U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42649490

Date: MAY 19, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Skilled Worker)

The Petitioner, a global financial services company, seeks to employ the Beneficiary as a program/project manager. The company requests his classification under the employment-based, third-preference (EB-3) immigrant visa category as a "skilled worker." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). Businesses may sponsor aliens for U.S. permanent residence status in this category to work in jobs requiring at least two years' training or experience. *Id.*

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not demonstrate the Beneficiary's educational qualifications for the offered job. On appeal, the Petitioner contends that SCOPS disregarded statements on the accompanying certification from the U.S. Department of Labor (DOL), indicating the company's acceptance of a three- or four-year bachelor's degree for the job. The company also asserts that, by interpreting the job to require the equivalent of a U.S. bachelor's degree, SCOPS confused the requested immigrant visa classification with that of a "professional." *See* section 203(b)(3)(A)(ii) of the Act.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with SCOPS' interpretation of the offered job's educational requirements. We will therefore dismiss the appeal.

I. LAW

Immigration as a skilled worker generally follows a three-step process. First, a prospective employer must obtain DOL certification that: there are insufficient U.S. workers able, willing, qualified, and available for the offered job; and an alien's employment in the job would not harm wages or working conditions of U.S. workers with similar jobs. *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i).

Second, a prospective employer must submit a DOL-approved labor certification with an immigrant visa petition to USCIS. *See* section 204(a)(1)(F) of the Act, 8 U.S.C. § 1154(a)(1)(F). Among other

things, USCIS determines whether an alien beneficiary meets the requirements of a DOL-certified position and a requested immigrant visa category. *See* 8 C.F.R. § 204.5(l)(3)(ii)(B).

Finally, if USCIS approves a petition, a beneficiary may apply 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.

II. ANALYSIS

A petitioner must demonstrate that a beneficiary met all DOL-certified requirements of an offered job by a petition's priority date. *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977). This petition's priority date is January 31, 2024, the date DOL accepted the labor certification application for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).

When assessing a beneficiary's qualifications, USCIS must examine the job-offer portion of an accompanying labor certification to determine the offered job's minimum requirements. USCIS may neither ignore certification terms nor impose unstated requirements. *See, e.g., Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) (holding that "DOL bears the authority for setting the *contents* of the labor certification") (emphasis in original).

The Petitioner's labor certification does not directly state the minimum requirements of the offered program/project manager job. Rather, section E.1 of the labor certification, "Job Opportunity and Wage Information," refers to the company's prior application for a prevailing wage determination (PWD).[1] The PWD application states the job's minimum educational requirements as a U.S. bachelor's degree in business administration, finance, accounting, auditing, or a related field. In section G.3 of the labor certification, the company indicated its acceptance of "a foreign diploma/degree equivalent to the employer's required U.S. diploma/degree identified [on the PWD application]." The PWD also required 60 months of experience as a process manager, or in data operations, as a business analyst, program manager, or related occupation, and included an extensive list of special skills. The Petitioner did not state any alternate education and/or experience requirements on the PWD. The company did not further clarify the education requirement on the PWD, with the exception of noting a number of acceptable fields of study, including: business administration, finance, accounting, auditing, or a related field of study.

On Appendix A to the labor certification, the Beneficiary attested that, in 2005, an Indian university awarded him a bachelor's degree in financial accounting and auditing. As proof, the Petitioner submitted copies of a 2005 Indian bachelor of commerce degree with a specialization in financial

[1] The Petitioner filed its labor certification application after June 1, 2023. *See generally* 6 *USCIS Policy Manual* E.6(A)(2), www.uscis.gov/policy-manual ("Effective June 1, 2023, DOL required petitioners to electronically file permanent labor certification applications using its Foreign Labor Application Gateway (FLAG) system, which contains a revised Form ETA-9089[, Application for Permanent Employment Certification].") Thus, the Petitioner's labor certification incorporates the requirements for the offered job as listed on the company's prior PWD application. *See* 20 C.F.R. § 656.40(a); *see generally* 6 *USCIS Policy Manual* E.6(A)(2) ("DOL no longer uses Form ETA-9089 to collect information about the minimum requirements of the job opportunity. Instead, employers now provide that information on the Application for Prevailing Wage Determination (Form ETA-9141).")

accounting and auditing and marks certificates in the Beneficiary's name. The degree and certificates indicate that the Beneficiary studied three years to obtain the degree.

A U.S. bachelor's degree usually requires four years of study. *Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977). Thus, SCOPS mailed a request for additional evidence (RFE) to the Petitioner, seeking proof that the Beneficiary's three-year foreign baccalaureate equates to a U.S. bachelor's degree.

In its RFE response, the Petitioner contended that SCOPS misinterpreted the job's minimum educational requirements. The company noted that section E.5 of the labor certification, "Additional conditions about the offered wage," and section B.a.1a of its Appendix A, "Foreign Worker Education," state the company's acceptance of "a three (3) or four (4) year Bachelor's degree." The company argued that the Beneficiary's three-year foreign baccalaureate therefore meets the job's educational requirement. The Petitioner stated that "an academic equivalency evaluation is not required to demonstrate [that] the Beneficiary meets the minimum requirements listed on [the labor certification]." Nevertheless, the company submitted an independent professional evaluation stating that the Beneficiary's foreign degree equates to three years of U.S. college or university study towards a bachelor's degree in business administration. SCOPS concluded that the offered job requires a U.S. bachelor's degree or its foreign equivalent and that the Petitioner did not demonstrate the Beneficiary's possession of one.

