U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: DEC 0 2 2014 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center (Director), denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner provides software development and other technology services. It seeks to permanently employ the beneficiary in the United States as a Computer Systems Analyst-IV. The petition requests classification of the beneficiary as a member of the professions holding an advanced degree pursuant to section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A).

At issue is whether the record establishes the beneficiary's possession of an advanced degree in a field required to perform the duties of the offered position.

I. PROCEDURAL HISTORY

As required by statute, an ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the U.S. Department of Labor (DOL), accompanies the petition.[1] The petition's priority date is June 18, 2012.[2]

Part H of the accompanying ETA Form 9089 states the following minimum requirements for the offered position of computer systems analyst-IV:

H.4. Education: Master's degree in "Computer Science, Eng. (any), Math, Sci, or Business."
H.5. Training: None required.
H.6. Experience in the job offered: 12 months.
H.7. Alternate field of study: None accepted.
H.8. Alternate combination of education and experience: None accepted.
H.9. Foreign educational equivalent: Accepted.
H.10. Experience in an alternate occupation: None accepted.
H.14. Specific skills or other requirements:

> Any suitable combination of education, training, or experience is acceptable. Multiple positions available and will involve substantial long-term and short-term travel to unanticipated client locations throughout the US to join established, operating onsite project teams with close, frequent supervision by a manager at the same worksite.

The beneficiary stated on the labor certification that he received a Master's degree in computer science from [redacted] in India in 2002. The record contains copies of the beneficiary's Master

[1] *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i); *see also* 8 C.F.R. § 204.5(a)(2).
[2] The petition's priority date is the date the DOL accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d). The Director's decision initially misidentifies the priority date as February 19, 2013, but later correctly refers to it as June 18, 2012.

of Computer Applications diploma, dated August 10, 2002, and a transcript from that university. The record also contains copies of the beneficiary's prior Bachelor of Business Administration diploma and a transcript from the in India.

The petitioner submitted a December 13, 2011 evaluation of the beneficiary's foreign educational credentials prepared by for The evaluation states that the beneficiary's Master of Computer Applications degree from India equals a U.S. Master of Science degree in computer science.

The evaluation cites the Electronic Database for Global Education (EDGE) of the American Association of Collegiate Registrars and Admissions Officers (AACRAO).[3] However, an EDGE report accompanied the evaluation, and the "author notes" section of the report states that an Indian Master of Computer Applications degree is "[c]omparable to a degree in computer application, not computer science."

The petitioner also submitted a June 20, 2014 letter from a professor of computer and information sciences at in the United States. Like the evaluation, Professor letter states that the beneficiary has the equivalent of a U.S. Master of Science degree in computer science.

Based on the inconsistency between the evaluation and the author's notes section of the EDGE report that accompanied it, the Director concluded that the record did not establish the beneficiary's possession of the required degree in a field specified by the labor certification. Accordingly, the Director denied the petition on August 13, 2014.

[3] AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions and agencies in the United States and in over 40 countries around the world." *See* Am. Ass'n of Collegiate Registrars & Admissions Officers, http://www.aacrao.org/About-AACRAO.aspx. Its mission "is to serve and advance higher education by providing leadership in academic and enrollment services." *Id.* EDGE is "a web-based resource for the evaluation of foreign educational credentials." *See* http://edge.aacrao.org/info.php. USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials. Federal courts across the United States have upheld the use of EDGE information in evaluating foreign educational credentials. *See Viraj, LLC v. U.S. Att'y Gen.*, -- Fed. Appx. --, 2014 WL 4178338 (11th Cir. 2014) (holding that the reliance of U.S. Citizenship and Immigration Services (USCIS) on EDGE information was not arbitrary or capricious); *Tisco Group, Inc. v. Napolitano*, No. 09-10072, 2010 WL 3464314, at *4 (E.D. Mich. Aug. 30, 2010) (finding that USCIS properly weighed the petitioner's evaluations and information from the EDGE to conclude that the beneficiary's foreign degrees were comparable only to a U.S. bachelor's degree); *Sunshine Rehab Servs., Inc.*, No. 09-13605, 2010 WL 3325442, at **8-9 (E.D. Mich. Aug. 20, 2010) (stating that USCIS was entitled to prefer the information in the EDGE and did not abuse its discretion in concluding that the beneficiary's three-year bachelor's degree was not the foreign equivalent of a U.S. bachelor's degree); *Confluence Int'l, Inc. v. Holder*, No. 08-2665, 2009 WL 825793, at *4 (D. Minn. Mar. 27, 2009) (finding that our office provided a rational explanation for its reliance on AACRAO information to support its decision).

