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: JAN 2 3 2014 OFFICE: NEBRASKA SERVICE CENTER

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) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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

The petitioner describes itself as an international communications/information services business. It seeks to permanently employ the beneficiary in the United States as an architect, software development. The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

At issue in this case is whether the beneficiary possesses an advanced degree as required by the terms of the labor certification and the requested preference classification, and whether the beneficiary possessed the minimum requirements of the offered position as set forth on the labor certification.

I. PROCEDURAL HISTORY

As required by statute, the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the U.S. Department of Labor (DOL).[1] The priority date of the petition is October 9, 2012.[2]

Part H of the labor certification states that the offered position has the following minimum requirements:

H.4. Education: Bachelor's Degree in Computer Science.
H.5. Training: None required.
H.6. Experience in the job offered: None required.
H.7. Alternate field of study: Accepted in a related field.
H.8. Alternate combination of education and experience: Accepted; Master's degree and four years of experience.
H.9. Foreign educational equivalent: Accepted.
H.10. Experience in an alternate occupation: Accepted; 84 months of JAVA/J2EE development experience.
H.14. Specific skills or other requirements: Bachelor of Science degree in computer science or related field (willing to accept foreign education equivalent) as well as seven years of JAVA/J2EE development experience or, alternatively, a Master of Science degree and 4 years of experience as noted above. Experience must include: Enterprise framework design experience; experience with n-tier web and client/server applications using Java/J2EE,Webservice and XML technologies; .Net technologies; web application

[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 priority date is the date the DOL accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d).

configuration experience; TIBCO Business works; SQL programming experience, including Oracle and SQL Server; telecommunications experience, including ordering/provisioning and service activation using MVC II, Struts, Spring framework and Hibernate; software development knowledge quality assurance; and project management/leadership experience. Level 3 Communications, LLC is willing to accept a suitable combination of education, training and experience to satisfy the requirements.

The beneficiary possesses a Bachelor of Technology degree in Computer Science and Engineering from completed in April 2003. A copy of the beneficiary's bachelor's degree is in the record. The beneficiary also holds a from the , awarded in December 2005. Copies of the beneficiary's degree and transcript are in the record. The transcript shows that the beneficiary earned 55 credit points (poäng), including 30 credits for courses taken and 25 credit points for a dissertation.

The record also contains a Diploma Supplement issued by the relating the beneficiary's education in Sweden. The Diploma Supplement states as follows with regard to the degree requirements for the

Access requirement(s):
General eligibility is attained by completing an upper secondary school programme and obtaining a passing grade or better in courses comprising at least 90 per cent of the upper secondary credits required in the programme, or by providing proof of an equivalent level of knowledge.

. . .

Scope
A Master of Science with a major in Computer Science shall be obtained after completion of course requirements of at least 160 credit points in total. Advanced studies in the main subject at 80-credit point level are required, with passing grades.

. . .

In order to achieve a master's degree with a major in Computer Science, the student shall have completed an independent project (degree project/thesis) of at least 20 credit points or two such projects of at least 10 credit points each. This project shall be part of the main project studied. Credit may be given for 40 credit points from doctoral studies in the main subject. The main specialization of the degree shall be stated in the degree certificate.

. . .

> Access to further study:
> This degree gives access to postgraduate training.

The Diploma Supplement further states, in part, with regard to the Swedish higher education system:

> Sweden has a system of credit points (poäng); one week of successful full-time study is equivalent to 1 credit point. One academic year usually yields 40 credit points.

. . .

> General degrees:
> 1. requiring a minimum of 80 credit points.
> 2. requiring a minimum of 120 credit points with 60 credit points in the major subject including a thesis/degree project of 10 credit points.
> 3. (Master of) requiring a minimum of 160 credit points with 80 credit points in the major subject including a thesis/degree project of 20 or two thesis/degree projects of 10 credit points each.
> 4. (Master of) requiring a minimum of 40 credit points with specialisation including a thesis/degree project of at least 10 credit points. A prerequisite for is a general or professional degree of at least 120 credit points or a comparable foreign degree.

