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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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Washington, DC 20529-2090



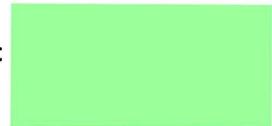
U.S. Citizenship
and Immigration
Services



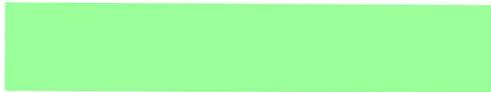
DATE: **FEB 07 2014**

OFFICE: TEXAS SERVICE CENTER

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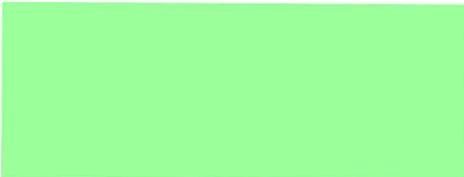


IN RE: Petitioner:
Beneficiary:



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, and the petition will remain denied.

The petitioner is a professional staffing company. It seeks to permanently employ the beneficiary in the United States as a systems management specialist. The petition requests classification of the beneficiary as an advanced degree professional under 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 beneficiary possesses an advanced degree as required by the requested preference classification and the terms of the accompanying labor certification.

I. PROCEDURAL HISTORY

As indicated above, 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 January 7, 2013.²

The director found that the petitioner failed to demonstrate that the beneficiary possesses an advanced degree as required for the requested classification and specified on the labor certification. Accordingly, the director denied the petition on July 24, 2013.

On appeal, the petitioner argues that the director erred in finding that the beneficiary's Master of Business Administration degree from India and 5 years of progressive experience does not constitute an advanced degree. The petitioner also asserts that the beneficiary's master's degree sufficiently relates to computer science as specified on the labor certification.

The petitioner's appeal is properly filed and makes a specific allegation of error in law or fact. The AAO conducts appellate review on a *de novo* basis.³ The AAO considers all pertinent evidence in the record, including new evidence properly submitted on appeal.⁴

¹ See section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D); 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).

³ 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., Nat'l Transp. Safety Bd.*, 925 F.2d 1147, 1149 (9th Cir. 1991). Federal courts have long recognized the AAO's *de novo* review authority. See, e.g., *Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004).

⁴ 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 disregard any of the documents newly submitted on appeal. See *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988).

II. LAW AND ANALYSIS

In the employment-based immigration process, the DOL determines whether there are qualified U.S. workers available for the offered position, and whether the employment of a foreign national will adversely affect similarly employed U.S. workers. Sections 212(a)(5)(A)(i)(I),(II) of the Act; 8 U.S.C. §§ 1182(a)(5)(A)(i)(I),(II).

However, U.S. Citizenship and Immigration Services (USCIS) determines whether the beneficiary qualifies for the offered position certified by the DOL, and whether the offered position and the beneficiary qualify for the requested immigrant visa classification. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Tongatapu Woodcraft Haw., Ltd. v. Feldman*, 736 F. 2d 1305, 1309 (9th Cir. 1984); *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006, 1008 (9th Cir. 1983); *Madany v. Smith*, 696 F.2d 1008, 1012-13 (D.C. Cir. 1983).

Eligibility for the Classification Sought

Section 203(b)(2)(A) of the Act provides for immigrant classification to qualified members of the professions holding advanced degrees. *See also* 8 C.F.R. § 204.5(k)(1).

The term “advanced degree” means:

any 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).

The term “profession” means “one of the occupations listed in section 101(a)(32) of the Act [, 8 U.S.C. §1101(a)(32)], as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.” Section 101(a)(32) of the Act identifies the following professional occupations: “architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.”

The following materials must accompany a petition for an advanced degree professional:

- (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien 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)(A),(B). In addition, the job offer portion of the labor certification must require the services of a professional holding an advanced degree. 8 C.F.R. § 204.5(k)(4)(i).

Thus, an “advanced degree” is a U.S. academic or professional degree (or a foreign equivalent degree) above a baccalaureate, *or* a U.S. baccalaureate (or a foreign equivalent degree) followed by at least 5 years of progressive experience in the specialty. A petition for an advanced degree professional must establish that the beneficiary is a member of the professions holding an advanced degree, and that the offered position requires, at a minimum, a professional holding an advanced degree.

