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

U.S. Citizenship and Immigration Services

(b)(6)

[redacted]

DATE: JAN 25 2013 Office: CALIFORNIA SERVICE CENTER File: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner states that it is an international hotel franchiser established in 1968. In order to employ the beneficiary in a position to which it has assigned the job title "Programmer Analyst I," the petitioner filed this H-1B petition to classify him as a nonimmigrant worker in a specialty occupation 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 on the grounds that the petitioner failed to establish that the beneficiary is qualified to perform services in a specialty occupation.

The record of proceeding before the AAO contains: (1) the petitioner's Form I-129, Petition for a Nonimmigrant Worker (Form I-129) and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's notice of decision denying the petition; and (5) the petitioner's Form I-290B, Notice of Appeal or Motion (Form I-290B) and additional evidence. The AAO reviewed the record in its entirety before issuing its decision.

For the reasons to be discussed below, the AAO concludes that the director's decision to deny the petition for its failure to establish the beneficiary as qualified to serve in a specialty occupation was correct. Accordingly, the appeal will be dismissed, and the petition will be denied.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess:

> (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
>
> (B) completion of the degree described in paragraph (1)(B) for the occupation, or
>
> (C) (i) experience in the specialty equivalent to the completion of such degree, and
>
> (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The degree referenced by section 214(i)(l)(B) of the Act means one in a specific specialty that is characterized by a body of highly specialized knowledge that must be theoretically and practically applied in performing the duties of the proffered position.

In implementing section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C) states that an alien must meet one of the following criteria in order to qualify to perform services in a specialty occupation:

(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.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), equating the beneficiary's credentials to a United States baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(*4*) would require one or more of the following:

(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; [1]

(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

[1] The petitioner should note that, in accordance with this provision, the AAO will accept a credentials evaluation service's evaluation of *education only*, not experience.

> specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience. . .

According to the express terms of 8 C.F.R. § 214.2(h)(4)(iii)(D)(*5*), to satisfy this USCIS-determination criterion, a petitioner must demonstrate three years of specialized training and/or work experience for each year of college-level training the alien lacks. This provision imposes strict evaluation standards, stating:

> [I]t must be *clearly demonstrated* [(1)] that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; [(2)] that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and [(3)] that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:
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> *(i)* Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation[2];
>
> *(ii)* Membership in a recognized foreign or United States association or society in the specialty occupation;
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> *(iii)* Published material by or about the alien in professional publications, trade journals, books, or major newspapers;
>
> *(iv)* Licensure or registration to practice the specialty occupation in a foreign country; or
>
> *(v)* Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.
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> [Italics added.]

The beneficiary does not meet either of the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(C)(*1*) and (*3*), as there is no evidence of a U.S. accredited college or university baccalaureate or higher degree, or of an unrestricted state license, registration or certification which authorizes the beneficiary to fully practice and be immediately engaged in a specialty occupation position in the state of intended employment.

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[2] *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

Next, the AAO finds that the record of proceeding does not establish that the beneficiary "[h]old[s] a foreign degree determined to be determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university," so as to satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(*2*). In this regard, the AAO notes, in particular, that the petitioner does not assert that the foreign degree that it claims for the beneficiary satisfies this criterion; and the AAO also notes that the petitioner does not submit any documentary evidence that purports that this criterion has been met.

This leaves only 8 C.F.R. § 214.2(h)(4)(iii)(C)(*4*) and its provision for establishing a beneficiary as qualified to serve in an H-1B specialty occupation by establishing that he or she "[has] 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 [has] recognition of expertise in the specialty through progressively responsible positions directly related to the specialty."

In order to equate a beneficiary's credentials to a U.S. baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(*4*), the provisions at 8 C.F.R. § 214.2(h)(4)(iii)(D) require one or more of the following:

> *(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; [3]
>
> *(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;
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> *(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. . . .

The AAO finds that none of the above criteria have been satisfied, and that, accordingly, the

[3] The petitioner should note that, in accordance with this provision, the AAO will accept a credentials evaluation service's evaluation of *education only*, not experience.

appeal must be dismissed.

Based upon its review of the record of proceeding, the AAO specifically finds the following with regard to the documentary evidence submitted into this record of proceeding.