The record contains three evaluations of the beneficiary's educational credentials. The first evaluation was prepared by on January 3, 2008.[3] The evaluation states that the beneficiary's Bachelor of Technology degree in Computer Science and Engineering from is equivalent to a Bachelor of Science degree in Computer Science from a regionally accredited university in the United States, and that the beneficiary's Master of Science degree in Computer Science from the is equivalent to a Master of Science degree in

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[3] USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. USCIS may evaluate the content of the letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795. *See also 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'l Comm'r 1972)); *Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011)(expert witness testimony may be given different weight depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony).

Computer Science from a regionally accredited university in the United States. The second evaluation was prepared by on March 11, 2013. indicates that the beneficiary's Bachelor of Technology degree in Computer Science and Engineering from is equivalent to a four-year U.S. Bachelor of Science degree in Computer Science, and that the beneficiary's Master of Science degree in Computer Science is equivalent to a U.S. Master of Science degree in Computer Science. The third evaluation was prepared by , Faculty Member, Computer and Information Science, on March 11, 2013. also states that the beneficiary's Bachelor of Technology degree in Computer Science and Engineering from is equivalent to a Bachelor of Science degree in Computer Engineering from a regionally accredited U.S. college or university, and that the beneficiary's Master of Science degree in Computer Science from University of is equivalent to a Master of Science degree in Computer Science from a regionally accredited U.S. college or university.

Part K of the labor certification states that the beneficiary possesses the following employment experience:

- Architect, Software Development with from January 26, 2008 onward (40 hours per week).[4]
- from October 9, 2006 until January 26, 2008 (40 hours per week).
- Senior Programmer Analyst with from October 3, 2005 until November 30, 2006 (40 hours per week).[5]
- Intern with from February 1, 2005 until September 23, 2005 (40 hours per week).[6]
- Software Programmer with from January 6, 2003 until August 14, 2003 (40 hours per week).[7]

The record contains experience letters from the following:

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[4] The record does not contain a letter from the petitioner verifying the beneficiary's experience. *See* 8 C.F.R. § 204.5(g)(1) and 8 C.F.R. § 204.5(k)(3)(i). *See also* 20 C.F.R. § 656.17, however, as the experience appears to be in the position offered, it is not clear that the petitioner can rely on this experience.

[5] The beneficiary's transcript from the in Sweden shows that she completed her masters dissertation on October 28, 2005, although she was already working full-time in Singapore at that time. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

[6] The beneficiary appears to have attended the University of during this time.

[7] The beneficiary appears to have been attending during a portion of this time.

- and dated, February 4, 2008, accounting for 474 days of experience (from October 9, 2006 - January 26, 2008) as a senior programmer analyst. The letter indicates that, among other activities, the beneficiary obtained experience with JAVA/J2EE.
- and dated September 14, 2010, indicating 361 days of experience (October 3, 2005 - September 29, 2006) as a senior programmer analyst. The letter indicates that, among other activities, the beneficiary obtained experience with JAVA/J2EE.[8]
- and dated September 23, 2005, indicating that the beneficiary gained 234 days of experience (February 1, 2005 – September 23, 2005) as an intern. The letter does not indicate that the beneficiary obtained experience with JAVA/J2EE.
- Project Manager, and dated September 3, 2010, indicating that the beneficiary gained 586 days of experience (January 6, 2003 - August 14, 2004) as a software engineer. The letter indicates that, among other activities, the beneficiary obtained experience with JAVA/J2EE.

The letters also indicate that the beneficiary has the following special skills required by Part H.14 of the labor certification: enterprise framework design experience; experience with n-tier web and client/server applications using Java/J2EE,Webservice and XML technologies; .Net technologies; web application configuration experience; TIBCO Business works; SQL programming experience, including Oracle and SQL Server; telecommunications experience, including ordering/provisioning and service activation using MVC II, Struts, Spring framework and Hibernate; software development knowledge quality assurance; and project management/leadership experience.

The director's decision denying the petition dated April 26, 2013, concluded that the petitioner did not demonstrate that the beneficiary possessed an advanced degree, and that the petitioner did not demonstrate that the beneficiary possessed the minimum qualifications required under the labor certification as of the priority date. On appeal, the petitioner states the beneficiary's educational credentials are equivalent to a U.S. master of science degree in computer science. Therefore, the petitioner asserts that the beneficiary possesses an advanced degree and that the beneficiary meets all of the requirements of 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.[9] The AAO considers all pertinent evidence in

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[8] Counsel for the petitioner stated that the end date for the beneficiary's employment with Alpsoft listed on the labor certification was an error and that the employment confirmation letter is correct.

