



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF T-T-, INC.

DATE: AUG. 30, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a consulting company, seeks to temporarily employ the Beneficiary as a “PLM system support analyst II” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the California Service Center denied the petition concluding that the record did not establish that the proffered position is a specialty occupation. On appeal, the Petitioner submits additional evidence and asserts that it has demonstrated eligibility.

Upon *de novo* review, we will dismiss the appeal.¹

I. LEGAL FRAMEWORK

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term “specialty occupation” as an occupation that requires:

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

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor. In addition, the regulations provide that the offered position must meet one of the following criteria to qualify as a specialty occupation:

¹ We follow the preponderance of the evidence standard as specified in *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

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

8 C.F.R. § 214.2(h)(4)(iii)(A). We have consistently interpreted the term “degree” to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing “a degree requirement in a specific specialty” as “one that relates directly to the duties and responsibilities of a particular position”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

II. PROFFERED POSITION

In response to the Director’s request for evidence, the Petitioner expanded on the job description provided with the initial petition as follows:

- Check hardware and software compatibility per specifications by principal OEM for effective performance of applications. Install and configure PLM software on the server end and at workstations. Apply service and maintenance pack in PLM tool. Assess hardware compatibility to ensure effective performance of PLM software, check compatibility of operating systems and software before installing PLM software and applying any service or maintenance pack. (10%)
- Debug source code and resolve issues reported. Fix issues, deploy solutions, and alert users via online ticketing systems/email/phone/web sessions. Participate in software release cycle. (10%)
- Prepare training documents for PLM customers, provide training for given PLM application modules, and develop methodologies for users. Setup system environment to ensure smooth operation with PLM software. Educate new team members; generate and submit ideas to improve project related activities. Roll out initiatives and marketing campaigns, and support other regions on technical requirements. Transfer knowledge within the team when required and create knowledge transfer documents. (20%)
- Perform requirements analysis: document, trace, prioritize, and agree on requirements. Control change and communicate with relevant stakeholders. Collect specifications from client representatives and convert specifications into

requirements. Analyze and map requirements in the PLM system to assess feasibility for implementation. Perform documentation, set priorities, and confirm implementation. Design and develop application architecture, considering the goal of the PLM system, customer requirements, current systems, and legacy aspects. Follow UML, sequence, and activity diagrams. Adhere to SLA's for response and reaction time of tickets. Develop self-skills on new modules as specified by team lead and adhere to timelines for demonstrations. (30%)

- Effectively communicate with client representatives to understand requirements and provide solution via online ticketing systems. Capture requirements, perform feasibility checks and effort estimation of the task. Create business requirement documents, map requirements in the PLM system, and propose feasible solution to the customer according to business requirements. (10%)
- Install application code, service pack, hot fix, and license manager according to requirements. Analyze product limitations and suggest product enhancement to optimize business processes. Generate and submit ideas; provide ideas to improve project related activities and the product. Roll out initiatives, marketing campaigns and support other regions on technical requirements. (20%)

The Petitioner stated that the proffered position requires “at least a baccalaureate-level education or its equivalent in Computer Engineering or a closely related field.” The Petitioner also indicated that the position requires “at least a bachelor’s degree or its equivalent in a related field such as Computer Science, Information Technology, or Computer Engineering.”

III. ANALYSIS

We have reviewed the entire record of proceedings before us. For the reasons discussed below, we have determined that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.² Specifically, we find that the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.³

A. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor’s (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.⁴ On the

² Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

³ The Petitioner submitted documentation to support the petition, including evidence regarding the position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

⁴ We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. That is, the occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and

labor condition application (LCA)⁵ filed with this petition, it classified the proffered position under the occupational title “Computer Systems Analysts,” corresponding to the Standard Occupational Classification code 15-1121 at a Level II wage rate.⁶

Turning to the *Handbook*, we note that the subchapter entitled “How to Become a Computer Systems Analyst” states, in pertinent part, that “[a] bachelor’s degree in a computer or information science field is common, although not always a requirement. Some firms hire analysts with business or liberal arts degrees who have skills in information technology or computer programming.”⁷ The *Handbook* also states: “[a]lthough many computer systems analysts have technical degrees, such a degree is not always a requirement. Many analysts have liberal arts degrees and have gained programming or technical expertise elsewhere.”⁸