On appeal, the petitioner asserts that USCIS did not afford proper evidentiary weight to Professor [redacted] letter. The petitioner argues that it demonstrated the beneficiary's possession of the foreign equivalent of a U.S. Master's degree in computer science and thus his qualifying education for the offered position by the petition's priority date.

The petitioner's appeal is properly filed and alleges specific errors in law and fact. Our office conducts appellate review on a *de novo* basis.[4] We consider all pertinent evidence in the record, including new evidence properly submitted on appeal.[5]

II. LAW AND ANALYSIS

The Roles of DOL and USCIS in the Immigrant Visa Process

By approving the accompanying labor certification in the instant case, the DOL certified that there are insufficient workers who are able, willing, qualified, and available to perform the duties of the offered position. Section 212(a)(5)(A)(i) of the Act. The DOL also certified that the beneficiary's employment will not adversely affect the wages and working conditions of U.S. workers similarly employed. *Id.*

While the Act directs the DOL to make the determinations discussed above, federal courts have found that decisions on employment-based, preference classifications rest with USCIS. *See Tongatapu Woodcraft Haw., Ltd. v. Feldman,* 736 F. 2d 1305, 1309 (9th Cir. 1984) (concluding that USCIS "may make a *de novo* determination of whether the alien is in fact qualified to fill the certified job offer"); *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006, 1008 (9th Cir. 1983) (finding that section 204(b) of the Act, 8 U.S.C. § 1154(b), directs USCIS to determine whether an alien qualifies for a preference position); *Madany v. Smith*, 696 F.2d 1008, 1012-13 (D.C. Cir. 1983) (stating that "[t]here is no doubt that the authority to make preference classification decisions rests with [USCIS]").

Therefore, the DOL decides whether there are qualified U.S. workers available to perform the offered position and whether the beneficiary's employment will adversely affect similarly employed U.S. workers. USCIS, however, determines whether a beneficiary qualifies for the offered position and whether the beneficiary and the offered position are eligible for the requested immigrant visa classification.

[4] *See* 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dep't of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). Federal courts have long recognized our *de novo* authority. *See, e.g., Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004).

[5] The instructions to Form I-290B, Notice of Appeal or Motion, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1), allow the submission of additional evidence on appeal. The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988).

Eligibility for the Classification Sought

Section 203(b)(2)(A) of the Act provides visas to qualified immigrants who are members of the professions holding advanced degrees or their equivalents. *See also* 8 C.F.R. § 204.5(k)(1).

The term "advanced degree" means:

> [A]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree.

8 C.F.R. § 204.5(k)(2).

A petition for an advanced degree professional must be accompanied by: an official academic record showing that the beneficiary has a United States advanced degree or a foreign equivalent degree; or by an official academic record showing that the beneficiary has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive, post-baccalaureate experience in the specialty. 8 C.F.R. § 204.5(k)(3)(i). The job offer portion of the labor certification must also require a professional holding an advanced degree. *See* 8 C.F.R. § 204.5(k)(4)(i).

Thus, a petition for an advanced degree professional must establish that a beneficiary is a member of the professions holding an advanced degree, and that the offered position requires at least an advanced degree professional.

In the instant case, the minimum requirements of the offered position include a U.S. Master's degree or a foreign equivalent degree. In addition, the educational evaluation, the EDGE report, and Professor letter all conclude that the beneficiary's Master of Computer Applications degree from India equates to a U.S. Master's degree. Therefore, the record demonstrates that the beneficiary possesses the foreign equivalent of a U.S. Master's degree. Accordingly, the record establishes that the beneficiary qualifies for classification as an advanced degree professional under section 203(b)(2)(A) of the Act.

