



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

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

In Re: 21704437

Date: JULY 26, 2022

Appeal of Texas Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner seeks to employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both: (a) the theoretical and practical application of a body of highly specialized knowledge; and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Texas Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker, concluding that the Petitioner did not establish that the Beneficiary was qualified for the offered position. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.

The Petitioner intends to employ the Beneficiary as a BIOS engineer. In an addendum to the petition, the Petitioner required candidates for the position to possess at least a bachelor's degree in computer science, computer engineering, electrical engineering, or a similar field. The Petitioner provided evidence of the beneficiary's master's degree in electrical engineering from an accredited U.S. institution of higher education. The Director issued a request for evidence in part indicating the Beneficiary did not possess the degree the position required. In making this assessment, the Director relied on the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* to decide that the position's required education was a bachelor's degree in computer science or in a software engineering field.

In the decision denying the petition, the Director indicated the Beneficiary did not satisfy any of the methods to show that a foreign worker is qualified to occupy a specialty occupation position via the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C)(I)–(4). It appears the Director placed sole reliance on the information in the *Handbook* for the position's education requirements and did not consider the Petitioner's requirements outlined in the addendum to the petition. We conclude that the Beneficiary's master's degree in electrical engineering satisfies the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C)(I)

for a bachelor's or higher degree required by the specialty occupation from an accredited college or university.

ORDER: The appeal is sustained.