



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

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

MATTER OF A-S- INC.

DATE: JULY 28, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a computer software, business consultation, and solutions company, seeks to temporarily employ the Beneficiary as a "computer programmer analyst" 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 Petitioner had not established that the proffered position is a specialty occupation. In its appeal, the Petitioner asserts that the Director erred in her findings.

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

**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 proffered position must meet one of the following criteria to qualify as a specialty occupation:

- (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

The Petitioner states that the Beneficiary would be assigned to provide services to its client F-I (end-client) for whom it provides information technology support and maintenance services under a master services agreement. The Petitioner indicated that the Beneficiary would work at its office location in [REDACTED] California and that he would perform services on a [REDACTED] Project.” In an employment agreement provided in response to the Director’s request for evidence (RFE), the duties of the proffered position were explained as follows:

- Develops and maintains applications and databases by evaluating client needs; analyzing requirements; developing software systems.
- Enhances staff accomplishments and competence by planning delivery of solutions; answering technical and procedural questions for less experienced team members; teaching improved processes; mentoring team members.
- Identifies requirements by establishing personal rapport with potential and actual clients and with other persons in a position to understand service requirements.
- Arranges project requirements in programming sequence by analyzing requirements; preparing a work flow chart and diagram using knowledge of computer capabilities, subject matter, programming language, and logic.
- Programs the computer by encoding project requirements in computer language; entering coded information into the computer.
- Confirms program operation by conducting tests; modifying program sequence and/or codes.
- Provides reference for use of prime and personal computers by writing and maintaining user documentation; maintaining a help desk.

- Maintains computer systems and programming guidelines by writing and updating policies and procedures.
- Maintains professional and technical knowledge by attending educational workshops; reviewing professional publications; establishing personal networks; participating in professional societies.
- Keeps equipment operational by calling for repairs; following manufacturer's instructions and established procedures; evaluating new equipment.
- Protects operations by keeping information confidential.
- Contributes to team effort by accomplishing related results as needed.

Further, in a response letter provided in response to the RFE, the Petitioner added the following detail regarding the Beneficiary's duties:

The beneficiary will be working as a Computer Programmer Analyst and he is responsible in [*sic*] Help Desk ticket Restoration and Resolution Support. His main job would be to make sure that the changes that are getting migrated are not negatively impacting the existing system.

He will be involved in reviewing the help desk Incidents and preliminary analysis for frequent incidents and logging production defects for program fixes.

He will also be involved in analyzing and developing technical requirement document (TRD), unit test guidelines, code reviews, deploy the code and participate in various testing events...

He is responsible for validating the execution, making sure that the newly entered data are properly routed to the new System from data integrity perspective and user do not see any performance degradation.

He will coordinate with other team members and will provide status report to the project manager using his interpersonal skills. He will work in streamlining the programming processes and will work closely and effectively with all levels of management to satisfy project/productivity requirements.

He will also prepare contingency plan for backing any program changes that will have a negative impact in production. He will work with Quality Assurance team to prepare the test definition requirement (TDR) which will be used by the business users to validate the functional aspect of program changes.

The Petitioner did not indicate what specific bachelor's degree was required for minimum entry into the position. However, the Petitioner did submit an opinion of [REDACTED] professor of computer science at [REDACTED], stating that the proffered position requires "a bachelor's degree in computer science or information systems or IT field or equivalent."

