



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

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

MATTER OF S-, INC.

DATE: MAR. 28, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, a jewelry business, seeks to extend the Beneficiary's temporary employment as an "accountant" 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 Vermont Service Center denied the petition, concluding that the Petitioner had not demonstrated that the proffered position qualifies as a specialty occupation. The Director reaffirmed this basis for denial in subsequent motions. The Petitioner filed an appeal, which we summarily dismissed. The matter is now before us on a motion to reopen and a motion to reconsider.

Upon *de novo* review, we will grant the motions in part to withdraw our decision to summarily dismiss the appeal. However, as the Petitioner has not overcome the Director's findings, we will deny the remainder of the motions and dismiss the appeal on its merits.

**I. MOTIONS**

A motion to reopen is based on documentary evidence of *new facts*, and a motion to reconsider is based on an *incorrect application of law or policy*. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2), and the requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

The Petitioner submits evidence that it submitted a brief with its appeal; therefore, we will grant the motion to reopen in part to withdraw our decision. However, as the Petitioner has not established that the proffered position is a specialty occupation, we will deny the remainder of the motions.

## II. SPECIALTY OCCUPATION

### A. 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).

### B. Proffered Position

On the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner indicated that it is a seven-employee jewelry business located in [REDACTED] Texas. The Petitioner seeks to continue the Beneficiary’s employment as a part-time “accountant,” and indicates that the Beneficiary will only work at the business address listed on the Form I-129.

In the letter of support, the Petitioner described itself as an "acquisition, management and development firm, primarily in the business of jewelry, gemstones, watches and accessories." In subsequent documentation, the Petitioner described itself as "a chain of jewelry stores" which "operates multiple locations under [an assumed] name." The Petitioner stated that its goal is to expand its operations and "become one of the leading importer and retail[er] in the United States." The response to the Director's request for evidence (RFE), the Petitioner listed the duties of the proffered position, along with the percentage of time spent on each duty, as follows:

- Compiling and analyzing financial information and preparing financial reports by applying principles of generally accepted accounting standards (30%);
- Preparing entries and reconciling general ledger, maintaining payable and receivable records, detailing assets, liabilities, capital, and preparing detailed balance sheet, profit and loss, and cash flow statement (20%);
- Auditing orders, contracts, individual transactions and preparing depreciation schedules to apply to capital assets (5%);
- Preparing compliance reports for taxing authorities (10%);
- Reconciling cash and sales reports, prepare cash flow statements and deposits (10%)
- Analyzing operating statements, reviewing cost control programs, and making strategy recommendations to management (25%).

Later in the same letter, the Petitioner provided this list of duties for the Beneficiary:

- Compiling and analyzing financial information and preparing financial reports by applying principles of generally accepted accounting standards (30%);
- Preparing entries, reconciling general ledger accounts, documenting transactions, and summarizing current and projected financial positions. Preparing detailed balance sheet, profit and loss, and cash flow statements (20%);
- Auditing orders, contracts, and individual transactions (5%);
- Preparing depreciation schedules to be applied to capital assets (10%);
- Preparing compliance reports for taxing authorities (10%); and
- Analyzing operating statements, reviewing cost control programs, and making strategy recommendations to management (25%).

In the same letter, the Petitioner focused on the Beneficiary's role as a business and management consultant, stating:

[The Beneficiary's] responsibilities primarily include managing and directing the financial activities, rather than performing the day-to-day bookkeeping function. [The Beneficiary] would be spending a majority of her time preparing, reviewing, and evaluating financial and tax records, implementing cost management techniques, and advising management in financial investment decisions to contribute to [the] financial success of [the Petitioner]. In addition to supervising individuals who perform

routine bookkeeping services, [the Beneficiary] will spend a bulk of her time in establishing operational and financial security procedures and advising upper management with cost saving and investment strategies.