The Minimum Requirements of the Offered Position

A petitioner must also establish that a beneficiary met all of the education, training, experience, and other requirements of the offered position by the petition's priority date. 8 C.F.R. §§ 103.2(b)(l), (12); *see also Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977); *Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

In evaluating a beneficiary's qualifications, USCIS must examine the job offer portion of the accompanying labor certification to determine the minimum requirements of the offered position.

USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. *See K.R.K. Irvine, Inc. v. Landon*, *supra*, at 1009; *Madany v. Smith*, *supra*, at 1015; *Stewart Infra-Red Commissary of Mass., Inc. v. Coomey*, 661 F.2d 1, 3 (1st Cir. 1981). USCIS interprets the job requirements on a labor certification by "examin[ing] the certified job offer *exactly* as it is completed by the prospective employer." *Rosedale & Linden Park Co. v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984) (emphasis added). USCIS's interpretation must involve "reading and applying *the plain language* of the [labor certification]," even if the employer intended different requirements than those stated on the form. *Id.* at 834 (emphasis added).

As previously indicated, the accompanying labor certification in the instant case states that the offered position of Computer Systems Analyst-IV requires at least a U.S. Master's degree or a foreign equivalent degree in computer science, engineering (any), mathematics, science, or business, plus 12 months of experience in the job offered. The evaluation and Professor [redacted] letter conclude that the beneficiary's Master of Computer Applications degree from India equates to a U.S. Master of Science degree in computer science.

At its discretion, USCIS may consider the statements of experts as advisory opinions. However, USCIS need not accept, or may consider as less persuasive, expert opinions that conflict with other information or are questionable in any way. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988); *see also Matter of D-R-*, 25 I&N Dec. 445, 464 n.13 (BIA 2011) (stating that an agency may assign different weights to expert testimony depending on the extent of an expert's qualifications and/or the relevance, reliability, and probative value of the testimony).

The evaluation's conclusion conflicts with the "author notes" section of the EDGE report that accompanies it. That section states that an Indian Master of Computer Applications degree is "[c]omparable to a degree in computer application, not computer science." The inconsistency in the field of study between the evaluation and the EDGE report casts doubt on the accuracy and reliability of the evaluation. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (a petitioner must resolve inconsistencies in the record by independent, objective evidence). The evaluator does not acknowledge or discuss the discrepancy, or explain why his conclusion differed from that of the source upon which he purportedly relied.

Professor [redacted] letter describes EDGE's statement that an Indian Master of Computer Applications degree equates to a U.S. Master's degree in computer application as "erroneous." The letter points out that "no accredited U.S. college or university offers a master's program in 'Computer Application'."

Professor [redacted] found that the specific curriculum completed by the beneficiary equates to a U.S. Master of Science degree in computer science. Based on a review of Master's-level computer science courses at [redacted] the [redacted] and [redacted] in the United States, Professor [redacted] determined that the beneficiary "completed coursework that would comprise the curricula of U.S. masters' programs in Computer Science and would clearly satisfy the academic requirements for a master's-level degree equivalency in Computer Science."

Specifically, Professor found the following courses completed by the beneficiary to be analogous to the corresponding courses in U.S. master's programs in computer science:

Courses completed by the beneficiary	Analogous U.S. courses
System Modeling and Simulation	Simulation and Modeling
Data Base Systems	Database Systems
Object-Oriented Analysis and Design	Object-Oriented Languages & Systems
Design and Analysis of Algorithms;	Algorithms and Data Structures
Programming in Pascal, C and JAVA	Programming Languages
Principles of Operating Systems	Operating Systems
Discrete Mathematics	Discrete Mathematics
Data Base Systems	Database Management Systems
Computer Networks	Computer Networks
Master's Project/Dissertation	Master's Seminar/Thesis

The courses on the beneficiary's graduate transcript from correspond to the courses that Professor states the beneficiary completed. Similarly, Master's-level computer courses from , the , and correspond to U.S. courses that the evaluation describes as analogous to the beneficiary's courses. Thus, Professor evaluation concludes that the beneficiary completed courses in India comparable to Master's-level computer science courses at the and in the United States.[6]

However, Professor letter does not explain why he chose to compare the beneficiary's graduate coursework to the Master's curricula in computer science at the and or whether these curricula are representative of those at most U.S. universities. Moreover, Professor letter does not state whether these three U.S. computer science programs require their graduates to earn a certain number of credits and/or to complete a certain amount or type of courses. The record therefore does not demonstrate whether the beneficiary completed enough courses of an appropriate nature to obtain Master of Science degrees in Computer Science at the cited U.S. universities.