### III. ANALYSIS

We determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Specifically, the record does not (1) describe the position's duties with sufficient detail and (2) establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.<sup>1</sup>

The duties provided for the Beneficiary are vague and do not convey the actual day-to-day tasks to be performed and the knowledge required to perform them. The Petitioner submits a work order it asserts is relevant to the work to be performed by the Beneficiary for the requested period. The work order reflects that the Petitioner would be tasked with ' [REDACTED] ' However, the duties submitted for the Beneficiary do not appear to relate to this project and do not indicate the specific tasks he will perform in the context of this stated assignment. The Petitioner's provides duties reflecting only general computer skills such as his responsibility to "develop and maintain applications and databases by evaluating client needs," "developing software systems," "identif[y]ing] requirements by establishing personal rapport with potential and actual clients and with other persons in a position to understand service requirements," "arrange project requirements in programming sequence by analyzing requirements," "program[ming] the computer by encoding project requirements in computer language," amongst other similar duties. The submitted duty description does not reference the specifics of the project or the tasks the Beneficiary will complete over the asserted three years, nor does it convey the knowledge required to perform these duties.

Likewise, the tasks listed in the work order also use generic terms that do not adequately describe the duties of the proffered position. For example, the tasks include "help desk ticket restoration and resolution support," "recovery of fatal transactions," "identify work around to resolve the errors," and "monitor and respond to production alerts." Such general description does not convey either the substantive nature of the work that the Beneficiary would actually perform, any particular body of highly specialized knowledge that would have to be theoretically and practically applied to perform it, or the educational level of any such knowledge that may be necessary.

Therefore, we find that the Petitioner has not established the substantive nature of the work to be performed by the Beneficiary, which precludes a finding that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), because it is the substantive nature of that work that determines (1) the normal minimum educational requirement for entry into the particular position, which is the focus of criterion 1; (2) industry positions which are parallel to the proffered position and thus appropriate for review for a common degree requirement, under the first alternate prong of criterion 2; (3) the level of complexity or uniqueness of the proffered position, which is the focus of the second alternate prong of criterion 2; (4) the factual justification for a petitioner normally requiring a

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<sup>1</sup> The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

degree or its equivalent, when that is an issue under criterion 3; and (5) the degree of specialization and complexity of the specific duties, which is the focus of criterion 4.

In addition, as we have noted, the Petitioner did not indicate that the proffered position requires a bachelor's degree in a specific specialty. To prove that a job requires the theoretical and practical application of a body of highly specialized knowledge as required by section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study or its equivalent. As explained above, we interpret the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty that is directly related to the proposed position. However, the Petitioner has not specifically articulated a minimum bachelor's degree requirement for the position. For this additional reason, the appeal must be dismissed.

While these deficiencies preclude approval of the petition, for the purpose of providing a comprehensive analysis, we will perform a complete specialty occupation analysis under each of the four, alternative criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) assuming that the Beneficiary will be employed as a computer programmer analyst as certified on the labor condition application (LCA).<sup>2</sup>

#### 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.<sup>3</sup>

On the LCA submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Computer Programmers" corresponding to the Standard Occupational Classification code 15-1131.<sup>4</sup>

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<sup>2</sup> The Petitioner is required to submit a certified LCA to U.S. Citizenship and Immigration Services (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).

<sup>3</sup> All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. 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 responsibilities of a proffered position, and we regularly review 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.

<sup>4</sup> The Petitioner classified the proffered position at a Level I wage (the lowest of four assignable wage levels). We will consider this selection in our analysis of the position. The "Prevailing Wage Determination Policy Guidance" issued by the DOL provides a description of the wage levels. A Level I wage rate is generally appropriate for positions for which

The subchapter of the *Handbook* entitled “How to Become a Computer Programmer” states, in pertinent part, that “most computer programmers have a bachelor’s degree; however, some employers hire workers who have an associate’s degree.” Most programmers get a degree in computer science or a related subject.” Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Computer Programmers, (2016-17 ed.). According to the *Handbook*, the requirements to perform the duties of the computer programmer occupation incorporate a wide spectrum of educational credentials, including less than a bachelor’s degree in a specific specialty. Furthermore, while the *Handbook*’s narrative indicates that most computer programmers obtain a degree (either a bachelor’s or associate’s degree) in computer science or a related field, the *Handbook* does not report that at least a bachelor’s degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the occupation.