The legislative history of the Immigration Act of 1990, Pub. L. 101-649 (1990), shows that Congress intended the master’s degree equivalent of a bachelor’s degree and 5 years of progressive experience to require a single U.S. bachelor’s degree or a single foreign equivalent degree. In “considering equivalency in category 2 advanced degrees, it is anticipated that the alien must have a bachelor’s degree with at least five years progressive experience in the professions.” H.R. Conf. Rep. No. 101-955 (reprinted in 1990 U.S.C.C.A.N. 6784, 6786, 1990 WL 201613 (Oct. 26, 1990)).

In response to criticism that the regulations at 8 C.F.R. § 204.5, *et seq.*, bar consideration of experience in baccalaureate equivalencies for immigrant classification purposes, the Service noted that both the Act and its legislative history indicate that a beneficiary must possess at least a bachelor’s degree to qualify as a professional or an advanced degree professional.

The Act states that, in order to qualify under the second classification, alien members of the professions must hold ‘advanced degrees or their equivalent.’ As the legislative history ... indicates, the equivalent of an advanced degree is ‘a bachelor’s degree with at least five years progressive experience in the professions.’ Because neither the Act nor its legislative history indicates that bachelor’s or advanced degrees must be United States degrees, the Service will recognize foreign equivalent degrees. But both the Act and its legislative history make clear that, in order to qualify as a professional under the third classification or to have experience equating to an advanced degree under the second, *an alien must have at least a bachelor’s degree.*

56 Fed. Reg. 60897, 60900 (Nov. 29, 1991) (emphasis added); *see also SnapNames.com, Inc. v. Chertoff*, No. 06-65, 2006 WL 3491005, *7 (D. Or. Nov. 30, 2006) (in professional and advanced degree professional petitions, where beneficiaries are statutorily required to hold at least baccalaureate degrees, USCIS properly concludes that single U.S. or foreign equivalent degrees are required).

In the instant case, Part J of ETA Form 9089 states that the beneficiary possesses a master’s degree in business administration from the [REDACTED] completed in 2004. The record contains copies of the beneficiary’s 2-year Master of Business Administration degree and transcripts from the [REDACTED] issued in 2004. The record also contains copies of the beneficiary’s 3-year Bachelor of Computer Applications degree and transcripts from [REDACTED] issued in 2001.

In addition, the petitioner submitted three evaluations of the beneficiary's foreign educational credentials prepared by [REDACTED]. The first two evaluations are dated July 17, 2012. The third evaluation, which the petitioner submitted in response to the AAO's Notice of Intent to Dismiss (NOID) the appeal of November 27, 2013, is dated December 12, 2013.

The petitioner submitted the first July 17, 2012 evaluation with its petition. This evaluation concludes that the beneficiary's foreign educational credentials are the equivalent of a U.S. Master of Business Administration degree.

The petitioner submitted the second July 17, 2012 evaluation in response to the director's Notice of Intent to Deny the petition, dated June 18, 2013. This evaluation concludes that the beneficiary's credentials are equivalent to a U.S. Bachelor of Business Administration degree with a concentration in computer information systems (CIS).

The December 12, 2013 evaluation also concludes that the beneficiary possesses the equivalent of a U.S. Bachelor of Business Administration degree with a concentration in CIS. However, this evaluation identifies and analyzes individual courses that the beneficiary completed.

In response to the director's notice, the petitioner also submitted a report from the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). The report states that a Bachelor of Computer Applications degree from India is comparable to 3 years of U.S. university-level education and that a Master of Business Administration degree from India is comparable to a U.S. bachelor's degree.

USCIS treats evaluations of foreign educational credentials as advisory opinions only. Where an evaluation conflicts with previous opinions or is questionable in any way, USCIS may discount it or afford it less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988); see also *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm. 1988); *Matter of D-R-*, 25 I&N Dec. 445, 464 n. 13 (BIA 2011) (expert witness testimony may be afforded different weights depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony).

