

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D/

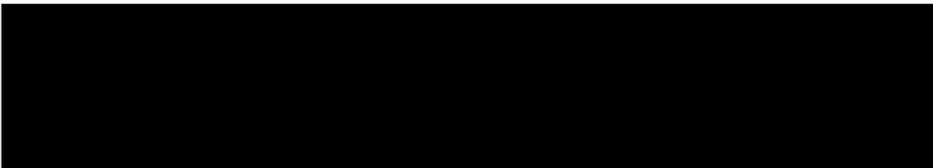


FILE: WAC 05 141 51486 Office: CALIFORNIA SERVICE CENTER Date: OCT 30 2006

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the California Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner, the wholly-owned subsidiary of a company based in the United Kingdom, is a distributor of software products to enhance computer assisted design capabilities of architects, and construction and engineering firms. It has five employees and seeks to employ the beneficiary as a regional sales manager pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition based on his determination that the record failed to establish the proffered position as a specialty occupation or the beneficiary as qualified to perform the duties of a specialty occupation.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence; (3) counsel's response to the director's request; (4) the director's denial letter; and (5) Form I-290B, with counsel's brief. The AAO reviewed the record in its entirety before reaching its decision.

The initial issue before the AAO is whether the proffered position qualifies as a specialty occupation. To meet its burden of proof in this regard, a petitioner must establish that the job it is offering to the beneficiary meets the following statutory and regulatory requirements.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(1) defines the term "specialty occupation" as one that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

An occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;

- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term “degree” in the above criteria to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

To determine whether a particular job qualifies as a specialty occupation, CIS does not simply rely on a position’s title. The specific duties of the proffered position, combined with the nature of the petitioning entity’s business operations, are factors to be considered. CIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d 384 (5th Cir. 2000). The critical element is not the title of the position nor an employer’s self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation, as required by the Act.

The petitioner states that it is seeking the beneficiary’s services as a regional sales manager, a position that requires him to hold the minimum of a bachelor’s degree in management, business or a closely-related discipline. Evidence of the beneficiary’s duties includes: the Form I-129; the petitioner’s March 16, 2005 letter of support and counsel’s July 11, 2005 response to the director’s request for evidence.

At the time of filing, the petitioner offered the following description of the proffered position:

[The beneficiary] will work with a team of [REDACTED] and partner professionals, and take a leadership role in all aspects of managing Key Accounts as well as coordinating other resources to support those efforts. He will be responsible for meeting sales and territory revenue targets on a regional level. He will also set goals and objectives and lead efforts to achieve those goals and objectives, driven by a comprehensive account and business plan. He will build and implement growth plans for accounts encompassing all elements of NavisWorks solutions.

As Regional Sales Manager, [the beneficiary] will be expected to implement all aspects of territory and strategic account management, with the focus on revenue, revenue growth, profitability, and customer satisfaction. He will serve as a leadership resource for team members in all aspects of territory management policies and procedures, marketing goals and objectives, NavisWorks applications, hardware platforms, market trends, and industry. [The

beneficiary] will have responsibility for all activity in accounts. The position will assume a consultative role in dealing with technical and business issues and interpreting corporate-wide applications needs; preparing customer profiles based on needs analysis of hardware, software, applications, and user levels. He will be expected to prepare complex quotations and proposal information as needed, while working to customize quotes and proposals and to coordinate resources across internal divisions.

In a June 30, 2005 letter submitted by counsel in response to the director's request for evidence, the petitioner expanded upon its previous description of the position:

The person filling this position will be responsible and accountable for building the NavisWorks business in the agreed upon geographical area The RSM must be able to work effectively with Board level clients as well as potential [REDACTED] channel partners (consisting of authorized resellers and software developers who wish to integrate [REDACTED] technology with their own solutions). The RSM will also be expected to identify new business opportunities and guide those opportunities to successful completion.

This position does not currently supervise additional resources This person . . . will be expected to assist in the formulation of policies, providing input to operational processes, and helping to identify and constantly assess the level and quality of [the petitioner's] Customer Services.