In a subsequently submitted letter, the Petitioner described the proffered duties as “those of a managerial accountant” and provided another description of duties, as follows:

- Preparation and posting monthly journal entries and financial reports ensuring accuracy [and] adequate supporting documentation and meet compliance with GAAP (Generally Accepted Accounting Principles) (15%);
- Engage in the month-end close process ensuring compliance in all activities with GAAP (15%)
- Preparation and analysis of prepaid accounts including timely resolution of errors and issues on a monthly basis (5%)
- Maintaining payable and receivable records, detailing assets, liabilities, capital, and preparing detailed balance sheet, profit and loss, and cash flow statement on an ongoing basis (20%);
- Prepare compliance reports for taxing authorities and manage tax audits between [the Petitioner] and various federal/state/local taxing jurisdictions (5%);
- Direct all facets of the audit including determining the audit processes/documents/accounts of relevancy, etc., and assembling and analyzing work papers, charts and other complicated tax documents (5%);
- Present, explain, and make recommendations to reduce tax liabilities and or increase tax refund possibilities (5%);
- Evaluate and advise on purchase and sales transaction management and the business operations of [the Petitioner], including leasehold improvements, inventory, fixed assets, expenses, retail sales, jewelry purchases/sales, etc. (15%);
- Analyzing budgets & operating statements, reviewing cost control programs, and make strategy recommendations to management (15%).

The Petitioner initially stated the minimum educational requirement for the proffered position as a bachelor’s degree in business administration, accounting, finance, or a related field. The Petitioner later stated that the position requires at least a bachelor’s degree in accounting, or a related field.

### C. Analysis

Upon review of the record in its totality and for the reasons set out below, we determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.<sup>1</sup>

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<sup>1</sup> The Petitioner’s assertions and citations regarding the “professional” nature of the proffered position are misplaced. The issue before us is whether the Petitioner’s proffered position qualifies as a nonimmigrant H-1B specialty occupation and not whether it is a profession. While an occupation may be specifically identified as qualifying as a profession as

Specifically, the record does not sufficiently describe the proffered position and its associated job duties.<sup>2</sup> Therefore, the Petitioner has not demonstrated that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.

### 1. Description of Proffered Position

To ascertain the intent of a petitioner, we look to the Form I-129 and the documents filed in support of the petition. It is only in this manner that we can determine the exact position offered, the location of employment, the proffered wage, and other salient aspects of the position. Thus, a crucial aspect of this matter is whether the Petitioner has adequately and consistently described the duties of the proffered position, such that we may discern the nature of the position and whether the position indeed requires the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline. The Petitioner has not done so here.

In this matter, although the Petitioner asserts that the Beneficiary has been and will continue to perform the duties of an “accountant,” we find that several of her job duties are bookkeeping duties.<sup>3</sup>

According to the Occupational Information Network (O\*NET) and the *Occupational Outlook Handbook* (*Handbook*) – both of which we consider as authoritative sources on the duties of the wide variety of occupations that they address – bookkeepers compile and produce routine financial reports such as balance sheets, accounts payable and receivable, profit and loss, and expenditures. More specifically, O\*NET lists the core duties of bookkeepers, accounting, and auditing clerks as including “[compiling] statistical, financial, accounting, or auditing reports and tables pertaining to such matters as cash receipts, expenditures, accounts payable and receivable, and profits and losses.”<sup>4</sup> Likewise, the *Handbook* states that bookkeeping, accounting, and auditing clerks perform duties such as “[p]roduce reports, such as balance sheets (costs compared with income), income statements, and totals by account,” and “[r]econcile or note and report any differences they find in the records.”<sup>5</sup> Specific to bookkeeping clerks or bookkeepers, the *Handbook* states that they “are responsible for some or all of an organization’s accounts, known as the general ledger,” “record all transactions and post debits

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that term is defined a section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32), that occupation would not necessarily qualify as a specialty occupation unless it also meets the definition of that term at section 214(i)(1) of the Act.

<sup>2</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.

<sup>3</sup> The Labor Condition Application (LCA) submitted to support the visa petition states that the proffered position is an “accountant” under the “Accountants and Auditors” occupational classification, corresponding to Standard Occupational Classification (SOC) code 13-2011. The bookkeeper duties we reference correspond to SOC code and title 43-3031, “Bookkeeping, Accounting, and Auditing Clerks.”

<sup>4</sup> O\*NET Details Report for “Bookkeepers, Accounting, and Auditing Clerks,” <http://www.onetonline.org/link/details/43-3031.00> (last visited Mar. 22, 2017).

<sup>5</sup> U.S. Dep’t of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 Edition, “Bookkeeping, Accounting, and Auditing Clerks,” <http://www.bls.gov/ooh/office-and-administrative-support/print/bookkeeping-accounting-and-auditing-clerks.htm> (last visited Mar. 22, 2017).