For example, the website of Department of Computer Science states that graduates of its Master of Science program in computer science must complete courses in three "core" areas. *See* (accessed Oct. 29, 2014). One area, "Systems I," requires completion of a course entitled "Compiling & Programming Systems," or a course entitled "Parallel Computing." *Id.* However, the record does not demonstrate that the

[6] Although the beneficiary's graduate transcript indicates that he completed one course entitled "Data Base Systems," Professor appears to equate that course to two analogous U.S. courses entitled "Database Systems" and "Database Management Systems." The professor's letter does not explain how one course completed by the beneficiary in India equals two courses in the United States. *See Matter of Ho*, *supra*, at 591-92 (stating that a petitioner must resolve inconsistencies in the record by independent, objective evidence).

beneficiary completed courses in compiling and programming systems, or in parallel computing. Therefore, the record does not establish that the beneficiary has the equivalent of a Master of Science degree in computer science from , one of the three U.S. programs cited by the petitioner's expert.

Professor also states that EDGE's recommendation of a specific field of study is not credible because, in populous countries like India, "there is an enormous degree of variation among the curricula of academic programs offered by different universities during different periods of time." However, Professor appears to base his opinion of the beneficiary's educational credentials on the titles - rather than the contents - of the courses he completed in India. Professor does not identify the sources, such as course syllabi or catalogues, he used to determine and analyze the content of the courses completed by the beneficiary. The record does not contain copies of any documentation to establish the content of the beneficiary's courses. The record lacks analysis of the curriculum of which Professor admits may differ enormously from the curricula of other Indian universities. Professor also asserts that his opinion that the beneficiary's Master of Computer Applications degree equates to a U.S. Master's degree in computer science is "the prevailing view of international education authorities." However, he provides no source or explanation to support this statement.

Also, the petitioner's evidence does not include an explanation from AACRAO regarding the statement in "author notes" section of the EDGE report. Without evidence of its meaning, the statement is subject to an interpretation indicating that the beneficiary does not possess the required degree in a qualifying field.

It is unlikely that the statement in the EDGE report concluded that an Indian Master of Computer Applications degree equates to a U.S. master's degree in computer application. As Professor letter argues, "a U.S. master's degree in Computer Application does not exist." However, in stating that a Master of Computer Applications degree is comparable to a degree in computer application, the EDGE report may have distinguished between a U.S. Master's degree in computer science and a U.S. Master's degree in a field that involves the application of computers, such as information systems or information technology.

Indeed, there appear to be curricular differences between U.S. degrees in computer science and U.S. degrees in "computer application" fields, such as information systems. According to the , a recognized accreditor of U.S. post-secondary education programs in applied science, computing, engineering and engineering technology, accredited U.S. computer science programs must provide:

- at least 1⅓ years of study in "computer science," including: the fundamentals of algorithms, data structures, software design, concepts of programming languages, and computer organization and architecture; exposure to a variety of programming languages and systems; proficiency in at least one higher-level language; and advanced coursework building on fundamental coursework to provide depth; and

- at least one year of study in science and mathematics, with at least half a year in discrete mathematics and additional math courses permitted in such areas as: calculus; linear algebra; numerical methods; probability; statistics; number theory; geometry; or symbolic logic. The science component of the curriculum must develop an understanding of the scientific method and provide students "with an opportunity to experience this mode of inquiry in courses for science or engineering majors that provide some exposure to laboratory work."

"2013-14 Program Criteria for Computer Science and Similarly Named Computing Programs," *see* (accessed Oct. 29, 2014).

In contrast, accreditation criteria for information systems degree programs include:

- at least one year of study in "information systems," including: fundamentals of a modern programming language, data management, networking and data communications, systems analysis and design, and the role of information systems in organizations;
- advanced coursework building on fundamental coursework to provide depth;
- half a year of coursework in "Information Systems Environment," including varied topics "that provide a background in an environment in which the Information Systems will be applied professionally;"
- and studies in quantitative analysis or methods, including statistics.