To make its determination whether the employment just described qualifies as a specialty occupation, the AAO turns to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position; and a degree requirement is common to the industry in parallel positions among similar organizations or a particular position is so complex or unique that it can be performed only by an individual with a degree. Factors considered by the AAO when determining these criteria include: whether the Department of Labor's *Occupational Outlook Handbook (Handbook)*, on which the AAO routinely relies for the educational requirements of particular occupations, reports the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In the instant case, the petitioner's description of the proffered position, although it offers little detail regarding the day-to-day duties to be performed by the beneficiary, establishes the position as that of a sales manager. While the petitioner has identified the proffered position as a regional sales manager, its description of the position's duties does not indicate that the beneficiary would "direct the [petitioner's] sales program" or "assign sales territories, set goals and establish training programs for the sales representatives," responsibilities which the *Handbook* [page 28] indicates are performed by sales managers. Instead, the petitioner states that the beneficiary would not supervise other employees, but be directly responsible for dealing with "Board level clients" and channel partners, described by the petitioner as "authorized resellers and software developers who wish to integrate its technology with their own solutions." In that the petitioner

also indicates that the beneficiary would be responsible for preparing and customizing quotes and proposals, and would spend at least 40 percent of his time in travel, his proposed employment appears to be most closely aligned to the work of sales representatives who work in wholesale or manufacturing businesses.

The AAO has considered whether the technical nature of the software products sold by the petitioner might establish the position as that of a sales engineer, an occupation that normally requires the minimum of a baccalaureate degree in engineering. However, the petitioner's description of the proffered position does not outline the employment of a sales engineer, as discussed by the *Handbook*. The petitioner does not indicate that the beneficiary would work with the production, engineering, or research and development departments of its parent company in the United Kingdom or independent sales firms to determine how the petitioner's products and services "could be designed or modified to suit customers' needs" or would advise its customers on how best to use its products. [*Handbook*, page 419].

Instead, the petitioner has described duties that reflect the work performed by sales representatives for wholesale and manufacturing businesses. As discussed by the 2006-2007 edition of the *Handbook*:

Sales representatives are an important part of manufacturers' and wholesalers' success. Regardless of the type of product they sell, their primary duties are to interest wholesale and retail buyers and purchasing agents in their merchandise and to address clients' questions and concerns. Sales representatives represent one or several manufacturers or wholesale distributors by selling one product or a complementary line of products. Sales representatives . . . market their company's products to manufacturers, wholesale and retail establishments, construction contractors, government agencies, and other institutions . . .

Sales representatives spend much of their time traveling to and visiting with prospective buyers and current clients . . .

Obtaining new accounts is an important part of the job. Sales representatives follow leads from other clients, track advertisements in trade journals, participate in trade shows and conferences, and may visit potential clients unannounced . . . [*Handbook*, pages 422-423].

The *Handbook* also reports the following regarding the requirements imposed by wholesale and manufacturing businesses seeking sales representatives:

The background needed for sales jobs varies by product line and market. Many employers hire individuals with previous sales experience who lack a college degree, but they increasingly prefer or require a bachelor's degree because job requirements have become more technical and analytical. Nevertheless, for some consumer products, factors such as sales ability, personality, and familiarity with brands are more important than educational background. On the other hand, firms selling complex, technical products may require a technical degree in addition to some sales experience . . .

In that the *Handbook* does not report that employers in wholesale and manufacturing businesses require their sales representatives to hold a degree in a directly-related academic field, the proffered position may not be established as a specialty occupation under the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) – a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position.

In reaching this decision, the AAO has considered the material submitted by counsel to establish an occupational degree requirement – a discussion of the occupation of sales managers from the Department of Labor’s *Occupational Information Network (O*Net)*, which indicates that most sales management positions require a four-year bachelor’s degree. This evidence does not, however, demonstrate that the proffered position falls within an occupation that requires the minimum of a baccalaureate degree in a directly-related field. The proffered position is not established by the record as that of a sales manager. Further, the *O*Net* is not a persuasive source of information as to whether a job requires the attainment of a baccalaureate or higher degree (or its equivalent) in a specific specialty. It provides only general information regarding the tasks and work activities associated with a particular occupation, as well as the education, training, and experience required to perform the duties of that occupation. A Specific Vocational Preparation (SVP) rating is meant to indicate only the total number of years of vocational preparation required for a particular occupation. It does not describe how those years are to be divided among training, formal education and experience, and it does not specify the particular type of degree, if any, that a position would require. A Job Zone rating does not indicate that a bachelor’s degree in a specific specialty is required. Accordingly, the petitioner’s evidence is not sufficient to demonstrate the proffered position’s degree requirement under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

To establish the proffered position as a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(A)(2), a petitioner must prove that a specific degree requirement is common to its industry in parallel positions among similar organizations or, alternatively, that the proffered position is so complex or unique that it can be performed only by an individual with a degree. In the instant case, the petitioner’s president, in the June 30, 2005 letter submitted in response to the director’s request for evidence, states that a four-year degree is the minimum requirement for the proffered position within the high-tech computer aided design software development field. He asserts that his previous employer required a four-year college degree, at a minimum, or significant industry experience in order to be considered for a “territorial or regional management role.” Another software developer, he states, requires a college degree for “even those people holding inside sales positions.” He submits three Internet sales management job announcements published by his previous employer in support of his claims.

