



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

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

In Re: 20313734

Date: JAN. 17, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Professional

The Petitioner, a provider of credit research and analytics, seeks to permanently employ the Beneficiary as a senior software engineer. The company requests his classification in the third-preference, immigrant visa category as a professional. *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 Nebraska Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate its required intent to pay the Beneficiary the offered position's proffered/prevaling wage. *See* section 204(b) of the Act, 8 U.S.C. § 1154(b) (requiring the federal government to determine that the facts stated in an immigrant visa petition are true). On appeal, the Petitioner asserts that the Director misinterpreted case law and disregarded evidence of the company's intent to pay the required wage.

The petition initially stated a proffered wage below the prevailing wage. But a preponderance of evidence establishes the Petitioner's intent to pay the required amount. *See* 20 C.F.R. § 656.10(c)(1) (requiring an employer to certify that their proffered wage equals or exceeds the prevailing wage determined by the U.S. Department of Labor and that they will pay at least the prevailing wage). Offering the same position to the Beneficiary in a different immigrant visa category, the company attested on a prior petition that it would pay him at least the proffered/prevaling wage. Also, in response to the Director's notice of intent to deny this petition, the Petitioner amended the filing and credibly and sufficiently explained the petition's inadvertent listing of the Beneficiary's current salary as his proffered wage.

A preponderance of evidence demonstrates the Petitioner's intent to pay the Beneficiary the offered position's proffered/prevaling wage. We will therefore withdraw and reverse the Director's decision.

**ORDER:** The appeal is sustained.