"2013-14 Program Criteria for Information Systems and Similarly Named Computing Programs," *see* (accessed Oct. 29, 2014).

Therefore, based on accreditation criteria, U.S. Master's programs in computer science appear to include more coursework in fundamental computing principles, mathematics, and science than U.S. Master's programs in information systems, which focus more on the practical application of computing to businesses and other organizations.

In India, similar curricular differences appear to distinguish degrees in engineering and technology from Master of Computer Applications degrees. A report recommending a model curriculum for Master of Computer Applications programs by a subcommittee of the All India Council for Technical Education (AICTE), the statutory body charged with coordinating technical education in India, states:

> There are two streams in computer education [in India]. One of them is the Engineering stream leading to the B.E. [Bachelor of Engineering degree]/B.Tech. [Bachelor of Technology degree] and the other an application stream leading to the Master of Computer Applications degree. In the B.E./B.Tech course the primary emphasis is on designing computer hardware and systems software. Designing embedded systems, designing peripherals and interfacing them to a computer and use of computers in signal processing would be some of the other areas of interest to B.E. students. The primary

> emphasis in Master of Computer Applications on the other hand, is on designing information systems for various organizations such as banks, insurance companies, hotels, hospitals, etc. Development of application software in diverse areas where computers are used will be the main function of Master of Computer Applications students. Thus in the Master of Computer Applications curriculum hardware, systems software and embedded systems design are not emphasized. The major thrust is on giving students a sound background in computing, business functioning and mathematics relevant to information technology.

"Curriculum for Master of Computer Applications Degree, Suggested by All India Board of Computer Science, Engineering/Technology and Applications," 1997, § 2, *see* (accessed Oct. 29, 2014).

The report indicates that Indian Master of Computer Applications programs, like U.S. master's programs in information systems, provide a blend of business and computer coursework designed for the practical application of information systems to businesses and other organizations. Indian engineering and technology degrees, on the other hand, like U.S. degrees in computer science, seem to focus more on hardware and theoretical computing principals.

The beneficiary's transcript also supports this conclusion. The transcript identifies various lower-level courses, such as Principles of Operating Systems, Financial Management, Oral & Written Communications, Multimedia, and Marketing Management, which Professor does not discuss or evaluate. And contrary to Professor statement that "not one computer application is specified as a course topic among the classes that were completed by [the beneficiary]," the beneficiary's transcript states that he completed a "PC Packages Lab," which included Microsoft Office applications, such as Word, Excel, and PowerPoint.

Professor letter states that computer application is a "sub-specialization within the general classification of degree in the academic field of Computer Science." However, the letter acknowledges that, in the United States, "Computer Applications is offered as a course (or group of courses) only within programs in Computer Science (*or related fields, such as Computer Information Systems and Information Science*)". (emphasis added).

If the statement in the EDGE report indicates that the beneficiary has the equivalent of a U.S. Master's degree in information systems or a related "computer application" field, then the record does not establish that the beneficiary possesses the qualifying education in a field specified by the labor certification. The labor certification permits a degree in "any" field of engineering, but it does not allow similar flexibility in the field of computer science. Thus, because the record does not establish the EDGE statement's meaning, the record does not demonstrate the beneficiary's qualifying education for the offered position.

The petitioner argues that USCIS violates the Administrative Procedures Act, *see* 5 U.S.C. § 1001 *et seq.*, by "requiring the petitioner to rely solely on the AACRAO EDGE evaluation without allowing [it]

any opportunity to provide evidence demonstrating that AACRAO's evaluation is incorrect." The petitioner asserts that USCIS has effectively promulgated a new regulatory requirement without first completing the required notice and comment procedures.