These listings do not, however, establish the petitioner’s degree requirement as the norm within its industry, as they do not respond to the requirements of the criterion’s first prong, i.e., that a degree requirement be established in parallel positions among similar organizations. The petitioner has submitted no evidence to demonstrate that his previous employer is an organization similar to its firm and the job duties listed in the announcements do not parallel those the petitioner has outlined in relation to the proffered position. Accordingly, the announcements do not prove a degree requirement within the petitioner’s industry, in parallel positions among similar organizations. Moreover, three advertisements from a single employer do not offer sufficient evidence to establish an industry-wide norm.

With regard to the second prong of the criterion, the AAO finds the petitioner to have submitted no evidence to establish that the proffered position may be distinguished from similar, but nondegreed employment on the basis of its complexity or unique nature. The AAO also notes that the petitioner's failure to provide more than a general description of the proffered position's duties precludes it from demonstrating that the position is either complex or unique. Accordingly, the proffered position may not be established as a specialty occupation under either prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The AAO next considers the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(3) and (4): the employer normally requires a degree or its equivalent for the position; and 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.

To determine whether a proffered position may be established as a specialty occupation under the third criterion – the employer normally requires a degree or its equivalent for the position – the AAO usually reviews the petitioner's past employment practices, as well as the histories, including names and dates of employment, of those employees with degrees who previously held the position, and copies of those employees' diplomas. The petitioner's president, in his June 30, 2005 letter, states that the degree requirement for the proffered position is in keeping with the policies of the petitioner's parent company in the United Kingdom and that individuals "employed in similar market/business development activities at the parent company . . . have college degrees." He notes that one individual has a doctorate and another an advanced degree and experience as a university lecturer in architecture. As proof of these statements, the petitioner has submitted copies of emails from two individuals at its parent company, who are identified as territory sales managers for Northern Europe, and for the United Kingdom and Ireland. The sales manager for the United Kingdom and Ireland states that he holds a doctorate in manufacturing engineering and operations management; the sales manager for Northern Europe indicates he has a baccalaureate degree in mathematics. Again, this documentation is insufficient proof of the petitioner's claims regarding its hiring practices regarding the proffered position.

Although the petitioner has characterized these positions as similar to the proffered position, it has provided no documentation, e.g., job advertisements or descriptions, in support of its assertions. Going on record without supporting documentation is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Further, the degrees held by these individuals are in fields other than business or management and, therefore, do not establish that it is the petitioner's practice to require a degree in a field directly related to the proffered position, as required for classification as a specialty occupation. Counsel, on appeal, contends that this conclusion is erroneous as the position offered to the beneficiary is not the same employment as that held by the parent company's employees. However, the petitioner's June 30, 2005 letter clearly indicates that the degree information regarding the two individuals was submitted as proof of a degree requirement for similar "market/business development activities." Moreover, if the positions are dissimilar to the proffered position, any degree requirement for those positions would not establish that the petitioner normally requires a degree or its equivalent for the position. Further, although counsel states that the two referenced employees have the equivalent of degrees in management, business or closely related disciplines, no evidence is provided to establish such a degree equivalency. Without documentary evidence, the assertions of counsel are not sufficient to meet the petitioner's burden of proof in this proceeding. The

assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Finally, the email statements made by the two individuals regarding their academic credentials do not establish their educational achievements. As just noted, going on record without supporting evidence is not sufficient to meet the burden of proof in this proceeding. *Matter of Soffici*. For these reasons, the record does not establish the proffered position as a specialty occupation under the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

The fourth criterion requires a petitioner to prove that the nature of the proffered position's 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. As previously noted, the petitioner in this case has provided a generalized description of the proffered position's duties, one that provides little detail on the day-to-day tasks to be performed by the beneficiary. While that description is sufficient to identify the proffered position as a sales representative, it does not offer the specificity needed to establish the duties of the offered employment as either specialized or complex. Based on the petitioner's limited description of the position, the beneficiary's duties would not require him to have skill and knowledge beyond that normally held by a sales representative for a wholesale or manufacturing business, employment that the *Handbook* reports does not impose a degree requirement on individuals seeking entry-level employment. Therefore, the record does not demonstrate that the proffered position qualifies as a specialty occupation under the fourth and final criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO now turns to a consideration of whether the beneficiary is qualified to perform the duties of a specialty occupation. Specific discussion of how an alien qualifies to perform services in a specialty occupation is found at 8 C.F.R. § 214.2(h)(4)(iii)(C), and requires the individual to:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The beneficiary does not possess a U.S. or foreign degree in an academic field directly related to the proffered position. Neither does the position require a license or other certification. Therefore, the petitioner must establish

that the beneficiary's combined education, training and employment experience establish his eligibility to perform the duties of a specialty occupation under the final criterion at 8 C.F. R. § 214.2(h)(4)(iii)(C).