Neither the "evaluation" submission from the official at the Maharishi University of Management nor any other document satisfies 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*), for none constitute documentation for consideration under this criterion, which the criterion specifies as:

> 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

Also, there is no evidence for consideration under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(*2*), that is, no results of recognized college-level equivalency examinations or special credit programs, such as the CLEP or PONSI.

Next, the record of proceeding contains no evidence within the scope of 8 C.F.R. § 214.2(h)(4)(iii)(D)(3), which is precisely defined as "[a]n evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials."

Likewise, as there is no "[e]vidence 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," the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(*4*) is also not a factor in this appeal.

Finally, USCIS has obviously not rendered a determination that the beneficiary is qualified to serve in a specialty occupation in accordance with the agency's standards specified for such a determination at 8 C.F.R. § 214.2(h)(4)(iii)(D)(*5*). Not only is this particular criterion not at issue in the appeal, but, moreover, the AAO finds that the record of proceeding lacks evidence by which the beneficiary's qualification could have been "clearly demonstrated" under this criterion's standards, which are, again:

> [T]hat [(1)] the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; that [(2)] the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that [(3)] the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:
>
> *(i)* Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation[4];

[4] *Recognized authority* means a person or organization with expertise in a particular field, special skills

(ii) Membership in a recognized foreign or United States association or society in the specialty occupation;

(iii) Published material by or about the alien in professional publications, trade journals, books, or major newspapers;

(iv) Licensure or registration to practice the specialty occupation in a foreign country; or

(v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

Upon review of the record, the AAO finds that the petitioner has not provided corroborating evidence as outlined in 8 C.F.R. § 214.2(h)(4)(iii)(D)(5). Thus, the AAO cannot conclude that the beneficiary's past work experience included the theoretical and practical application of a body of highly specialized knowledge in a field related to the proffered position; that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that the beneficiary has recognition of expertise in the industry.

In summary, as discussed above, the appeal will be dismissed and the petition will be denied because the record of proceeding contains no documentary evidence that establishes the beneficiary as qualified to serve in a specialty occupation in accordance with the controlling regulations, at 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D).

Although the above analysis is dispositive, the AAO will expand its discussion, in order to surface material evidentiary defects that also preclude the petitioner from prevailing on appeal.

As previously mentioned, the petitioner is seeking the beneficiary's services in what it designates as a programmer analyst I position. In its support letter dated March 27, 2012, the petitioner stated that the "minimum requirements for the position include the attainment of a Bachelor's degree, or equivalent, in Computer Science, Computer Information Systems or a related field." The petitioner stated the following regarding the beneficiary's qualifications for the proffered position:

> The beneficiary was awarded a Bachelor of Science degree in Computer Science from [redacted] in Ethiopia in 2008. The beneficiary is currently enrolled in the Master of Science program, major in Computer Science, at the

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or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

> [redacted] Fairfield, Iowa. He is scheduled to graduate in September of this year. The beneficiary's admission into an accredited U.S. graduate degree program is evidence that his undergraduate degree is equivalent to a four-year U.S. Bachelor's degree. In addition, the beneficiary has more than 3 years of related experience.

The documentary evidence of the beneficiary's formal education consists of the following: (1) a copy of a "Temporary Certificate of Graduation," dated July 3, 2008, which states that its purpose is to certify that the beneficiary graduated from [redacted] in India, with a "B.Sc. in Computer Science" on that same date; (2) a "Student Copy" of a related academic transcript; (3) a copy of an Enrollment Verification document from the [redacted] which, in part, states the beneficiary's Grade Point Average at that institution as of July 21, 2012; and (4) a copy of an official transcript of the beneficiary's coursework at the [redacted] also as of July 21, 2012.

The AAO will now address problematic aspects of the two documents related to the beneficiary's studies at [redacted]

First, by its own terms, the Temporary Certificate of Graduation is not the equivalent of a diploma issued by the foreign educational institution in question. In fact, it differentiates itself from such a diploma by stating on its face, "This certificate of graduation has been given pending the printing and issuance of the actual diploma." The AAO also notes that there is no explanation for the submission of a copy of this Temporary Certificate instead of a copy of the diploma itself, if in fact one has been issued. The AAO finds that, absent any explanatory evidence to the contrary, it appears that there was ample time for the beneficiary to receive, and for the petitioner to have submitted into this record of proceeding, such a diploma. The certificate was issued in July of 2008, but the petition was filed more than three years later, on April 9, 2012.

