U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-USA INC.

DATE: SEPT. 18, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a provider of engineering consulting services, seeks to employ the Beneficiary as a project manager. It requests his classification under the third-preference immigrant category as a professional. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national for lawful permanent resident status to work in a job requiring at least a bachelor's degree.

The Director of the Texas Service Center denied the petition. Finding that the Petitioner concealed the Beneficiary's role as an officer of the corporation on the accompanying certification from the U.S. Department of Labor, the Director concluded that the Petitioner did not demonstrate eligibility for the benefit sought. On appeal, the Petitioner argues that the Beneficiary never served it as a corporate officer and that the record establishes its eligibility.

Upon *de novo* review, we find that the Petitioner sufficiently responded to the Director's concerns and demonstrated, by the submission of independent, objective evidence that the Beneficiary did not serve as a corporate officer. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (requiring a petitioner to resolve inconsistencies of record by independent, objective evidence). A petitioner bears the burden of establishing eligibility for a requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Here, a preponderance of evidence establishes that the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of A-USA Inc.*, ID# 5108167 (AAO Sept. 18, 2019)