



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

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

MATTER OF M-, INC.

DATE: APR. 28, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a software development firm, seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality 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 California Service Center denied the petition, concluding that the record did not establish that: (1) the Petitioner will engage the Beneficiary in an employer-employee relationship; and (2) the proffered position qualifies as a specialty occupation.

In its appeal, the Petitioner submits a brief asserting that the Director erred in denying the petition. Upon *de novo* review, we will sustain the appeal.

The evidence of record establishes that the Petitioner will be the Beneficiary's United States employer as that term is defined at 8 C.F.R. § 214.2(h)(4)(ii), for the duration of the period requested. Further, the evidence of record establishes that the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent. Also, the degrees required for the proffered position constitute a body of highly specialized knowledge that relate directly to the duties of the proffered position. Therefore, we conclude that the evidence of record satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), and the Petitioner has established that the proffered position qualifies for classification as a specialty occupation.

Here, the Petitioner has established that (1) it will engage the Beneficiary in an employer-employee relationship; and (2) the proffered position qualifies as a specialty occupation.

ORDER: The appeal is sustained.

Cite as *Matter of M-, Inc.*, ID# 353959 (AAO Apr. 28, 2017)