The *Handbook* does not support the Petitioner’s assertion regarding the minimum requirement for these positions. As cited above, the *Handbook* begins by stating that a bachelor’s degree in a computer-related field is “not always a requirement.” The *Handbook* continues by stating that there is a wide range of degrees that are acceptable for positions in this occupation, including general-purpose degrees in business and liberal arts. As discussed *supra*, we interpret the term “degree” to mean a degree *in a specific specialty* that is directly related to the proposed position. *See Royal Siam Corp.*, 484 F.3d at 147. Since there must be a close correlation between the required specialized studies and the position, a requirement of general and wide-ranging degrees in business and liberal arts strongly suggests that a computer systems analyst position is not categorically a specialty occupation. *See id.* Cf. *Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm’r 1988).

Also according to the *Handbook*, many systems analysts have liberal arts degrees and have gained programming or technical expertise elsewhere. It further reports that many analysts have technical degrees. But we observe that the *Handbook* does not specify the amount of programming or technical expertise required, or the degree level for these technical degrees (e.g., associate’s

responsibilities of a proffered position, and U.S. Citizenship and Immigration Services (USCIS) regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

⁵ The Petitioner is required to submit a certified LCA to USCIS to demonstrate that it will pay an H-1B worker the higher of either the prevailing wage for the occupational classification in the “area of employment” or the actual wage paid by the employer to other employees with similar experience and qualifications who are performing the same services. *See Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542, 545-546 (AAO 2015).

⁶ We will consider this selection of wage level in our analysis of the position. The “Prevailing Wage Determination Policy Guidance” issued by the DOL provides a description of the wage levels. DOL’s wage-level guidance specifies that a Level II designation is reserved for positions involving only moderately complex tasks requiring limited judgment. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://flcdatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf. A prevailing wage determination starts with an entry level wage and progresses to a higher wage level after considering the experience, education, and skill requirements of the Petitioner’s job opportunity. *Id.*

⁷ Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Computer Systems Analysts (2016-17 ed.).

⁸ *Id.*

degrees). Thus, the *Handbook* does not support the claim that the occupational category of “Computer Systems Analysts” is one for which normally the minimum requirement for entry is a baccalaureate degree (or higher) in a specific specialty, or its equivalent.

Further, we note that the Occupational Information Network (O*NET) Summary Report for “Computer Systems Analysts” is insufficient to establish that the position qualifies as a specialty occupation normally requiring at least a bachelor’s degree in a specific specialty. A designation of Job Zone 4 indicates that a position requires considerable preparation. It does not, however, demonstrate that a bachelor’s degree in any specific specialty is required, and does not, therefore, demonstrate that a position so designated is a specialty occupation as defined in section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). Therefore, despite the Petitioner’s assertions to the contrary, the O*NET information is not probative of the proffered position qualifying as a specialty occupation.

In addition, the Petitioner provides the opinions of [REDACTED] a professor of computer science at [REDACTED] and [REDACTED] a professor of computer and information science at [REDACTED] indicates that the proffered position typically requires a “Bachelor’s Degree (or the equivalent) in Computer Engineering, Computer Information Systems, Mechanical Engineering, or a related field.” [REDACTED] further asserts on appeal that these specific degrees are closely related, and that “the position is focused in PLM systems analytics – a field which might be said to be at the intersection of mechanical engineering and computer science.” [REDACTED] opines on appeal that the duties of the position “require prior attainment of at least a bachelor’s degree in Computer Engineering or a related field.”

The descriptions of the position provided by the experts appear to discuss a position of senior leadership and complexity. For instance, [REDACTED] regularly refers to the “complexity” of the position in his opinion and references the Beneficiary’s assumption of a “leadership role in coordinating development,” while [REDACTED] points to the “complex,” “specialized,” and “advanced” nature of the position. In contrast, as we have noted, the Petitioner has only assigned the position a Level II wage on the LCA indicating that it involves only moderately complex tasks that require limited judgment. However, the expert opinions describe the position as involving the most complex and sophisticated tasks, more consistent with a significantly higher prevailing wage, such as a Level III (experienced) or Level IV (fully competent) wage level. Therefore, the opinions of the two experts are not consistent with the proffered position’s stated duties and level of responsibility.