On appeal, the Petitioner contends that SCOPS "incorrectly relied" on the PWD application to determine the offered job's educational requirements. The company argues that "the precise language of the Labor Certification (Form ETA-9089) ... is what controls." *See Madany*, 696 F.2d at 1015 (stating that the immigration service cannot "impose an additional or different job requirement" than stated on an accompanying labor certification). The Petitioner contends that SCOPS "overlooked the Petitioner's clearly stated minimum academic requirements for the job opportunity as listed in the Form ETA-9089 that was certified by the DOL." The company states that it "clearly indicated in multiple locations [on the labor certification] that a three (3) or four (4) year Bachelor's degree was acceptable for the job opportunity." The Petitioner argues:

> In adjudicating the I-140 petition, ... the Service ignored the plain and clear language written in multiple locations of the Form ETA-9089, overstepped its role, and attempted to determine the employer's minimum requirements by referencing the PWD for the job opportunity instead of the labor certification. The Service also attempts to change the requirements of the Petitioner's job opportunity by claiming in its RFE and denial that the minimum requirements are a U.S. Bachelor's degree, and subsequently using this new requirement as its basis for concluding [that] the Beneficiary does not meet the requirements.

The record, however, does not support the Petitioner's arguments. First, SCOPS did not ignore the labor certification. Rather, the labor certification itself references the PWD application. Section E.1 of the labor certification, "Job Opportunity and Wage Information," required the Petitioner to "[e]nter the valid Prevailing Wage Determination (PWD) case number issued by the Department of Labor to identify the job opportunity and prevailing wage(s) covered by this application." The labor certification instructions for section E of Form ETA-9089 note:

> The job opportunity and wage information data will be directly imported in from the Form ETA-9141, Application for Prevailing Wage Determination associated with the PWD tracking number. The PWD captures the employer and agent information, as well as the specific job requirements, special skills, licenses, certifications, etc., required for the job opportunity.

Thus, the labor certification effectively incorporates the job requirements listed on the PWD. The labor certification does not designate space in which to list the proffered job's specific requirements, including required education, experience, training, and special skills. Therefore, to determine the job's requirements, the labor certification required SCOPS to examine the PWD.

Also, SCOPS did not "attempt[] to change the requirements of the Petitioner's job opportunity." The company itself indicated on the PWD that the offered job requires a U.S. bachelor's degree. Section F.b.1. of the PWD, "Minimum Job Requirements," asked the Petitioner for the "Minimum U.S. diploma/degree required." The company checked the box indicating that the offered job requires a "Bachelor's" degree. If the job does not require a U.S. bachelor's degree, the company should have checked the box indicating "None." Also, the Petitioner did not list on the PWD that the job had any alternate education requirements.

In sum, the labor certification – including the incorporated job requirements from the PWD – states that the offered job requires a U.S. bachelor's degree or a foreign equivalent degree.[2] The company demonstrated that the Beneficiary has a three-year foreign baccalaureate. But the record lacks evidence that his three-year degree equates to a U.S. baccalaureate as required. Thus, as SCOPS found, the Petitioner has not demonstrated the Beneficiary's educational qualifications for the offered job.

The Petitioner argues that "no law or regulation" authorizes USCIS to examine the PWD to determine the offered job's minimum educational requirements. The company states that "this change in the DOL's electronic form preparation does not change longstanding law and regulations providing that the certified Form ETA-9089 is what controls, rather than the PWD."

But, in determining the offered job's educational requirements, SCOPS followed longstanding law and regulations. SCOPS examined the labor certification for the job's requirements, and the labor certification referred to the job requirements on the PWD. Moreover, the Petitioner's statements on the labor certification indicating its acceptance of a three- or four-year bachelor's degree do not constitute a full, independent educational requirement. The statements do not indicate the degree's acceptable field or fields of study. Rather, these statements appear in the foreign worker education section, a section intended to reflect the Beneficiary's qualifications, not to state job requirements. Thus, SCOPS had to examine the PWD to determine the job's complete educational requirements.

The Petitioner further argues that SCOPS confused the requested skilled-worker classification with that of a professional, which requires a beneficiary to have a U.S. bachelor's degree or a foreign

[2] The Petitioner seems to indicate that its acceptance of a three-year bachelor's degree means that the offered job does not require a U.S. bachelor's degree or its equivalent. But some three-year baccalaureates equate to U.S. bachelor's degrees. Thus, we do not find that the requirement for a U.S. bachelor's degree or its equivalent and the acceptance of a three-year baccalaureate are mutually exclusive.

equivalent degree. *See* section 203(b)(3)(A)(ii) of the Act. The company states: "[T]he Service's focus on the beneficiary's lack of a U.S. Bachelor's degree signals that it conflated two distinct categories within the EB-3 classification."

The record, however, does not support the Petitioner's argument. SCOPS did not determine that the requested immigrant visa category requires a bachelor's degree. Rather, SCOPS found that the offered job requires a baccalaureate based on the PWD job requirements incorporated by the labor certification.

III. CONCLUSION

The Petitioner has not demonstrated that the Beneficiary meets the offered job's minimum educational requirements as listed on the PWD and incorporated by the labor certification.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.