(costs) and credits (income),” and “produce financial statements and other reports for supervisors and managers.”<sup>6</sup>

Several of the Petitioner’s descriptions of the proffered duties directly correspond with a bookkeeper’s typical duties, as described in both O\*NET and the *Handbook*. For example, the Petitioner specifically stated in its initial support letter that the Beneficiary’s duties include “[p]reparing entries and reconciling general ledger, maintaining payable and receivable records, detailing assets, liabilities, capital, and preparing detailed balance sheet, profit and loss, and cash flow statement,” and “[r]econciling cash and sales reports, prepare cash flow statements and deposits.” Her duties also include producing financial reports for management. Based on the Petitioner’s own stated job duties, we are not persuaded that the Beneficiary will not perform any bookkeeping duties, or as the Petitioner alternatively asserted, will spend at most 5% of her time on bookkeeping duties.<sup>7</sup>

On its face, some of the stated duties appear to be accountant duties properly falling under the “Accountants and Auditors” occupational classification.<sup>8</sup> However, we have reason to question whether the Beneficiary will actually be limited to performing these claimed accountant duties.

In particular, the Petitioner indicated that the Beneficiary will supervise and review the work of others who perform bookkeeping duties. But the Petitioner does not claim to have any employees who perform routine bookkeeping services. There is no explanation or documentation of the roles and duties of the Petitioner’s seven employees in operating the Petitioner’s jewelry business. We

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<sup>6</sup> *Id.*

<sup>7</sup> The Petitioner relies on information about the “Accountants” occupational category as found in the *Dictionary of Occupational Titles (DOT)*. *DOT* states, in pertinent part, that an accountant “prepares balance sheet, profit and loss statement, and other reports.” This differs significantly from O\*NET and the *Handbook*, both of which indicate that bookkeepers perform these same duties.

To the extent that this and any other information found in the *DOT* differs from O\*NET and the *Handbook*, we defer to the O\*NET and the *Handbook* as authoritative sources. O\*NET and the *Handbook* are sponsored or published by the Department of Labor (DOL) and updated regularly, whereas the *DOT* (fourth edition) was last revised in 1986. For more information about *DOT*, see the Dictionary of Occupational Titles Introduction, [http://www.occupationalinfo.org/front\\_148.html](http://www.occupationalinfo.org/front_148.html) (last visited Mar. 22, 2017).

<sup>8</sup> The Petitioner describes some of the proffered duties in substantially the same general terms as those found in *DOT* for the “Accountants” occupation. For example, the proffered job duties of “[a]pplies principles of accounting to analyze financial information,” “[c]ompiles and analyzes financial information to prepare entries to accounts, such as general ledger accounts, documenting business transactions,” and “[d]evelop and implement computer-based system for general accounting from manual system” are identical or almost identical to those found in *DOT*, a copy of which the Petitioner provided in support of the instant petition.

We note that this type of generalized description is insufficient to adequately convey the substantive work that the Beneficiary will perform within the Petitioner’s business operations. Nevertheless, as we question whether the Beneficiary will actually be performing these stated job duties, we will not further discuss the deficiencies of providing generalized and non-specific job descriptions.

note that the Beneficiary has served in the proffered position since 2011, but the Petitioner has not provided examples of her actual work product.

While the Petitioner claims to contract out its bookkeeping duties to an "outside accounting firm," [REDACTED] the Petitioner has not sufficiently corroborated its claim that [REDACTED] performs all bookkeeping duties subject to the Beneficiary's supervision, while only the Beneficiary performs accounting duties. To the contrary, the letter from [REDACTED] states that it has "been managing [the Petitioner's] accounts ever since January 2009." The letter further states that the firm's "prime input is to revise and review the information gathered, analyzed, and prepared by [the Beneficiary]" in order to "issue the Independent Accountants Report." This information suggests that [REDACTED] role is not limited to just bookkeeping, as claimed.

In fact, the record confirms that the Petitioner utilized [REDACTED] not the Beneficiary, to prepare and file the company's 2012 federal tax return and quarterly tax returns.<sup>9</sup> This directly undermines the Petitioner's assertion that the Beneficiary's duties will expressly include "[p]reparing compliance reports for taxing authorities," and raises doubt as to whether the Beneficiary will be performing the claimed accountant duties. The Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

The Petitioner also has made many general statements about an accountant's duties which do not appear relevant to the Beneficiary in the context of the Petitioner's specific business operations. For example, the Petitioner's RFE response discusses at length "[c]ommon duties for accountants," including the duties and responsibilities of "communication among departments," "researching, or reviewing the work of others," "oversee[ing] all aspects of the accounting department," and "supervising individuals who perform routine bookkeeping services." But the Petitioner has not demonstrated that it employs or utilizes any bookkeepers that the Beneficiary will then purportedly supervise. Nor does the Petitioner claim to have any departments, including an "accounting department," within its seven-person operations that the Beneficiary will then oversee.