[9] *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. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

the record, including new evidence properly submitted upon appeal.[10] A petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the director does not identify all of the grounds for denial in the initial decision.[11]

II. LAW AND ANALYSIS

The Roles of the DOL and USCIS in the Immigrant Visa Process

At the outset, it is important to discuss the respective roles of the DOL and U.S. Citizenship and Immigration Services (USCIS) in the employment-based immigrant visa process. As noted above, the labor certification in this matter is certified by the DOL. The DOL's role in this process is set forth at section 212(a)(5)(A)(i) of the Act, which provides:

> Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that-
>
> > (I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and
> >
> > (II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

It is significant that none of the above inquiries assigned to the DOL, or the regulations implementing these duties under 20 C.F.R. § 656, involve a determination as to whether the position and the alien are qualified for a specific immigrant classification. This fact has not gone unnoticed by federal circuit courts:

> There is no doubt that the authority to make preference classification decisions rests with INS. The language of section 204 cannot be read otherwise. *See Castaneda-Gonzalez v. INS*, 564 F.2d 417, 429 (D.C. Cir. 1977). In turn, DOL has the authority to make the two determinations listed in section 212(a)(14).[12] Id. at 423. The necessary result of these two grants of authority is that section 212(a)(14)

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[10] The submission of additional evidence on appeal is allowed by 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). 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 (BIA 1988).

[11] *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

[12] Based on revisions to the Act, the current citation is section 212(a)(5)(A).

> determinations are not subject to review by INS absent fraud or willful misrepresentation, but all matters relating to preference classification eligibility not expressly delegated to DOL remain within INS' authority.
>
> . . .
>
> Given the language of the Act, the totality of the legislative history, and the agencies' own interpretations of their duties under the Act, we must conclude that Congress did not intend DOL to have primary authority to make any determinations other than the two stated in section 212(a)(14). If DOL is to analyze alien qualifications, it is for the purpose of "matching" them with those of corresponding United States workers so that it will then be "in a position to meet the requirement of the law," namely the section 212(a)(14) determinations.

Madany v. Smith, 696 F.2d 1008, 1012-1013 (D.C. Cir. 1983). Relying in part on *Madany*, 696 F.2d at 1008, the Ninth Circuit stated:

> [I]t appears that the DOL is responsible only for determining the availability of suitable American workers for a job and the impact of alien employment upon the domestic labor market. It does not appear that the DOL's role extends to determining if the alien is qualified for the job for which he seeks sixth preference status. That determination appears to be delegated to the INS under section 204(b), 8 U.S.C. § 1154(b), as one of the determinations incident to the INS's decision whether the alien is entitled to sixth preference status.

K.R.K. Irvine, Inc. v. Landon, 699 F.2d 1006, 1008 (9th Cir. 1983). The court relied on an amicus brief from the DOL that stated the following:

> The labor certification made by the Secretary of Labor . . . pursuant to section 212(a)(14) of the [Act] is binding as to the findings of whether there are able, willing, qualified, and available United States workers for the job offered to the alien, and whether employment of the alien under the terms set by the employer would adversely affect the wages and working conditions of similarly employed United States workers. *The labor certification in no way indicates that the alien offered the certified job opportunity is qualified (or not qualified) to perform the duties of that job.*

(Emphasis added.) *Id.* at 1009. The Ninth Circuit, citing *K.R.K. Irvine, Inc.,* 699 F.2d at 1006, revisited this issue, stating:

> The Department of Labor (DOL) must certify that insufficient domestic workers are available to perform the job and that the alien's performance of the job will not adversely affect the wages and working conditions of similarly employed domestic

> workers. *Id.* § 212(a)(14), 8 U.S.C. § 1182(a)(14). The INS then makes its own determination of the alien's entitlement to sixth preference status. *Id.* § 204(b), 8 U.S.C. § 1154(b). *See generally K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006, 1008 9th Cir.1983).
>
> The INS, therefore, may make a de novo determination of whether the alien is in fact qualified to fill the certified job offer.