As previously mentioned, the Petitioner submitted in support of the petition the opinion of [REDACTED] a professor of computer science at [REDACTED]. As noted, [REDACTED] concludes that the proffered position requires a “bachelor’s degree in computer science or information systems or IT field or equivalent.” We carefully evaluated [REDACTED]’s assertions in support of the instant petition but, for the following reasons, determined his opinion lent little probative value.

[REDACTED] states that his assessment is largely based upon a description of the duties of the proffered position provided by the Petitioner in support of the petition. However, as we have stated previously, these duties do not reflect specifics of the Beneficiary’s proposed assignment to the end-client nor the Petitioner’s business activities. Therefore, [REDACTED]’s opinion does not demonstrate in-depth knowledge of the Petitioner’s operations or how the duties of the position would actually be performed in the context of its business enterprise. [REDACTED] refers to few specifics related to the proffered position, such as the nature of the Beneficiary’s project, the technology involved, or the specific knowledge required for the position. Accordingly, we find the record does not demonstrate that [REDACTED] is, as claimed, an expert on the current requirements for the proffered position.

Beyond this, [REDACTED] indicates that he consulted both the *Handbook* and the “O\*Net catalog of careers” in evaluating whether the proffered position qualifies as a specialty occupation. First, as we have discussed, the *Handbook* does not demonstrate that computer programmer positions require a specific bachelor’s degree for minimum entry. Further, [REDACTED]’s reference to the Occupational Information Network (O\*NET) summary report for 15-1131 – Computer Programmer also does not establish that the proffered position is a specialty occupation.

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the Petitioner expects the Beneficiary to have a basic understanding of the occupation. This wage rate indicates: (1) that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; (2) that he will be closely supervised and his work closely monitored and reviewed for accuracy; and (3) that he will receive specific instructions on required tasks and expected results. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at [http://flcdatcenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](http://flcdatcenter.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.*

The summary report provides general information regarding the occupation; however, it does not support [REDACTED] assertion regarding the educational requirements for these positions. The O\*NET assigns this occupational category a Job Zone "Four" rating, which states only that most but not all of the occupations within it require a bachelor's degree. Further, O\*NET does not indicate that four-year bachelor's degrees required by Job Zone Four occupations must be in a specific specialty directly related to the occupation. Therefore, despite the [REDACTED] assertion to the contrary, the O\*NET information is not probative of the proffered position qualifying as a specialty occupation.

Further, [REDACTED] opinion letter does not cite specific instances in which his past opinions have been accepted or recognized as authoritative on this particular issue. There is no indication that he has conducted any research or studies pertinent to the educational requirements for such positions, and no indication of recognition by professional organizations that he is an authority on those specific requirements. His curriculum vitae does not reflect that he has published any works on the academic/experience requirements for computer programmers or other similar positions (or related issues).

In addition, the record does not indicate whether [REDACTED] was aware that, as indicated by the Level I wage on the LCA, the Petitioner considered the proffered position to be an entry-level computer programmer for an employee who has only a basic understanding of the occupation. In other words, the Petitioner has not demonstrated that [REDACTED] possessed the requisite information to adequately assess the nature of the position.

As such, we find that [REDACTED] opinion letter lends little probative value, and thus the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988) (providing that an adjudicator is not required to accept, or may give less weight to, an advisory opinion when it is "not in accord with other information or is in any way questionable.").

The Petitioner has not provided sufficient documentation to substantiate its assertion regarding the minimum requirement for entry into this particular position. The Petitioner 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 upon 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 another authoritative source, reports a requirement for at least a bachelor’s degree in a specific specialty, or its equivalent. We incorporate by reference the previous discussion on the matter.

Otherwise, the record does not include any other 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. As such, 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.

In support of its assertion that the proffered position qualifies as a specialty occupation, the Petitioner submitted a job description for the proffered position and information regarding its business operations. However, as discussed, the Beneficiary’s duties were vague, general tasks, not specific to his proposed assignment to the end-client. Therefore, 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.