Accordingly, the Petitioner has not sufficiently demonstrated that it has any bookkeepers, whether as internal employees or contractors, who perform the routine bookkeeping tasks necessary to the operation of the Petitioner's business in order to relieve the Beneficiary of such duties. We therefore must question how much of the Beneficiary's time can actually be devoted to purely accounting duties. It is reasonable to assume that the size of an employer's business has or could have an impact on the claimed duties of a particular position. See *EG Enters., Inc. v. Dep't of Homeland Sec.*, 467 F. Supp. 2d 728 (E.D. Mich. 2006).

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<sup>9</sup> None of these returns list the Beneficiary as a third-party designee with whom the government may discuss the Petitioner's returns.

There are additional discrepancies within the record that further cloud the Petitioner's description of the proffered position. The Petitioner provided several different iterations of the proffered job duties, but did not sufficiently explain these variances. For instance, the Petitioner indicated that the Beneficiary will be supervising bookkeepers, but then did not assign any percentages of time for supervisory duties. The Petitioner also assigned different percentages of time (i.e., 10% and 5%) to the same job duty of preparing compliance reports for taxing authorities (which, in any event, is undermined by the Petitioner's utilization of [REDACTED] for its tax returns).

Moreover, when comparing the initial job description with later descriptions, the Petitioner appears to have added or significantly increased time spent on management and tax consulting duties. For example, the Petitioner initially assigned 25% of the Beneficiary's time to the duty of "[a]nalyzing operating statements, reviewing cost control programs, and making strategy recommendations to management." Then in response to the RFE, the Petitioner stated that the Beneficiary "will spend a bulk of her time in establishing operational and financial security procedures and advising upper management with cost saving and investment strategies." Subsequently, the Petitioner added new duties for the Beneficiary (e.g., managing and directing all facets of tax audits, making recommendations to reduce tax liabilities and or increase tax refund possibilities, and evaluating and advising management on other aspects of the Petitioner's business operations such as leasehold improvements and jewelry purchases), and assigned additional percentages of time to these new duties. In other words, the Petitioner's initial description has the Beneficiary performing more routine bookkeeping duties, while later descriptions have the Beneficiary performing more managerial and consulting duties.

After the petition is filed, the Petitioner cannot offer a new position to the Beneficiary by materially changing the position's associated job responsibilities, level of authority within the organizational hierarchy, or other requirements of the position.<sup>10</sup> The Petitioner must establish eligibility at the time of filing, i.e., that the position offered to the Beneficiary when the petition was filed merits classification for the benefit sought. See 8 C.F.R. § 103.2(b)(1); *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248, 249 (Reg'l Comm'r 1978). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to U.S. Citizenship and Immigration Services requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). The Petitioner has not adequately explained which set of duties, if any, best represents the Beneficiary's actual duties. Further, though the Petitioner stated in the H-1B petition that the Beneficiary would work on a part-time basis, it indicated in its RFE response that the Beneficiary would actually be working on a full-time, which raises additional questions.

Finally, the evidence of record is unclear as to the exact nature and scope of the Petitioner's business operations. On one hand, the Petitioner represented itself on the Form I-129 as a seven-employee business with one location in [REDACTED] Texas. The Petitioner presented only one lease and business

<sup>10</sup> As previously indicated, the Petitioner initially stated that the proffered position requires a minimum of a bachelor's degree in business administration, accounting, finance, or a related field. The Petitioner later revised its requirement to just a bachelor's degree in accounting or a related field, with no mention of a business administration degree.



license for a single work location in support of the petition. On the other hand, the Petitioner described itself as an "acquisition, management, and development firm" which owns a "chain of jewelry stores" in "multiple locations." The Petitioner also submitted photographs and print-outs from a website listing several jewelry retail locations in [REDACTED] and [REDACTED] Texas. The Petitioner has not established whether it consists of one retail location or several retail locations, and if the latter, from where the Beneficiary will work and how the Petitioner will relieve the Beneficiary from performing non-qualifying duties with a limited staff spread out throughout multiple locations.