Contrary to the petitioner's argument, USCIS does not require petitioners to rely solely, or at all, on EDGE to demonstrate the educational qualifications of beneficiaries. Except for requiring "[a]n official academic record," the regulations do not limit the evidence that a petitioner may submit to demonstrate a foreign equivalent degree. *See* 8 C.F.R. § 204.5(k)(3)(i). As previously indicated, USCIS sometimes refers to EDGE because it is peer-reviewed information, the use of which U.S. federal courts have upheld to evaluate foreign educational credentials. However, there is no requirement that a petitioner rely on EDGE to demonstrate a beneficiary's possession of a foreign equivalent degree.

The issue here is that the education evaluation submitted by the petitioner conflicted with the source upon which it relied. While the petitioner submitted an expert letter to bolster its claim that the beneficiary's Master of Computer Applications degree from India equates to a U.S. Master's degree in computer science, the letter does not appear to rely on independent evidence of the beneficiary's education, such as the content of his courses, which the letter states is necessary to make such an evaluation.

Moreover, the petitioner itself, not USCIS, relied on EDGE information. The petitioner submitted an evaluation of the beneficiary's foreign educational credentials that cited EDGE and was accompanied by an EDGE report. USCIS simply noted that the evaluation and the EDGE report conflicted regarding the beneficiary's equivalent field of study. *See Matter of Caron Int'l*, *supra*, at 795 (stating that USCIS need not accept, or may consider as less persuasive, expert opinions that conflict with other information or are in any way questionable).

Further, the record indicates that USCIS allowed the petitioner to submit evidence to explain the conflict between the evaluation it submitted and the EDGE information. The Director issued a Notice of Intent to Deny (NOID), dated June 6, 2014, that informed the petitioner of the inconsistency in the field of study between the EDGE report and the evaluation, and afforded it a reasonable opportunity to respond. In his decision, the Director discussed the evidence submitted by the petitioner in response to the NOID. We have also reviewed and considered the petitioner's evidence and arguments. Therefore, we reject the petitioner's argument that USCIS has required it to rely on EDGE to establish the beneficiary's qualifying education. Rather, the petitioner itself submitted the inconsistent evidence and has not resolved the contradiction. *See Matter of Ho*, *supra*, at 591-92 (a petitioner must resolve inconsistencies in the record by independent, objective evidence).

This decision does not find that Indian Master of Computer Applications degrees can never constitute foreign equivalent degrees of U.S. Master's degrees in computer science. We find only that the instant record fails to establish, by a preponderance of the evidence, that the beneficiary possesses the foreign equivalent of a U.S. Master's degree in computer science or the other acceptable fields of study specified by the labor certification. As previously indicated, the labor certification expressly permits a

degree in "any" engineering field of study, but does not expressly permit a degree in a field related to computer science.

The record does not establish the beneficiary's possession of the minimum educational requirements of the offered position specified on the labor certification by the petition's priority date. Accordingly, the petition must be denied.

The Beneficiary's Qualifying Experience

Beyond the Director's decision, the record also does not demonstrate the beneficiary's possession of the qualifying experience for the offered position.[7]

As previously indicated, a petitioner must establish a beneficiary's possession of all the education, training, and experience specified on the labor certification by the petition's priority date. 8 C.F.R. §§ 103.2(b)(l), (12); *see also Matter of Wing's Tea House, supra*, at 159; *Matter of Katigbak, supra*, at 49. In evaluating a beneficiary's qualifications, USCIS must examine the job offer portion of the labor certification to determine the minimum job requirements of the offered position. USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. *See K.R.K. Irvine, Inc.* v. *Landon, supra*, at 1009; *Madany* v. *Smith, supra*, at 1015; *Stewart Infra-Red Commissary of Mass., Inc.* v. *Coomey, supra*, at 3.

In the instant case, the accompanying labor certification states that the offered position of Computer Systems Analyst-IV requires at least a U.S. Master's degree or a foreign equivalent degree in computer science, engineering, mathematics, science, or business, plus at least 12 months of experience in the job offered.

The beneficiary stated on the labor certification that he possessed about 78 months of related employment experience when he joined the petitioner in the offered position on September 20, 2010. He stated that he worked as a computer systems analyst for [redacted] in the United States from March 9, 2004 to September 16, 2010.