Tongatapu Woodcraft Haw., Ltd. v. Feldman, 736 F. 2d 1305, 1309 (9th Cir. 1984).

Therefore, it is the DOL's responsibility to determine whether there are qualified U.S. workers available to perform the offered position, and whether the employment of the beneficiary will adversely affect similarly employed U.S. workers. It is the responsibility of USCIS to determine if the beneficiary qualifies for the offered position, and whether the offered position and the beneficiary are eligible for the requested employment-based immigrant visa classification.

Eligibility for the Classification Sought

Section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees. *See also* 8 C.F.R. § 204.5(k)(1).

The regulation at 8 C.F.R. § 204.5(k)(2) defines the terms "advanced degree" and "profession." An "advanced degree" is defined as:

> [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. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

A "profession" is defined as "one of the occupations listed in section 101(a)(32) of the Act, 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." The occupations listed at section 101(a)(32) of the Act are "architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

The regulation at 8 C.F.R. § 204.5(k)(3)(i) states that a petition for an advanced degree professional must be accompanied by:

> (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.

In addition, the job offer portion of the labor certification must require a professional holding an advanced degree. *See* 8 C.F.R. § 204.5(k)(4)(i).

Therefore, an advanced degree professional petition 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. Further, 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 five years of progressive experience in the specialty.

The labor certification indicates that the proffered position requires a Bachelor of Science degree in Computer Science or related field (or foreign equivalent), with 84 months of JAVA/J2EE development experience; or, alternatively, a Master of Science degree (or foreign equivalent) with four years of experience. The special skills listed at Part H.14 of the labor certification are also required. Therefore, the offered position requires, at a minimum, a professional holding an advanced degree. However, the petitioner has not established that the beneficiary is a member of the professions holding an advanced degree.

U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive post-baccalaureate experience in the specialty

The record demonstrates that the beneficiary possesses a Bachelor of Technology degree in Computer Science and Engineering from The AAO has reviewed the Electronic Database for Global Education (EDGE), which was created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). According to its website, 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* 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 equivalencies.[13]

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[13] In *Confluence Intern., Inc. v. Holder,* 2009 WL 825793 (D.Minn. March 27, 2009), the court determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision. In *Tisco Group, Inc. v. Napolitano*, 2010 WL 3464314 (E.D.Mich. August 30, 2010), the court found that USCIS had properly weighed the evaluations submitted and the information obtained from EDGE to conclude that the alien's three-year foreign

EDGE states that the Bachelor of Technology (BTech) degree in India represents "attainment of a level of education comparable to a bachelor's degree in the United States." http://edge.aacrao.org/country/credential/bachelor-of-engineeringtechnology?cid=single (accessed October 30, 2013). The three evaluations submitted by the petitioner agree with this conclusion with respect to the beneficiary's undergraduate degree. Therefore, the petitioner has established that the beneficiary has obtained the foreign equivalent of a U.S. bachelor's degree in the required field of study.

However, the petitioner has not established that the beneficiary has the requisite years of progressive post-baccalaureate experience in the specialty. As indicated by the director, the experience letters in the record demonstrate that the beneficiary possesses 1,655 days of combined experience, which is less than the five years required by 8 C.F.R. § 204.5(k)(2) and less than the number of years required by the labor certification.[14] Further, some of the beneficiary's experience verified in the record appears to have been obtained by the beneficiary while she was obtaining her bachelor's degree. The regulation at 8 C.F.R. § 204.5(k)(2) requires at least five years of progressive *post-baccalaureate* experience in the specialty. A letter dated September 3, 2010, from the , signed by indicates that the beneficiary worked there from January 6, 2003 to August 14, 2004 as a software engineer. The beneficiary received her Bachelor of Technology degree in Computer Science and Engineering from in April 2003, at least three months after she started working for the [15] Therefore, the experience gained by the beneficiary before she completed her bachelor's degree would not be calculated in the determination of whether she had the required progressive post-baccalaureate experience in the specialty.

