U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-F-V-H-S-

DATE: MAY 25, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a healthcare system, seeks to employ the Beneficiary as a registered nurse.[1] It requests classification of the Beneficiary as a skilled worker under the third preference immigrant classification. 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 Acting Director of the Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner had the continuing ability to pay the proffered wage, because its audited financial statements did not show sufficient net income or net current assets to pay the combined proffered wages of all of the beneficiaries of its applicable Forms I-140, Immigrant Petition for Alien Worker.[2]

On appeal, the Petitioner submits additional evidence and asserts that "the Service made a fundamental mistake when it read the Petitioner's financial statements. The Service failed to account for the fact that the Petitioner's financial statements are 'in thousands'." Upon *de novo* review, we will sustain the appeal.

The audited financial statements demonstrate the Petitioner's continuing ability to pay the combined wages of all of its applicable Form I-140 beneficiaries pursuant to 8 C.F.R. § 204.5(g)(2). The record otherwise establishes the eligibility of the Petitioner and the Beneficiary for the requested benefit.

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[1] A Schedule A occupation is an occupation codified at 20 C.F.R. § 656.5(a) for which the U.S. Department of Labor has determined that there are not sufficient U.S. workers who are able, willing, qualified and available and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of foreign nationals in such occupations. The current list of Schedule A occupations includes professional nurses. *Id.*

[2] Where a petitioner has filed Form I-140 petitions for multiple beneficiaries, it must demonstrate that its job offer to each beneficiary is realistic, and that it has the ability to pay the proffered wage to each beneficiary. *See* 8 C.F.R. § 204.5(g)(2); *see also Patel v. Johnson*, 2 F. Supp. 3d 108, 124 (D. Mass. 2014).

ORDER: The appeal is sustained.

Cite as *Matter of C-F-V-H-S-*, ID# 1345898 (AAO May 25, 2018)