As the AAO stated in its NOID, the July 17, 2012 evaluations are inconsistent. The first evaluation concludes that the beneficiary possesses the equivalent of a U.S. master's degree in business administration, while the second finds that he has the equivalent of a U.S. bachelor's degree in business administration with a concentration in CIS.

In response to the AAO's NOID, counsel asserts that the evaluations are not inconsistent, but "merely represent a difference in emphasis placed on the coursework undertaken by [the beneficiary]." Counsel asserts that the first evaluation focuses on the "entirety" of the beneficiary's undergraduate and graduate coursework, while the second evaluation focuses on the "computer-related coursework" that the beneficiary completed in his undergraduate and graduate studies.

Counsel asserts that the petitioner submitted the first evaluation with its petition “fully confident that the amount of computer coursework completed by the beneficiary, as reflected in the beneficiary’s transcripts, showed that this degree was ‘related to’ a degree in Computer Science.” After the director’s notice questioned the relation of the beneficiary’s Master of Business Administration degree to computer science, however, counsel states that the petitioner submitted the second evaluation, which purportedly emphasized his computer coursework.

The petitioner also submitted a letter from the chief executive officer of [REDACTED]. The letter states that the first evaluation “was reached out of the careful examination of the candidate’s entire body of coursework and his degrees conferred,” while the second evaluation “was issued based primarily off of the computer related coursework completed by [the beneficiary].”

The July 17, 2012 evaluations, however, do not support the assertions of counsel and [REDACTED] chief executive officer. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of Cal.*, 14 I&N Dec. 190, 193 (Reg’l Comm’r 1972)) (going on record without supporting documentary evidence is insufficient for purposes of meeting the burden of proof in these proceedings). Both July 17, 2012 evaluations state that they considered the beneficiary’s undergraduate and graduate coursework in India. The second evaluation does not indicate that it focused on the beneficiary’s computer related coursework as stated in the chief executive officer’s letter. Indeed, like the first evaluation, the second evaluation notes the beneficiary’s business-related graduate coursework, including courses in “management principles,” “quantitative methods in business,” and “organizational behaviour.” The second evaluation states that it considered “the undergraduate coursework in Computer Applications combined with [the beneficiary’s] graduate coursework in Business Administration.”

The record is unclear why the July 17, 2012 evaluations reach different conclusions. The second evaluation does not state that it considered documentation that the first evaluation did not. Counsel asserts that the evaluations merely emphasize different aspects of the beneficiary’s education. But the record does not explain how the beneficiary’s foreign credentials equate to more than one type of U.S. degree, or why none of the evaluations state that his foreign credentials have multiple U.S. degree equivalencies. The petitioner also has not explained why it did not provide a statement from Mr. [REDACTED] explaining the evaluator’s different conclusions. Mr. [REDACTED] appears to have been available to provide an explanation, as the record indicates that he prepared the December 12, 2013 evaluation. But the December 12, 2013 evaluation does not explain or even mention the inconsistent conclusions in the July 17, 2012 evaluations.

Thus, the AAO finds that the petitioner has not resolved the inconsistencies in the July 17, 2012 evaluations. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (a petitioner must resolve inconsistencies in the record with independent, objective evidence). The AAO, therefore, affords little weight to Mr. [REDACTED] evaluations.

However, the AAO finds the EDGE report more reliable. AACRAO’s website states that it 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 <http://www.aacrao.org/About-AACRAO.aspx>. AACRAO’s 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 equivalencies.⁵

The EDGE report concludes that the beneficiary’s Bachelor of Computer Applications degree from India is comparable to three years of university-level education in the United States and that his Master of Business Administration degree from India is comparable to a U.S. bachelor’s degree. Therefore, based on the conclusions of EDGE, the record demonstrates that the beneficiary possesses a single foreign degree equivalent to a U.S. bachelor’s degree. Specifically, the beneficiary’s Master of Business Administration degree equates to a U.S. bachelor’s degree.