"baccalaureate" and foreign "Master's" degrees were only comparable to a U.S. bachelor's degree. In *Sunshine Rehab Services, Inc. v. USCIS*, 2010 WL 3325442 (E.D.Mich. August 20, 2010), the court upheld a USCIS determination that the alien's three-year bachelor's degree was not a foreign equivalent degree to a U.S. bachelor's degree. Specifically, the court concluded that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion. The court also noted that the labor certification itself required a degree and did not allow for the combination of education and experience.

[14] It is not clear if the beneficiary's experience is progressive in nature. She worked as an intern *after* working full-time as a software engineer for the The plain meaning of progressive experience is "employment experience that reveals progress, moves forward, and advances toward increasingly complex or responsible duties" or, in short, "advancing levels of responsibility and knowledge in the specialty." USCIS Memorandum from Michael D. Cronin, Acting Associate Commissioner, Office of Programs, and William R. Yates, Deputy Executive Associate Commissions, Office of Field Operations, *Educational and Experience Requirements for Employment-Based Second Preference (EB-2) Immigrants,* AD00-08, March 20, 2000. The record does not establish that the beneficiary's internship advanced the duties she had at the Godavari Group.

[15] The petitioner did not submit the beneficiary's transcripts from University.

The petitioner has not established that the beneficiary has a U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive experience in the specialty.

U.S. academic or professional degree (or a foreign equivalent degree) above a baccalaureate

of in Sweden, completed in 2005. As previously noted, the Diploma Supplement issued by the University of states that general eligibility for the is attained by completing an upper secondary school program, and that the degree is obtained after completion of course requirements of at least 160 credit points in total (four years of full-time study). Secondary school, and not an undergraduate college degree, is the minimum requirement for entry into the program; and the program is four years in length. These requirements match those of an undergraduate degree program in the United States.[16] The Diploma Supplement states that the level of qualification of the beneficiary's "undergraduate education, at least 4 years."

EDGE supports the information provided in the Diploma Supplement issued by the University of . EDGE states that the Swedish Magisterexamen represents attainment of a level of education comparable to a bachelor's degree in the United States. http://edge.aacrao.org/country/credential/magisterexamen?cid=single (accessed October 30, 2013). EDGE also states that the of education comparable to a bachelor's degree in the United States. http://edge.aacrao.org/country/credential/magisterexamen-med-228mnesdjup?cid=single (accessed October 30, 2013). EDGE further states that the represents attainment of a level of education comparable to a bachelor's degree in the United States. http://edge.aacrao.org/country/credential/magisterexamen-med-228mnesbredd?cid=single (accessed October 30, 2013).

In his Request for Evidence (RFE) dated February 11, 2013, and decision dated April 26, 2013, the director informed the petitioner that the EDGE database indicates that the is equivalent to a U.S. bachelor's degree and not equivalent to a master's degree as the petitioner's submitted evaluations state. *See* http://edge.aacrao.org. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent, objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In the instant case, the three credentials evaluations submitted by the petitioner state that the beneficiary has the equivalent of a U.S. master's degree.[17] These conclusions are inconsistent with

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[16] A United States baccalaureate degree is generally found to require four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg'l Comm'r 1977).

[17] USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the

the information provided by the University of in the Diploma Supplement, and the information in EDGE. The petitioner has not resolved the inconsistencies with independent, objective evidence.

Secondary school, and not an undergraduate college degree, is the minimum requirement for entry into the program; and the program is four years in length. None of the evaluations address this point. The beneficiary's additional education following her bachelor's degree would, therefore, not represent graduate level studies but, instead, additional bachelor's level studies.

The evaluation from . states that the beneficiary's Master of Science Degree in Computer Science (New Generation Systems) from the University of is equivalent to a Master of Science degree in Computer Science from a regionally accredited university in the United States. She indicates that the beneficiary "fulfilled all requirements, including thesis, for the award of the degree," and that the ' is officially recognized and accepted in Sweden and the United States." However, offered no independent, objective evidence regarding how her determination was made and the evaluation does not address the program's entry-level requirements. Therefore, the evaluation does not sufficiently demonstrate that the beneficiary possesses the foreign equivalent of a U.S.-awarded master's degree.

