U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38829425

Date: OCT. 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Advanced Degree)

The Petitioner, an accounting firm, seeks to employ the Beneficiary as a "staff auditor in quality control." The firm requests his classification under the employment-based, third-preference (EB-3) immigrant visa category as a "professional." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). Businesses may sponsor aliens for U.S. permanent residence in this category to work in jobs requiring bachelor's degrees. *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 firm contends that SCOPS erred in questioning evidence that the Beneficiary's three-year foreign bachelor's degree meets the job's minimum educational requirement of a baccalaureate in accounting.

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 conclude that parts of the record are missing, preventing adequate review of SCOPS' decision. We will therefore withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Immigration as a professional generally follows a three-step process. *See Nguyen v. Jaddou*, 119 F.4th 368, 369 (5th Cir. 2024) (describing the same employment-based immigration process in the context of an EB-3 petition for a "skilled worker" under section 203(b)(3)(A)(i) of the Act). First, a prospective employer must obtain certification from the U.S. Department of Labor (DOL) 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)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D).

Second, a prospective employer must submit a DOL-approved labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (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)(C).

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

"[T]o insure fair and complete consideration," USCIS must maintain a complete record of proceedings. *See Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976) ("[I]t is the District Director who is primarily responsible for the record.") "The administrative record created by an officer is often crucial in later proceedings relating to the same requestor, *such as appeals*, rescission proceedings, removal proceedings, applications for relief and protection from removal, other benefit requests, and investigations of fraud." 1 *USCIS Policy Manual* E.6, www.uscis.gov/policy-manual (emphasis added).

This case's record omits parts of the Petitioner's initial petition filing, including the company's labor certification, the basis of determining the petition's job requirements, and proper classification. SCOPS found insufficient evidence of the Beneficiary's educational qualifications for the offered job. Thus, we must review the Petitioner's labor certification to determine the job's minimum educational requirements. *See Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) ("[I]t is the language of the labor certification job requirements that will set the bounds of the [petitioner]'s burden of proof.") The missing labor certification prevents us from adequately reviewing SCOPS' decision. We will therefore remand the matter.

On remand, SCOPS should locate the Petitioner's initial filing and place the missing items in the record. If the filing's missing items are lost, SCOPS should request that the company submit a copy of its complete initial filing. Upon location of the record's missing parts or their receipt from the Petitioner, SCOPS should review the entire record and enter a new decision.

ORDER: SCOPS' decision is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis. If the new decision is adverse to the Petitioner, the matter shall be certified to us for review.

NOTICE: Aliens who are unlawfully present, or otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for future U.S. visas or other immigration benefits.