Next the AAO notes that the transcript, which is marked "Student Copy" is not an official copy. It therefore will not be regarded by the AAO as probative evidence that the beneficiary has completed the coursework there specified. In this regard, the AAO notes that the signature line for the Registrar's authenticating signature is blank; that no seal appears on the document; and that the bottom left-hand corner of the document contains the following annotation, all in capital letters: "THE TRANSCRIPT IS OFFICIAL ONLY WHEN SIGNED AND SEALED BY THE REGISTRAR." In this regard, the AAO also notes that the provision at paragraph (A)(*1*) of the regulation at 8 C.F.R. § 214.2(h)(4)(iv), *General Documentary Requirements for H-1B classification in a specialty occupation*, states:

> School records, diplomas, degrees, affidavits, declarations, contracts, and similar documentation submitted *must* reflect periods of attendance, courses of study, and similar pertinent data, [must] *be executed by the person in charge of the records of the educational or other institution, firm, or establishment where education or training was acquired.* [Emphasis added.]

Further, the AAO finds that, even if - as is not the case here - the petitioner had submitted properly authenticated documents substantiating that the beneficiary had been awarded the foreign three-year degree claimed for the coursework in the unofficial transcript, the evidence in the record of proceeding fails to establish that, in the language of 8 C.F.R. § 214.2(h)(4)(iii)(C)(*2*), the "foreign degree [has been] determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university."

In this regard, the AAO finds that the petitioner has failed to establish the U.S. educational equivalency of the asserted foreign-degree for two reasons: first, the foreign degree does not even purport to be a four-year degree, and, therefore, on its face fails to comport with the U.S. baccalaureate degree four-year standard; and, second, the record does not substantiate any degree-equivalency claim by "an evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials," as specified by the provision at 8 C.F.R. § 214.2(h)(4)(iii)(D)(*3*)."

It is worth emphasizing that the petitioner's reliance upon the letter attesting to the U.S. educational equivalency of the combination of the beneficiary's experience and foreign degree is mistaken. This document, which was submitted on appeal, is a letter, dated August 6, 2012, from signing as Associate Director of Admissions and Director of the Computer Science Department at In pertinent part, it states:

> [The beneficiary] was accepted to [the Master of Science in Computer Science program at . . . based on his 111 credit hours of his Bachelor of Computer Science Degree from in Ethiopia, with a GPA of 3.56. This degree along with his 2 years of IT work experience was considered equivalent to a 4-year Bachelor Degree from an accredited United States university. He was therefore admitted to the Master's in Computer Science program at this university.
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> [B]ased on my academic and professional experience, my position at [this university], and the authority granted to me at [this university] to recommend that academic credit be awarded for academic and professional training obtained outside [this university], I conclude that [the beneficiary] possessed the equivalent to a four-year bachelor's degree in computer science prior to his enrollment at [this university]. . . .

As stated directly above, basically concludes - without documenting any particular analyses that led to this conclusion - that, prior to his admission to the beneficiary possessed the equivalent of a four-year bachelor's degree in computer science. The letter refers to the combination of what the author describes as two (2) years of IT experience and the aforementioned three-year foreign degree that the petitioner claims that the beneficiary received from

The letter is not supported by probative evidence to support claims regarding the beneficiary's alleged two years of IT work experience. This record of proceeding lacks

documentary evidence that establishes or corroborates the beneficiary's work experience prior to his admission at the [5] Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190) (Reg. Comm'r 1972)).

Next, the AAO notes that does not even assert, let alone establish, the status required by 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*) to render an evaluation of training and/or experience. claims that she has "the authority . . . to *recommend* that academic credit be awarded for academic and professional training obtained outside [this university]. . . ." (Emphasis added.) However, does not claim, or provide any documentation corroborating, that she has the "authority to *grant*" academic credit for training and/or experience in any specific specialty. Furthermore, does not even state that her academic institution has a program for granting such credit based on a person's training and/or work experience. Thus, the evidence of record does not establish as a person recognized by the governing regulations as competent to render an evaluation of training and/or experience.

Furthermore, there is no independent evidence in the record from appropriate officials, such as deans or provosts, to establish that, at the time of the evaluation, was, in the language of the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*), "an official [with] 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." Thus, has not established that she is competent under 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*) to evaluate the educational equivalency of the beneficiary's work experience. Accordingly, this evaluation, does not meet the standard of 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*) for competency to render to USCIS an opinion on the educational equivalency of work experience. Consequently, the portion of the letter addressing work experience merits no weight. It, of course, follows that the author's ultimate conclusion also merits no weight in that it is partially dependent upon her assessment of work experience.