The evaluation prepared by indicates that the beneficiary's Master of Science Degree in Computer Science (New Generation Systems) from the University of in Sweden is equivalent to a U.S. Master of Science degree in Computer Science. further indicates that the beneficiary's master's degree was focused on research, and that its course structure was comparable to many U.S. master's degree programs in the field of computer science. He provides copies of general information regarding master's degree programs from various U.S. universities, such as However, Professor does not specifically demonstrate how the beneficiary's master's degree coursework in Sweden was comparable in structure to any of these U.S. programs, other than to state that similar to the requirements of some U.S. master's programs, the beneficiary also completed one or two years of study and a dissertation. His evaluation does not address the program's entry-level requirements.

also indicates that there is no proper entry for the specific degree attained by the beneficiary in EDGE; therefore, EDGE cannot provide an accurate assessment of the beneficiary's master's degree. However, the Diploma Supplement issued by the relating the beneficiary states that the may be obtained after completion of course requirements of at least 160 credit points in total. Similarly, EDGE

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benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. USCIS may give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795. *See also 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'l Comm'r 1972)); *Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011)(expert witness testimony may be given different weight depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony).

describes the as a degree awarded on completion of 160 credit points. *See* http://edge.aacrao.org/country/credential/magisterexamen?cid=single (accessed October 30, 2013).

The Diploma Supplement also discusses higher education in Sweden and references the two specific has not provided any independent, objective evidence to demonstrate that the beneficiary's degree would be considered within a special category outside of those indicated in the Diploma Supplement and the EDGE database for master's degrees from Sweden.

Professor also provides a letter from dated December 23, 2008, addressed to another individual, which discusses the EDGE database in relation to the admittance of students from countries which have signed the into U.S. university programs. However, this letter does not address the fact that the Swedish higher education system was reformed in 2007, after the beneficiary obtained her degree in Sweden. On July 1, 2007, Sweden went from using their own credit system (where 40 higher education credit points equated to one year of studies) to using a system that conformed to the process (where one year of higher edication studies equates to 60 credits). *See* http://web.archive.org/web/20071009170355/http:/www.hogskoleverket.se/highereducation/thenewstructureofprogrammesandqualifications.4.5ed111281136ce97c148000493.html (accessed November 13, 2013). EDGE equivalencies relate to the educational system in place in Sweden prior to July 1, 2007. http://edge.aacrao.org/country/overview/sweden-overview (accessed November 13, 2013).[18]

Moreover, the petitioner has submitted no independent, objective evidence indicating that the beneficiary's master's degree would be accepted as the equivalent to a U.S. master's degree within a U.S. university post-graduate program. Accordingly, the evaluation from is also found to be insufficient to demonstrate that the beneficiary possessed the equivalent of a U.S. master's degree as of the priority date.

The third evaluation was prepared by states that the beneficiary's Master of Science degree in Computer Science from University of is equivalent to a U.S. master's degree in Computer Science. He states that a bachelor's degree was required for entry into this program. However, the Diploma Supplement issued by the University of relating the beneficiary states that eligibility for the is attained by completing an upper secondary school program and obtaining a pass grade or better in courses comprising at least 90 percent of the upper secondary credits required in the program, or by providing proof of an equivalent knowledge. The inconsistencies regarding the entry requirements have not been resolved with independent, objective evidence.

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[18] The AAO conferred with AACRAO to clarify its EDGE entries for the Swedish and confirmed that the beneficiary's equivalent to a U.S.-awarded bachelor's degree.

Therefore, it has not been demonstrated that a U.S. bachelor's foreign equivalent degree would be required for entry into the program in which the beneficiary received her master's degree. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92.

Mr. further indicated that the courses from the beneficiary's Master of Science program in Computer Science were similar to many of those found in U.S. master's programs in computer science. He lists several courses with names which are somewhat similar to those from the beneficiary's master's program, and indicates generally the names of several U.S. colleges and universities to illustrate his point. However, the evidence does not demonstrate that the content or credit for these courses would be the same or similiar to those completed by the beneficiary, or that the substance of the beneficiary's specific coursework would be accepted as equivalent to any of the U.S. courses. does not indiacte which schools specifically required such classes, or indiacte that the list of courses reflect the complete requirements for any master's program at these institutions. Thus, the evaluation does not sufficiently demonstrate that the beneficiary has obtained the foreign equivalent to a U.S. master's degree.