The expert opinions also appear to provide conflicting opinions on the nature of the position and the specific bachelor’s degree required. As stated, the Petitioner asserts that the position requires a degree in “Computer Engineering or a closely related field” and alternatively, a degree “Computer Science, Information Technology, or Computer Engineering.” Similarly, the opinion of [REDACTED] indicates that a bachelor’s degree in computer engineering or a related field would suffice. However, in contrast, [REDACTED] states that the position requires a bachelor’s degree in computer engineering, computer information systems, mechanical engineering, or a related field, and also indicates that the position “is at the intersection of mechanical engineering and computer science.”

As such, [REDACTED] opinion suggests that knowledge of both these specific specialties is required. However, the Petitioner and [REDACTED] make no reference to this “intersection,” nor that a bachelor’s degree in mechanical engineering would be sufficient. The Petitioner has not resolved these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Given their misunderstanding of the level of responsibilities of the proffered position and requirements for the position, it is not clear if they had sufficient information regarding the nature of the proffered position.

Further, the expert opinions do not demonstrate in-depth knowledge of the Petitioner’s specific business operations, and what duties the Beneficiary would perform in the context of the Petitioner’s business. Both opinions discuss the duties and responsibilities of PLM system support analysts in general terms and only reiterate the Petitioner provided duties, but not the specifics of the proffered position.

As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* In this instance, the expert opinions do not offer sufficient probative value in establishing the proffered position as a specialty occupation.

The Petitioner submits other sources to demonstrate that the proffered position requires a bachelor’s degree in a specific specialty; however, they do not establish that the proffered position qualifies as a specialty occupation. The Petitioner provides a blog post from [REDACTED] titled “[REDACTED]” indicating that an individual seeking entry to the position “will need to earn a bachelor’s or master’s degree in information technology.” In addition, the Petitioner submits a letter dated in November 2012 from the [REDACTED] listing 22 information technology professions, including “Computer Systems Analyst/Engineer/Architect,” as requiring “a bachelor’s degree or equivalent in a related field as a minimal educational requirement.”

First, even if we are to accept that a blog post qualifies as a probative and objective source, it is notable that the blog references a degree in information technology, but not those specific degrees referenced by the Petitioner or the opinion letters of the professors. Further, it does not reflect that the profession is a congruence of computer science and mechanical engineering. In fact, it appears to suggest, like the *Handbook* and the submitted opinion letters, that a number of different degrees would be sufficient for the position. The letter from the [REDACTED] reinforces this conclusion, grouping the computer systems analyst position with a number of different information technology professions and vaguely stating that a “related” bachelor’s degree would suffice. In short, the *Handbook* and other sources submitted by the Petitioner do not indicate that a bachelor’s degree in a specific specialty is required for minimum entry into the proffered position, but that a wide variety of degrees could suffice.

The Petitioner has not provided sufficient documentation from a probative source to substantiate the assertions regarding the minimum requirement for entry into this particular position. Therefore, it has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

B. Second Criterion

The second criterion presents two alternative prongs: “The degree requirement is common to the industry in parallel positions among similar organizations *or, in the alternative*, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree” 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong concentrates on the common industry practice, while the alternative prong narrows its focus to the Petitioner’s specific position.

1. First Prong

To satisfy this first prong of the second criterion, the Petitioner must establish that the “degree requirement” (i.e., a requirement of a bachelor’s or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations.

We generally consider the following sources of evidence to determine if there is such a common degree requirement: whether the *Handbook* reports that the industry requires a degree; whether the industry’s professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry establish that such firms “routinely employ and recruit only degreed individuals.” *See Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989) (considering these “factors” to inform the commonality of a degree requirement)).