Although the EDGE report combines the beneficiary’s undergraduate and graduate coursework to reach its conclusion, the beneficiary could not have obtained the master’s degree without first earning a bachelor’s degree. As the beneficiary’s qualifying experience is not disputed, the AAO finds that the petitioner has established that the beneficiary possesses a foreign degree equivalent to a U.S. bachelor’s degree followed by at least 5 years of progressive experience in the specialty.

Thus, the beneficiary qualifies for classification as an advanced degree professional under section 203(b)(2) of the Act.

The Minimum Requirements of the Offered Position

The petitioner must also establish that the beneficiary satisfied all of the education, training, experience, and any other requirements of the offered position by the petition’s priority date. 8 C.F.R. §§ 103.2(b)(1),(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 examining 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* 699 F.2d at 1009; *Madany*, 696 F.2d at 1015; *Stewart Infra-Red Commissary of Mass., Inc. v. Coomey*, 661 F.2d 1, 3 (1st Cir. 1981).

⁵ See *Tisco Group, Inc. v. Napolitano*, No. 09-10072, 2010 WL 3464314 *4 (E.D. Mich. Aug. 30, 2010) (USCIS properly weighed the evaluations submitted by the petitioner and the information obtained from EDGE to conclude that the beneficiary’s foreign degrees were comparable only to a U.S. bachelor’s degree); *Sunshine Rehab Servs., Inc. v. USCIS, Inc.*, No. 09-13605, 2010 WL 3325442 **8-9 (E.D. Mich. Aug. 20, 2010) (USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion); *Confluence Int’l, Inc. v. Holder*, No. 08-2665, 2009 WL 825793 *4 (D. Minn. Mar. 27, 2009) (the AAO provided a rational explanation for its reliance on AACRAO information to support its decision).

Where the job requirements of an offered position are not clearly prescribed, e.g., by regulation, USCIS must examine “the language of the labor certification job requirements” to determine what qualifications the beneficiary must possess. *Madany*, 696 F.2d at 1015. The only rational manner by which USCIS can interpret the terms of a labor certification is to “examine 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 of the job requirements on the labor certification must involve “reading and applying *the plain language* of the [labor certification].” *Id.* at 834 (emphasis added). Although an employer may prepare the labor certification application with the beneficiary in mind, USCIS must independently determine whether the beneficiary meets the requirements of the labor certification. *SnapNames.com*, 2006 WL 3491005 at *7.

In the instant case, Part H of the ETA Form 9089 states the following minimum job requirements for the offered position of systems management specialist:

- H.4. Education: Master’s degree in computer science.
- H.5. Training: None required.
- H.6. Experience in the job offered: 24 months.
- H.7. Alternate field of study: “Any related field.”
- H.8. Alternate combination of education and experience: Bachelor’s degree and 5 years of experience.
- H.9. Foreign educational equivalent: Accepted.
- H.10. Experience in an alternate occupation: 24 months in “any related occupation.”
- H.14. Specific skills or other requirements:

Administrator experience with Interwoven (Autonomy) TeamSite. UNIX/Linux, UNIX shell, Perl, Java, Opendeploy, Datadeploy, Mediabin, TeamSite with upgrade experience. Workflows, Authentication, TeamSite Search and Report Center. For questions H.6, H.8, and H.10, if Master’s Degree, then need two years of experience in job offered or related occupation. If Bachelor’s Degree, then need five years of experience in job offered or related occupation.

Thus, the labor certification states the minimum job requirements to include a master’s degree or a foreign equivalent degree in computer science or a related field, plus 24 months of experience in the job offered or a related field. Alternatively, a bachelor’s degree or a foreign equivalent degree and 5 years of experience in the job offered or a related field are acceptable.

On appeal, the petitioner states that it seeks to qualify the beneficiary under the alternate job requirements by showing that he possessed the foreign equivalent of a bachelor’s degree in a field related to computer science and 5 years of experience in the job offered or a related field by the petition’s priority date.