As will now be discussed, aside from the decisive fact that the evidence of record does not establish as competent under 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*) to evaluate the beneficiary's experience, the AAO finds that the content of her statements regarding the

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[5] The AAO notes that the only documented evidence in the record with respect to the beneficiary's training and/or work experience is for curricular practical training (CPT) during the beneficiary's enrollment at the Along with the petition, the petitioner provided a copy of the beneficiary's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status – For Academic and Language Students, with a school certification and signature of designated school official provided by the CPT Placement Director on March 28, 2012 (but notably without the beneficiary's signature on page 1, section 12, "Student Certification"). This Form I-20 indicates, on page 3, that the beneficiary was authorized for full-time CPT employment from 5/31/2011 – 3/30/2012 with as a Jr. Java Developer and from 4/2/2012 to 9/16/2012 with the petitioner, as an Analyst I, Programmer. The petitioner also provided three copies of the beneficiary's paystubs from for the pay end dates 2/15/2012, 2/29/2012, and 3/15/2012.

beneficiary's experience would merit no weight, even if were qualified under 8 C.F.R. § 214.2(h)(4)(iii)(D)(*1*).

The AAO notes that on June 29, 2012, in response to the RFE, counsel for the petitioner submitted documentation regarding the "Admission Requirements," printed from the university's website at http://mscs.mum.edu/requirements.html (printed on May 24, 2012). The documentation states the following:

> (1) Academic Requirements
> A. You must possess an undergraduate (Bachelor's) degree in Computer Science or a related field from an accredited college, university, or institute.
> - A 4-year degree is the standard minimum requirement.
> - Candidates with a 3-year degree will be considered for acceptance only if they have a minimum of 3 years of verifiable paid professional IT experience, and a high grade average in prerequisite computer science courses.

The AAO further notes that, even if had the authority to grant academic credit for training and/or experience in the specialty (which the record indicates she does not), and even if the beneficiary had "2 years of IT work experience"[6] (as claimed by but not documented in the record), the beneficiary would not have been qualified for admission under the Maharishi University of Management's own "Admission Requirements," which requires, for candidates possessing a three-year degree, "a minimum of 3 years of verifiable paid professional IT experience." Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Moreover, there is no authority - and none is cited – for three or more years of "verifiable paid professional IT experience" being sufficient, as so stated, to qualify for assignment of college-equivalency credit under any USCIS regulation pertaining to the H-1B specialty-occupation program.

The AAO also accords no weight to comments with regard to the educational equivalency of the asserted foreign-degree, because letter does not qualify as an "evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials," so as to merit consideration in accordance with 8 C.F.R. § 214.2(h)(4)(iii)(D)(*3*).

The AAO observes that counsel for the petitioner contends, without citing any statutory, regulatory, policy, or precedent-decision basis, that the following should be considered as establishing educational equivalency to a U.S. bachelor's degree in a particular specialty: the combination of (a) the beneficiary's acceptance into a graduate program, and (b) the attestation of the graduate program's institution that the beneficiary's acceptance into the program was

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[6] The AAO notes that statement that the beneficiary had "2 years of IT work experience" contradicts the petitioner's (undocumented) statement in its letter of support, dated March 27, 2012, that "the beneficiary has more than 3 years of related experience."

based upon an evaluation of the beneficiary's foreign education and experience. According to counsel, the aforementioned documentary combination should be accepted as equivalent to authoritative and reliable evaluations of the educational equivalency of both the beneficiary's three-year foreign degree and the beneficiary's experience.

Obviously, as reflected in this decision's preceding comments and findings, the AAO finds that counsel's contention does not accord with the avenues that the pertinent regulations specify for establishing a person as qualified to perform the services of an H-1B specialty occupation. Consequently, the contention is rejected as without merit.

For the reasons related in the preceding discussion, the AAO affirms the director's decision that the beneficiary is not qualified to perform the duties of a specialty occupation requiring a bachelor's or higher degree in a specific specialty, or its equivalent. Thus, the appeal must be dismissed and the petition denied for this reason.

The dismissal of this appeal and the denial of this petition does not preclude the petitioner from filing a new petition for an H-1B nonimmigrant worker supplemented by and fortified with additional evidence.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed. The petition is denied.