As previously discussed, the Petitioner has not established that its proffered position is one for which the *Handbook*, or other authoritative source, reports a requirement for at least a bachelor’s degree in a specific specialty, or its equivalent. Thus, we incorporate by reference the previous discussion on the matter. Also, there are no submissions from the industry’s professional association indicating that it has made a degree a minimum entry requirement. Furthermore, the Petitioner did not submit any letters or affidavits from similar firms or individuals in the Petitioner’s industry attesting that such firms “routinely employ and recruit only degreed individuals.”

The Petitioner does provide several job advertisements by other companies to demonstrate that there is a minimum bachelor’s degree requirement for the position.⁹ However, we are unable to determine that these companies are similar to the Petitioner or that the submitted positions are parallel to the proffered position. For instance, the Petitioner provides little information on the size and revenue of

⁹ The Petitioner did not provide any independent evidence of how representative the job postings are of the particular advertising employers’ recruiting history for the type of job advertised. As the advertisements are only solicitations for hire, they are not evidence of the actual hiring practices of these employers.

these companies and how they compare to the Petitioner. Further, although a majority of the advertisers appear to be generally in the information technology consulting and staffing industries, the Petitioner does not articulate or support how these companies are similar.

We acknowledge that the submitted job postings generally require a degree in computer science or a related information technology specialty for these positions. However, the Petitioner has not sufficiently established that the duties or the requirements for these positions are parallel to the proffered position. The submitted job advertisements reflect varying job titles that differ from the proffered position (PLM system support analyst II), including “PLM team center consultant,” “PLM team center, lead,” “senior PLM consultant,” “PLM team center product support analyst,” “senior systems analyst,” and “PLM solution architect.” As such, nearly all of the provided job advertisements are for positions whose titles do not match the proffered position. Beyond most of the advertisements generally referencing “PLM,” it is not clear how they are parallel to the proffered position. Further, some of the postings refer to senior positions requiring significant experience or “senior” and “lead” roles, including one requiring more than 10 years’ experience. As mentioned, the proffered position is classified at a Level II wage, which is assigned to employees who have attained a good understanding of the occupation and perform moderately complex tasks that require limited judgement. Therefore, these positions appear to require greater responsibility and are more senior than the proffered position.¹⁰

As the record does not include probative evidence that a “degree requirement” (i.e., a requirement of a bachelor’s or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

We will next consider the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which is satisfied if the Petitioner shows that its particular position is so complex or unique that it can be performed only by an individual with at least a bachelor’s degree in a specific specialty, or its equivalent.

As discussed, the Petitioner provides opinion letters from information technology and computer science professors noting the “complex,” “specialized,” and “advanced” nature of the position. The

¹⁰ Even if all of the job postings indicated that a requirement of a bachelor’s degree in a specific specialty is common to the industry in parallel positions among similar organizations (which they do not), the Petitioner has not demonstrated what statistically valid inferences, if any, can be drawn from the advertisements with regard to determining the common educational requirements for entry into parallel positions in similar organizations. *See generally* Earl Babbie, *The Practice of Social Research* 186-228 (1995). Moreover, given that there is no indication that the advertisements were randomly selected, the validity of any such inferences could not be accurately determined even if the sampling unit were sufficiently large. *See id.* at 195-196 (explaining that “[r]andom selection is the key to [the] process [of probability sampling]” and that “random selection offers access to the body of probability theory, which provides the basis for estimates of population parameters and estimates of error”).

Petitioner emphasizes on appeal that the position is not entry-level, but “advanced,” involving “expertise,” and “complex and unique” PLM work that sets it apart from other computer systems analyst positions. However, as we have noted, the description of the position as complex and advanced and set apart from other computer systems analysts is not in concert with the position’s wage Level II designation on the LCA indicating that it involves only moderately complex tasks that require limited judgment, as compared to Level III (experienced) or Level IV (fully competent) wage levels.¹¹

We note that while a few related courses may be beneficial in performing certain duties of the position, the Petitioner has not demonstrated how an established curriculum of such courses leading to a baccalaureate or higher degree in a specific specialty, or its equivalent, is required to perform the duties of the proffered position. Upon review, the record lacks sufficiently detailed information to distinguish the proffered position as more complex or unique.