The petitioner asserts that the beneficiary's Master of Science Degree in Computer Science is the foreign equivalent to a U.S. master's degree in computer science. The evidence is not sufficient to establish that the beneficiary possesses the foreign equivalent of a U.S. master's degree.

After reviewing all of the evidence in the record, it is concluded that the petitioner has failed to establish that the beneficiary possessed at least 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 five years of progressive experience in the specialty. Therefore, the beneficiary does not qualify 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 educational, training, experience and any other requirements of the offered position by the priority date. 8 C.F.R. § 103.2(b)(l), (12). *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977); *see also Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

In evaluating the job offer portion of the labor certification to determine the required qualifications for the position, USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. *See Madany*, 696 F.2d at 1008; *K.R.K. Irvine, Inc.*, 699 F.2d at 1006; *Stewart Infra-Red Commissary of Mass., Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981).

Evidence relating to qualifying experience must be in the form of a letter from a current or former employer and must include 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 such evidence is unavailable, USCIS may consider other documentation relating to the beneficiary's experience. *Id.*

The labor certification indicates that the proffered position requires a Bachelor of Science degree in Computer Science or related field (or foreign equivalent), with 84 months of JAVA/J2EE development experience; or, alternatively, a Master of Science degree (or foreign equivalent) with four years of experience. The special skills listed at Part H.14 of the labor certification are also required.

Bachelor of Science degree in Computer Science or related field (or foreign equivalent), 84 months of JAVA/J2EE development experience, and special skills listed at Part H.14 of the labor certification

For the reasons explained above, the petitioner has established that the beneficiary has the foreign equivalent of a bachelor's degree in computer science and some of the special skills required by Part H.14 of the labor certification; however, the petitioner has not established that the beneficiary has the requisite 84 months (2,555 days) in the alternate accepted occupation of JAVA/J2EE development experience. The experience verification letters submitted to the record confirm that the beneficiary obtained 1421 days (less than 47 months) of JAVA/J2EE development experience.[19] On appeal, the petitioner did not submit any new evidence indicating that the beneficiary possessed the requisite experience at the priority date. Therefore, the petitioner has not established that beneficiary qualifies for the proffered position based on the labor certification requirements of a bachelor's degree in computer science or related field (or foreign equivalent), 84 months JAVA/J2EE development experience, and the special skills required by Part H.14 of the labor certification.

Master of Science degree (or foreign equivalent), four years of experience, and special skills listed at Part H.14 of the labor certification

For the reasons explained above, the petitioner has not established that the beneficiary has the foreign equivalent of a Master of Science degree.[20] Therefore, the petitioner has not established that

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[19] As discussed above, the record contains a letter from dated, February 4, 2008, accounting for 474 days of experience as a senior programmer analyst with JAVA/J2EE experience. The record also contains a letter from dated September 14, 2010, indicating that the beneficiary gained 361 days of experience as a senior programmer analyst with JAVA/J2EE experience. The record also contains a letter from dated September 23, 2005, indicating that the beneficiary gained 234 days of experience as an intern. It does not indicate that the beneficiary gained JAVA/J2EE experience as an intern. The record also includes a letter from dated September 3, 2010, indicating that the beneficiary gained 586 days of experience as a software engineer with JAVA/J2EE experience.

[20] The petitioner has established that the beneficiary has some of the special skills required by Part H.14 of the labor certification, that she possesses 1,655 days of combined experience, and that she

beneficiary qualifies for the proffered position based on the labor certification requirements of a Master of Science degree (or foreign equivalent), four years of experience, and the special skills listed at Part H.14 of the labor certification.

The petitioner failed to establish that the beneficiary possessed the minimum requirements of the offered position set forth on the labor certification by the priority date. Accordingly, the petition must also be denied for this reason.

III. CONCLUSION

In summary, the petitioner failed to establish that the beneficiary possessed an advanced degree as required by the terms of the labor certification and the requested preference classification. Therefore, the beneficiary does not qualify for classification as a member of the professions holding an advanced degree under section 203(b)(2) of the Act. The petitioner also failed to establish that the beneficiary possessed the minimum requirements of the offered position set forth on the labor certification by the priority date. The director's decision denying the petition is affirmed.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish 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.

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obtained 1421 days of JAVA/J2EE development experience.