Evidence of a beneficiary's qualifying experience must include a letter from a current or former employer giving the name, address, and title of the writer, and a specific description of the duties performed by the beneficiary. 8 C.F.R. § 204.5(g)(1). If a required document is unavailable, a petitioner must demonstrate the document's unavailability before secondary evidence, such as government or business records, will be accepted. 8 C.F.R. § 103.2(b)(2)(i). If secondary evidence is also unavailable, a petitioner must demonstrate both the unavailability of the required document

[7] We may deny an application or petition that fails to comply with the technical requirements of the law, even if the Director did not identify all of the grounds for denial in the initial decision. *See Spencer Enters., Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. Dep't of Justice*, *supra*, at 145 (noting that we conduct appellate review on a *de novo* basis).

and the secondary evidence before at least two affidavits from people with "direct personal knowledge of the event and circumstances" will be accepted. *Id.*

The record contains a September 16, 2010 letter from a senior executive on letterhead. The letter states that the company employed the beneficiary as a project leader in the United States since March 9, 2004. The record also contains a November 21, 2011 affidavit from the beneficiary's purported supervisor at

The letter on stationery states the beneficiary's purported title and employment dates with the company. However, the letter does not include a description of the beneficiary's duties pursuant to 8 C.F.R. § 204.5(g)(1). Indeed, it explicitly states that it is not a "formal, detailed experience letter." The job title stated in the letter also differs from the job title stated on the labor certification. The inconsistent job titles cast doubt on the beneficiary's claimed qualifying experience with *See Matter of Ho*, *supra*, at 591-92 (a petitioner must resolve inconsistencies in the record by independent, objective evidence). Therefore, the letter does not establish the beneficiary's qualifying experience pursuant to the regulations.

The petitioner submitted copies of the beneficiary's Internal Revenue Service (IRS) Forms W-2 Wage and Tax Statements for 2008 through 2010 and his paystubs from July 16, 2010 to September 15, 2010. This secondary evidence indicates that employed the beneficiary from 2008 through September 2010. However, the petitioner did not establish the unavailability of the required experience letter from pursuant to 8 C.F.R. § 103.2(b)(2)(i), preventing us from accepting this evidence in lieu of the required evidence. Also, the Forms W-2 and paystubs cannot establish the beneficiary's job duties. Therefore, the secondary evidence does not establish the beneficiary's qualifying experience.

The affidavit from the beneficiary's purported supervisor at states the beneficiary's dates of employment and details his purported job duties. However, although the purported supervisor states that he still works for the affidavit is not on company stationery and the record does not contain documentary evidence to corroborate his employment by . In response to the Director's NOID, the petitioner submitted a copy of an online profile of the purported supervisor, which indicates that he works for However, the record does not indicate the purported supervisor's dates of employment with The record therefore does not establish his "direct personal knowledge" of the beneficiary's employment and duties for at least 12 months. *See Matter of Soffici*, *supra*, at 165 (citing *Matter of Treasure Craft of Cal.*, *supra*, at 193) (finding that uncorroborated statements are insufficient to meet the burden of proof in visa petition proceedings).

The record also contains a March 9, 2004 offer letter from in India, addressed to the beneficiary in India and indicating that he was to begin employment in India. The offer letter casts doubt on his claim on the labor certification that he worked in the United States with this employer from March 5, 2004 to September 16, 2010. *See Matter of Ho*, *supra*, at 591-92 (a petitioner must resolve inconsistencies in the record by independent, objective evidence). Copies of Forms W-2 for 2008 indicate that the beneficiary earned income in the U.S. However, the

documents do not indicate when or in what position he earned the income. Therefore, the affidavit does not establish the beneficiary's qualifying experience for the offered position.

The record does not establish the beneficiary's possession of the qualifying experience specified on the labor certification by the petition's priority date. Accordingly, the petition must also be denied for this reason.

III. CONCLUSION

In summary, the record does not establish the beneficiary's possession of an advanced degree in a field required by the accompanying labor certification to perform the duties of the offered position. Therefore, the beneficiary does not qualify for classification as a member of the professions holding an advanced degree under section 203(b)(2)(A) of the Act, and the Director's decision will be affirmed. We also find that the record does not establish the beneficiary's qualifying experience for the offered position.

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternate basis for the decision. In visa petition proceedings, the petitioner bears the burden of establishing eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.