



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28116716

Date: AUG. 10, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a tire manufacturer, seeks to employ the Beneficiary as its president. The company requests his classification under the third-preference, immigrant visa category for professionals. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii).

The Director of the Texas Service Center denied the petition, concluding the Petitioner did not establish, as required, that it had the continuing ability to pay the proffered wage. On appeal, the Petitioner contends that the evidence it submitted establishes that it has the continuing ability to pay the proffered wage from the priority date onward. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

Based on the totality of the circumstances, we conclude that the Petitioner more likely than not has the continuing ability to pay the proffered wage. *See* 8 C.F.R. § 204.5(g)(2). *See also Matter of Sonogawa*, 12 I&N Dec. 612 (Reg'l Comm'r 1967).

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has met that burden.

**ORDER:** The appeal is sustained.