computer science and did not mention another field of study. The only acceptable field of study identified anywhere in the job offer portion of the labor certification is computer science.

Nor is there evidence in the record that the Petitioner's advertisements for the position indicated that a field of study other than computer science would be acceptable. If the job advertisements specified that a degree in computer science was required, U.S. workers with degrees in other fields, even if they were related to computer science, may have been discouraged from applying. The record does not show how many applications the Petitioner received for the job of information systems analyst, what fields of study the applicants had, or how the Petitioner handled their applications.

In summary, we are bound by the terms of the labor certification as they were drafted by the Petitioner and certified by the DOL. According to the labor certification the only acceptable field of study to qualify for the job offered is computer science. The labor certification explicitly states that an alternate field of study is not acceptable. Since neither of the Beneficiary's degrees is in computer science, the Petitioner has not established that the Beneficiary possesses the minimum requirements for the offered position as set forth on the labor certification.

III. CONCLUSION

The Petitioner has not established that the Beneficiary meets the minimum educational requirements of the labor certification to qualify for the information systems analyst position. Specifically, the Beneficiary does not have a U.S. baccalaureate (or higher) degree in the field of computer science, or a foreign equivalent degree. Accordingly, we will affirm the Director's decision and dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of T-C-, Inc.*, ID# 342263 (AAO June 29, 2017)