As discussed above, the AAO has found that, by the petition’s priority date, the beneficiary possessed the foreign equivalent of a U.S. bachelor’s degree. The AAO also does not dispute the

beneficiary's qualifying experience. Thus, the issue is whether the beneficiary possesses the foreign equivalent of a U.S. bachelor's degree in a field related to computer science.

The petitioner argues that the beneficiary has the equivalent of a U.S. bachelor's degree in business administration with a concentration in CIS, as the two most recent [REDACTED] evaluations conclude. Counsel asserts that the equivalent degree's field of study is related to computer science because U.S. colleges offer these degrees to prepare students to work with computers and management information systems. She states: "These are the same jobs that Computer Science graduates would perform, so the fields are directly related."

The petitioner submits brochures from [REDACTED] and [REDACTED] in the U.S. The [REDACTED] brochure states that its bachelor's degree in business administration with a concentration in CIS "will prepare students for a number of computer-related career opportunities," including "systems analyst" and "systems designer," which counsel asserts is "precisely the type of position" that the petitioner has offered the beneficiary.

The [REDACTED] brochure states that the school offers three variations of undergraduate computing degrees, including a traditional computer science degree and a CIS option as part of its Bachelor of Science program in business administration. Counsel argues that the brochure's grouping of the two degrees under the same heading "Computer Science and Information Systems" shows that they are related.

As discussed previously, the AAO affords little weight to the [REDACTED] evaluations because of the unresolved inconsistencies between the July 17, 2012 evaluations. Therefore, the record does not establish that the beneficiary has the foreign equivalent of a bachelor's degree in business administration with a concentration in CIS as the petitioner argues. But, even assuming that the beneficiary has the equivalent of that degree, the record does not establish that the equivalent degree's field of study relates to computer science.

An examination of the labor certification's plain language shows that Part H.4-B. of the ETA Form 9089 requires the petitioner to identify the "Major field of study" for its primary education requirement. (emphasis added). Part H.7. of the form asks whether an alternate field of study is acceptable, and Part H.7-A states: "If Yes, specify the *major* field of study." (emphasis added). Therefore, the plain language of ETA Form 9089 requires the petitioner to identify the major fields of study required to perform the job duties of the offered position.

If the beneficiary has the equivalent of a U.S. bachelor's degree in business administration with a concentration in CIS, then the equivalent degree's major field of study is business administration, not CIS. The field of CIS constitutes a concentration, or minor field of study. In the December 12, 2013 evaluation, Mr. [REDACTED] demonstrates that he uses the term "concentration" to mean "a minor" field of study. ("At most U.S. Universities, in order to qualify for a minor or concentration," ...). Thus, the equivalent degree's major field of study would be business administration, which the AAO would not consider to be related to computer science.

The ETA Form 9089's identification of the major fields of study is significant because the job requirements on the form may be included in the job order, notice of filing, and other advertisements of the offered position to U.S. workers. *See* 20 C.F.R. §§ 656.10(d)(4), 656.17(e)(2),(f)(6). If U.S. workers with degrees in business administration and concentrations in CIS saw an ad for the offered position requiring a degree in computer science or a related field, they may not have realized that they qualify for the position.

As the AAO requested in its NOID, the petitioner submits copies of its labor certification recruitment materials. The petitioner's recruitment report and attached materials state that it interviewed a candidate for the offered position with a U.S. bachelor's degree in information systems, but rejected her because she lacked experience with the required programming languages and technologies. Counsel argues that the petitioner's rejection of the candidate on grounds other than the field of her degree shows that the petitioner considered the fields of information systems and computer science to be related.

The recruitment materials indicate that the rejected candidate had a U.S. bachelor's degree in the major field of information systems. As discussed previously, the major field of the beneficiary's equivalent degree would be business administration, with only a concentration in CIS. The recruitment materials do not show that the petitioner interviewed candidates with U.S. bachelor's degrees in business administration. Therefore, the AAO does not find the petitioner's recruitment materials to establish that the beneficiary's equivalent degree would be in a field related to computer science.