For all of these reasons, it is not evident that the proposed duties, as described in this record of proceedings, and the position that they comprise, merit recognition of the proffered position as a specialty occupation. To the extent that they are described, the proposed duties do not provide a sufficient factual basis for conveying the substantive nature of the proffered position.

As the Petitioner has not established the substantive nature of the work to be performed by the Beneficiary, we are therefore precluded a finding that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).<sup>11</sup> 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 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.

Accordingly, as the Petitioner has not established that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies for classification as a specialty occupation.

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<sup>11</sup> Even if the Petitioner had met this threshold requirement, we would likely still find that the proffered position is not a specialty occupation, as the Petitioner indicates that a bachelor's degree in business administration would adequately prepare an individual to perform its duties. However, a requirement for a bachelor's degree in business administration is inadequate to establish that a position qualifies as a specialty occupation. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly to the position in question. Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business administration, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988). 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. We have consistently stated that, although a general-purpose bachelor's degree, such as a degree in business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a finding that a particular position qualifies for classification as a specialty occupation. *Royal Siam*, 484 F.3d at 147.

## 2. Position Evaluation

The Petitioner provided a position evaluation from [REDACTED] a professor of accounting and operations at [REDACTED] provides a brief description of the Petitioner's operations, reiterates the Petitioner's last set of job duties for the Beneficiary, and concludes that the proffered position requires an individual with a bachelor's degree in accounting or a closely related field.

However, [REDACTED] letter does not appear to be based upon sufficient information about the Petitioner and the position proposed here. To illustrate, [REDACTED] does not indicate whether he was aware of the Petitioner's numerous prior descriptions of the proffered position which included several bookkeeping duties, and did not include many of the duties related to management and tax consulting later claimed. Nor does [REDACTED] indicate whether he was aware of the Petitioner's utilization of an outside accounting firm, or the nature and scope of the Petitioner's seven-employee operations without any documented bookkeepers.

[REDACTED] also does not relate any personal observations of the Petitioner's operations or otherwise explain the source of his knowledge about the Petitioner's operations and expansion plans. Further, he does not state whether he reviewed any work products created by the Beneficiary in the proffered position. In short, [REDACTED] opinion does not relate his conclusions to specific, concrete aspects of this Petitioner's business operations and the Beneficiary's work to demonstrate a sound factual basis for his conclusions about the duties of the proffered position and its educational requirement. Nor does he resolve or address the discrepancies outlined above.

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 are not required to accept an opinion or give it full weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.*

For the reasons above, we conclude that [REDACTED] opinion letter is not sufficient to establish the proffered position as a specialty occupation under any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

## III. BENEFICIARY QUALIFICATIONS

Since the identified basis for denial is dispositive of the Petitioner's appeal, we need not address another ground of ineligibility we observe in the record of proceedings. Nevertheless, we will briefly note and summarize it here with the intention that, if the Petitioner seeks again to employ the Beneficiary in the proffered position, it will submit sufficient independent objective evidence to address and overcome this additional ground in any future filing.

Here, the record is insufficient to demonstrate that the Beneficiary is qualified to perform services in a specialty occupation. The Beneficiary possesses a foreign three-year bachelor's degree in

commerce. According to an evaluation by [REDACTED] the Beneficiary has attained the equivalent to three years of academic coursework from an accredited institution of higher learning in the United States. This falls short of finding that the Beneficiary possesses the equivalent to a U.S. bachelor's degree, which generally requires four years of education. See *Matter of Shah*, 17 I&N Dec. 244 (Reg'l Comm'r 1977).

The Petitioner submits two additional evaluations to support its assertion that the Beneficiary possesses the equivalent to a U.S. bachelor's degree in accounting by virtue of her education and work experience combined. However, these evaluations are insufficient. Briefly stated, both evaluations from [REDACTED] and [REDACTED] are not accompanied by sufficient evidence that they possess authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience, and that the Beneficiary also has recognition of expertise in the specialty through progressively responsible positions directly related to the specialty. 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) and (D)(1).

Since evidence was not presented that the Beneficiary has at least a U.S. bachelor's degree in any specific specialty, or its equivalent, the petition could not be approved even if eligibility for the benefit sought had been otherwise established.

#### IV. CONCLUSION

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. Here, that burden has not been met.

**ORDER:** The motion to reopen is granted in part and denied in part.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of S-, Inc.*, ID# 227568 (AAO Mar. 28, 2017)