The Petitioner claims that the Beneficiary is well-qualified for the position, and references his education and experience as evidence that the proffered position is a specialty occupation. However, the test to establish a position as a specialty occupation is not the education or experience of a proposed beneficiary, but whether the position itself requires at least a bachelor’s degree in a specific specialty, or its equivalent. Here, the Petitioner did not sufficiently develop relative complexity or uniqueness as an aspect of the duties of the position, and it did not identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. Thus, it cannot be concluded that the Petitioner has satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Third Criterion

The third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) entails an employer demonstrating that it normally requires a bachelor’s degree in a specific specialty, or its equivalent, for the position.

The record must establish that a petitioner’s stated degree requirement is not a matter of preference for high-caliber candidates but is necessitated instead by performance requirements of the position. *See Defensor*, 201 F.3d at 387-88. If we were limited solely to reviewing the Petitioner’s claimed self-imposed requirements, then any individual with a bachelor’s degree could be brought to the United States to perform any occupation as long as the Petitioner created a token degree

¹¹ The Petitioner’s designation of this position as a Level II position undermines its claim that the position is particularly complex, specialized, or unique compared to other positions *within the same occupation*. Nevertheless, a Level II wage-designation does not preclude a proffered position from classification as a specialty occupation, just as a Level IV wage-designation does not definitively establish such a classification. In certain occupations (e.g., doctors or lawyers), even a Level I, entry-level position would still require a minimum of a bachelor’s degree in a specific specialty, or its equivalent, for entry. Similarly, however, a Level IV wage-designation would not reflect that an occupation qualifies as a specialty occupation if that higher-level position does not have an entry requirement of at least a bachelor’s degree in a specific specialty, or its equivalent. That is, a position’s wage-level designation may be a relevant factor but is not itself conclusive evidence that a proffered position meets the requirements of section 214(i)(1) of the Act.

requirement. *Id.* Evidence provided in support of this criterion may include, but is not limited to, documentation regarding the Petitioner's past recruitment and hiring practices, as well as information regarding employees who previously held the position.

In support of this criterion, the Petitioner submits evidence of the employment of other PLM system support analysts, including those with a level I designation and also in senior positions, along with documentation supporting that they have the U.S. equivalent of bachelor's degrees in computer engineering, electronic engineering, computer information systems, computer applications, information technology, and engineering. However, this evidence does not demonstrate that the Petitioner normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position. For instance, only one of the employees holds the same title as the Beneficiary. Further, it is difficult to ascertain whether the cross section of PLM related employees accurately reflects the Petitioner's minimum degree requirement for all the "PLM system support analysts II" it employs. The Petitioner does not indicate how many other individuals it employs in this position to give this evidence probative value. Indeed, in support of the petition, the Petitioner indicated that the LCA was applicable to seven other "PLM system support analysts II" and it stated that PLM represents its "largest service offering." This suggests that the Petitioner employs many other employees in this position.¹² Therefore, we do not find the submittal of the educational credentials of one employee sharing the Beneficiary's proposed job title convincing in establishing that the Petitioner normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position.

Therefore, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

D. Fourth Criterion

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires a petitioner to establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

As discussed previously herein, the Petitioner provides the opinions of professors which reference the specialized and complex nature of the proffered position. However, we do not find that this evidence sufficiently develops relative specialization and complexity as an aspect of the proffered position. We incorporate our earlier discussion and analysis regarding the duties of the proffered position, and the designation of the position in the LCA as a Level II position, and not as the higher Level III (referring to "special skills or knowledge") or Level IV (referring to "complex or unusual problems") wage levels.

The Petitioner has not demonstrated that its proffered position is one with duties sufficiently specialized and complex to satisfy 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

¹² The Form I-129, Petition for a Nonimmigrant Worker, indicated that the Petitioner employs 554 individuals in the United States.

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Because the Petitioner has not satisfied one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it has not demonstrated that the proffered position qualifies as a specialty occupation.

IV. CONCLUSION

The Petitioner has not established that the proffered position is a specialty occupation.

ORDER: The appeal is dismissed.

Cite as *Matter of T-T-, Inc.*, ID# 485237 (AAO Aug. 30, 2017)