For the purposes of 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), equivalence to a U.S. baccalaureate or higher degree shall mean the achievement of a level of knowledge, competence, and practice in the specialty occupation that has been determined to be equal to that of an individual who has a baccalaureate or higher degree in the specialty, and shall be determined by one or more of the following requirements at 8 C.F.R. § 214.2(h)(4)(iii)(D):

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience.

To establish the beneficiary's qualifications to perform the duties of a specialty occupation, the petitioner has submitted: copies of his resume, listing his experience in the field of software sales management; an October 19, 2002 letter from [REDACTED] in England to [REDACTED] regarding his academic record; an "Executive Certificate in Management" awarded to [REDACTED] by [REDACTED] in October 2002; an October 18, 2003 letter from [REDACTED] regarding his academic record; a "Diploma in Management" awarded to [REDACTED] by [REDACTED] in October 2003; an untranslated document dated February 24, 2003; a November 13, 2003 letter from [REDACTED] confirming the registration of [REDACTED] for "Henley MBA by Distance Learning Part 3 Entrant," beginning on October 1, 2003 and ending September 30, 2005; a January 26, 1990 certificate issued by [REDACTED] Computer School in Denmark to establish that [REDACTED] passed a state-controlled computer assistant exam and listing his completed coursework; and two evaluations of the academic and employment credentials of [REDACTED] the first prepared by a [REDACTED]

professor of business administration at [REDACTED] New York; and the second by [REDACTED] Texas. The [REDACTED] professor finds the beneficiary's academic credentials and employment history to provide him with the equivalent of a bachelor of arts degree in management from an accredited institution of higher education in the United States; the [REDACTED] evaluation reaches the conclusion that the beneficiary's education and employment are the equivalent of a baccalaureate degree in business administration, with a major in management.

Counsel on appeal contends that these two evaluations of the beneficiary's academic and employment history are proof of his qualifications to perform the duties of a specialty occupation and that the director in his denial "misdescribe[d]" the evidence provided by these evaluations. However, counsel's reliance on the evaluations is, as discussed below, misplaced. The evidence of record does not establish the beneficiary as qualified to perform the duties of a specialty occupation.

The evaluation of the beneficiary's employment history by the [REDACTED] professor appears to be based on the beneficiary's resume, a conclusion reached on the basis of the similarity between the language of the evaluation and that of the resume, and the lack of any other employment-related documentation in the record. The professor finds that the beneficiary's "more than thirteen years of employment reflects experience and training in positions of progressively increasing responsibility and sophistication, illustrated by the application of relevant and specialized skills and training by superiors, together with peers, that represent the equivalent of Bachelor's-level training in Management, and related areas." However, the beneficiary's resume does not establish his employment history and the record offers no other employment-related evidence, i.e., letters or other documentation from his previous employers that would establish the length or nature of the beneficiary's prior work experience. Accordingly, the AAO finds there is no factual foundation to support the professor's evaluation. The AAO may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in anyway questionable, the AAO is not required to accept it or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). Moreover, the record does not establish the [REDACTED] professor as qualified to evaluate the beneficiary's employment history under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(1) – an evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience.