Moreover, the Petitioner’s designation of the proffered position as a Level I entry-level position within the “Computer Programmers” occupational category does not support its claim that the position is particularly complex, specialized, unique compared to other positions *within the same occupation*. Therefore, it does not appear that the position is one with complex or unique duties



relative to other software systems analyst positions requiring a significantly higher prevailing wage, as such a Level III (experienced) or Level IV (fully competent) wage level.<sup>5</sup>

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, than other computer programmer positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

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.

The Petitioner has not 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 Petitioner did not submit any evidence of previous or current employees in the same position as the Beneficiary's proffered position.

Notably, the Petitioner states that the Beneficiary was selected for the proffered position following his response to a job advertisement. However, the Petitioner does not submit this advertisement to substantiate any minimum educational requirements for the position. Further, the Petitioner indicates that it formulates the personnel required for end-client, including the educational requirements for these employees, and that these details are set forth in proposals and written work orders. However, the Petitioner does not provide the referenced proposal relevant to the Beneficiary's assignment and the submitted work order includes no mention of any minimum educational requirements for any of the proposed positions for the project, including a referenced

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<sup>5</sup> The Petitioner's designation of this position as a Level I, entry-level position undermines its claim that the position is particularly complex, unique, and specialized compared to other positions *within the same occupation*. Nevertheless, a Level I 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), 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.

computer programmer analyst. On appeal, the Petitioner submits several examples of previous H-1B petitions approved by USCIS pursuant its provision of services for the end-client, including several computer programmer analyst positions. However, the Petitioner does not submit any evidence related to these positions, including the educational requirements and credentials of these beneficiaries to substantiate that there is specific bachelor's degree requirement for these positions. In short, the Petitioner did not submit any evidence of previous or current employees in the same position as the Beneficiary's proffered 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.

Again, as previously mentioned, the Beneficiary's duties were vague, general tasks, not specific to his proposed assignment to the end-client. Therefore, the job description submitted by the Petitioner does not establish that the duties are more specialized and complex than other computer programmer positions that are not usually associated with at least a bachelor's degree in a specific specialty, or its equivalent. We refer to our earlier comments and findings with regard to the implication of the Petitioner's designation of the proffered position in the LCA as a Level I wage, and hence one not likely distinguishable by relatively specialized and complex duties.

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).

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. PRIOR APPROVALS

Lastly, on appeal, the Petitioner emphasizes that USCIS has previously approved several H-1B petitions for information technology positions related to its provision of services for the end-client referenced on the record, including several computer programmer analyst positions. The Director's decision does not indicate whether the prior approvals of the other nonimmigrant petitions were reviewed. Further, if these previous nonimmigrant petitions were approved based on the same evidence contained in the current record, the approvals would constitute error on the part of the Director. We are not required to approve petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988). It would be "[unreasonable] to suggest that [USCIS] or any agency must treat acknowledged errors as binding precedent." *Sussex Eng'g, Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987).

A prior approval does not compel the approval of a subsequent petition or relieve the Petitioner of its burden to provide sufficient documentation to establish current eligibility for the benefit sought. Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act, 55 Fed. Reg. 2,606, 2,612 (Jan. 26, 1990) (to be codified at 8 C.F.R. pt. 214). A prior approval also does not preclude USCIS from denying an extension of an original visa petition based on a reassessment of eligibility for the benefit sought. *See Tex. A&M Univ. v. Upchurch*, 99 F. App'x 556 (5th Cir. 2004). Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of a beneficiary, we would not be bound to follow the contradictory decision of a service center. *See La. Philharmonic Orchestra v. INS*, 44 F. Supp. 2d 800, 803 (E.D. La. 1999).

#### V. CONCLUSION

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

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-S- Inc.*, ID# 546870 (AAO July 28, 2017)