Counsel also argues that the December 12, 2013 evaluation demonstrates that the field of study of the beneficiary's equivalent degree relates to computer science. The evaluation states that a bachelor's degree in business administration with a concentration in CIS "is comparable to a U.S. Bachelor of Science degree in Management Information Systems." The evaluation states that both fields teach students about computer systems and business principles, enabling the students to apply computer systems to business processes. The evaluation states that the fields of computer science and business each comprise 15 to 20 credits of a U.S. bachelor's degree in management information systems. The evaluation asserts that the beneficiary obtained 60 credits of computer information systems coursework and 64 credits of business administration coursework in India. The evaluation states that "it is obvious that based on the number of credits alone, [the beneficiary's] Bachelor of Business Administration with a concentration in Computer Information Systems is comparable to a Bachelor of Science degree in Management Information Systems that it issued by U.S. Universities."

While the December 12, 2013 evaluation states that a bachelor's degree in business administration with a concentration in CIS is "comparable to" a U.S. Bachelor of Science degree in management information systems, the evaluation does not state that a bachelor's degree in business administration with a concentration in CIS is "the equivalent of" a U.S. Bachelor of Science degree in management information systems. When an EDGE report states that a foreign educational credential "is comparable to" a U.S. degree, the statement consistently means that EDGE concludes that the credential is equivalent to a U.S. degree. However, in his previous evaluations, Mr. [REDACTED] used the

phrase “attained the equivalent of” a U.S. degree when stating his equivalency conclusions. In the December 12, 2013 evaluation, Mr. [REDACTED] only states that the beneficiary has “attained the equivalent of” a U.S. bachelor’s degree in business administration with a concentration in CIS. Thus, Mr. [REDACTED] apparently uses the phrase “is comparable to” differently than EDGE and does not conclude that the beneficiary’s credentials are equivalent to a U.S. Bachelor of Science degree in management information systems.

Moreover, the December 12, 2013 evaluation indicates that the number of the beneficiary’s credits does not necessarily merit a U.S. degree equivalency. The evaluation finds that the beneficiary earned sufficient course credits in India to possess the equivalent of a U.S. bachelor’s degree in CIS or computer science. But the evaluation states that the beneficiary “does not meet the upper-division and graduate-division requirements to be considered as having a degree equivalent to a [U.S.] Bachelor’s degree in Computer Information Systems or Computer Science.” Thus, the beneficiary’s total course credits may similarly fail to establish that he attained the equivalent of a U.S. bachelor’s degree in management information systems. The evaluation does not clearly analyze or state whether or not the beneficiary possesses the equivalent of a U.S. bachelor’s degree in management information systems.

In addition, the December 12, 2013 evaluation does not state how it calculated the number of course credits that the beneficiary purportedly earned in India, or their purported equivalency to U.S. university credits. The beneficiary’s undergraduate and graduate transcripts identify the courses that he took, but they do not state any corresponding credit amounts. Without an explanation of how the beneficiary’s purported course credit amounts were calculated and converted to U.S. university credits, the findings of the December 12, 2013 evaluation are not reliable, especially in consideration of the unresolved inconsistencies between the previous July 17, 2012 evaluations. *See Soffici*, 22 I&N Dec. at 165 (citing *Treasure Craft*, 14 I&N Dec. at 193) (going on record without supporting documentary evidence is insufficient for purposes of meeting the burden of proof in these proceedings).

For the foregoing reasons, the AAO finds that the record does not establish that the beneficiary possesses the foreign equivalent of a U.S. bachelor’s degree in computer science or a related field. Therefore, the petitioner has failed to establish that the beneficiary possessed the educational requirements specified on the labor certification for the offered position by the petition’s priority date.

III. CONCLUSION

The petitioner has established that the beneficiary possesses an advanced degree as required for the requested preference classification. But the petitioner has failed to demonstrate that the beneficiary possessed the education requirements specified on the labor certification for the offered position by the petition’s priority date. The AAO therefore affirms the director’s decision denying the petition.



The appeal will be dismissed for the reason stated above, and the petition will remain denied. In visa petition proceedings, the petitioner bears the burden of establishing eligibility for the immigration 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.