



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

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

In Re: 23278455

Date: NOV. 8, 2022

Appeal of Vermont Service Center Decision

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

The Petitioner seeks to temporarily 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 Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the proffered position qualifies as a specialty occupation.

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). Upon *de novo* review, we will sustain the appeal.¹

The record, when viewed within the context of the Petitioner's business operations, is sufficient to demonstrate, by a preponderance of the evidence, that the Beneficiary's work requires a "body of highly specialized knowledge" attained through a precise and specific course of study that relates directly and closely to the proffered position. The evidence, which includes information regarding the duties of the position and the corresponding knowledge to perform them, establishes that the proffered position requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in the specific specialty or its equivalent.

In light of the above, we conclude that the proffered position 1) qualifies for classification as a specialty occupation as the term is defined at section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii) and 2) is so complex or unique that it can only be performed by an individual with a bachelor's degree in a specific specialty, or the equivalent, and therefore also satisfies the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

¹ We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

ORDER: The appeal is sustained.