The professor indicates that he is qualified to determine whether "coursework taken in the field of management can be considered to have the equivalency of bachelor's-level training in the area of management, and related areas." However, while the professor's opinion of the beneficiary's qualifications is relevant to this proceeding, there is no evidence in the record of his authority to grant college-level credit for work experience. Moreover, the record does not indicate that [REDACTED] has a program that grants college-level credit based on training and/or employment experience. In the absence of a letter or other document from someone in a position of authority at [REDACTED] supporting the professor's assertions regarding his authority, his evaluation does not establish the beneficiary's degree equivalency. Going on record without supporting documentation is not sufficient to meet the burden of proof in this proceeding. *Matter of Soffici*. 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The record also fails to support the evaluation of the beneficiary's academic and employment credentials prepared by J.B. Ringer Credential Evaluation. The evaluation service indicates that it finds the beneficiary's coursework to equate to approximately two years of academic study in management and computer science. However, the AAO notes that the documents related to the beneficiary's coursework are issued in the name of [REDACTED] not [REDACTED] and that the petitioner has failed to explain this discrepancy. While the names [REDACTED] and [REDACTED] both appear in an untranslated document that was submitted with evidence related to the beneficiary's training, it is not possible to determine whether this document might reconcile the referenced discrepancy. Any document containing foreign language submitted to the Service shall be accompanied by a full English language translation." See 8 C.F.R. § 103.2(b)(3). As the record does not establish that [REDACTED] the training certificates do not demonstrate that the beneficiary was the recipient of the training documented by the submitted certificates. It is incumbent upon the petitioner to resolve any inconsistencies in the record with independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence point to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Accordingly, the AAO will not accept the [REDACTED] evaluation of the beneficiary's course work. The AAO uses an evaluation by a credentials evaluation organization of a person's foreign education as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be discounted or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988).

For an evaluation of the beneficiary's employment experience, [REDACTED] has relied on a professor of operations management at Texas A&M University-Corpus Christi, who finds the beneficiary to have 15 years of work experience that supplements his formal education and that he would qualify for "employment in an entry-level job requiring a Bachelor of Arts in Business Administration." The professor's opinion does not, however, establish that the beneficiary holds the equivalent of a degree in business administration. While the professor notes that the beneficiary would qualify for a position requiring a baccalaureate degree, he does not state that the beneficiary holds the equivalent of such a degree. Further, neither the professor, nor the accompanying letter from the Dean of the College of Business, indicate that the professor has the authority to award academic credit for employment experience, nor that Texas A&M University has a program that awards academic credit on the basis of employment experience, as required by the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D)(I). Although the record establishes that the professor has responsibility for supervising student internships for college-level credit, his authority to award credit for college internships is not the credit-for-experience authority discussed by the criterion. Moreover, the professor's letter does not indicate what evidence he reviewed to reach his conclusions regarding the beneficiary's employment experience. He provides no factual basis for his opinion. The AAO may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in anyway questionable, the AAO is not required to accept it or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). Accordingly, the evaluations of the beneficiary's academic credentials and his employment history submitted by [REDACTED] not establish the beneficiary's qualifications to perform the duties of a specialty occupation.

For the reasons already discussed, the AAO does not find the evidence of record to establish the beneficiary's qualifications under any of the requirements set forth in the first four criteria at 8 C.F.R. § 214.2(h)(4)(iii)(D). It will, therefore, analyze the available evidence to determine whether the beneficiary may be qualified to perform the duties of the proffered position under the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D)(5) – a CIS

determination that his combined education, training and work experience are the equivalent of a degree required by the proffered position.

When evaluating a beneficiary's qualifications under the fifth criterion, CIS considers three years of specialized training and/or work experience to be the equivalent of one year of college-level training. In addition to documenting that the length of the beneficiary's training and/or work experience is the equivalent of four years of college-level training, the petitioner must also establish that the beneficiary's training and/or work experience has included the theoretical and practical application of the specialized knowledge required by the specialty occupation, and that the experience was gained while working with peers, supervisors, or subordinates who have degrees or the equivalent in the specialty occupation. The petitioner must also document recognition of the beneficiary's expertise in the specialty, as evidenced by one of the following: recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation; membership in a recognized foreign or U.S. association or society in the specialty occupation; published material by or about the alien in professional publications, trade journals, books or major newspapers; licensure or registration to practice the specialty in a foreign country; or achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

In the instant case, the record contains no evidence to establish either the beneficiary's academic credentials or his employment history. The training certificates included in the record are issued to an individual named [REDACTED] while the beneficiary's name [REDACTED]. It is incumbent on the petitioner to resolve any inconsistencies in the record with independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence point to where the truth lies. *Matter of Ho*. The only evidence of the beneficiary's employment history is his resume, unsupported by any documentation that would support his claims. Going on record without supporting documentation is not sufficient to meet the burden of proof in this proceeding. *Matter of Soffici*. Accordingly, the AAO finds no evidence that would establish the beneficiary's qualifications to perform the duties of a specialty occupation under the final criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(5).

For the reasons discussed above, the petitioner has failed to establish the proffered position as a specialty occupation or the beneficiary as qualified to perform the duties of a specialty occupation. Accordingly, the AAO will not disturb the director's denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed The petition is denied.