



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

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

MATTER OF S-, INC.

DATE: MAR. 25, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an information technology company, seeks to employ the Beneficiary as a senior project lead (IT). It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based “EB-2” immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition. The Director found that the minimum requirements of the labor certification allowed a beneficiary to qualify for the job offered with less than an advanced degree, and therefore did not support the requested classification of advanced degree professional.

On appeal the Petitioner asserts that the minimum requirements of the labor certification are consistent with the petition’s classification request of advanced degree professional.

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

A petition for an advanced degree professional must be accompanied by a valid, individual labor certification which demonstrates that the job requires a professional holding an advanced degree or the equivalent. *See* 8 C.F.R. § 204.5(k)(4)(i). In his decision the Director found that the language in box H.14 of the labor certification indicated that the minimum requirements for the job were no longer an advanced degree or a baccalaureate degree followed by at least five years of qualifying experience. However, based on our own review of the language of the labor certification, including that at H.14, we find that it does not allow an applicant to qualify for the job offered with less than a U.S. baccalaureate or foreign equivalent degree and five years of progressive post-baccalaureate experience in the IT field. As such, the labor certification supports the requested classification of advanced degree professional.

We will withdraw the Director’s decision and sustain the appeal because the minimum educational and experience requirements of the labor certification support the requested classification of advanced degree professional.

Matter of S-, Inc.

ORDER: The appeal is sustained.

Cite as *Matter of S-, Inc.*, ID# 1920678 (AAO Mar. 25, 2019)