U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

DATE: JUL 07 2015 PETITION RECEIPT #:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

I. FACTUAL AND PROCEDURAL BACKGROUND

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a 48-employee "IT Consulting Services" company established in In order to employ the beneficiary in what it designates as a "Computer Programmer Analyst" position, the petitioner seeks to classify him as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The Director reviewed the record of proceeding and determined that the petitioner did not establish eligibility for the benefit sought. Specifically, the Director stated that the petitioner had not established that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. The Director denied the petition.

The record of proceeding contains: (1) the petitioner's Form I-129 and supporting documentation; (2) the Director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the Director's decision; and (5) the Notice of Appeal or Motion (Form I-290B) and supporting documentation. We reviewed the record in its entirety before issuing our decision.[1]

For the reasons that will be discussed below, we agree with the Director's decision that the petitioner has not established eligibility for the benefit sought. Accordingly, the Director's decision will not be disturbed. The appeal will be dismissed.

II. SPECIALTY OCCUPATION

To meet its burden of proof in establishing the proffered position as a specialty occupation, the petitioner must establish that the employment it is offering to the beneficiary meets the following statutory and regulatory requirements.[2]

A. Legal Framework

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(1) defines the term "specialty occupation" as one that requires:

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[1] We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

[2] The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)).

(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 term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

> An occupation which requires [(1)] theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires [(2)] the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

(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.

As a threshold issue, it is noted that 8 C.F.R. § 214.2(h)(4)(iii)(A) must logically be read together with section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). In other words, this regulatory language must be construed in harmony with the thrust of the related provisions and with the statute as a whole. *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) (holding that construction of language which takes into account the design of the statute as a whole is preferred); *see also COIT Independence Joint Venture v. Federal Sav. and Loan Ins. Corp.*, 489 U.S. 561 (1989); *Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996). As such, the criteria stated in 8 C.F.R. § 214.2(h)(4)(iii)(A) should logically be read as being necessary but not necessarily sufficient to meet the statutory and regulatory definition of specialty occupation. To otherwise interpret this section as stating the necessary *and* sufficient conditions for meeting the definition of specialty occupation would result in particular positions meeting a condition under 8 C.F.R. § 214.2(h)(4)(iii)(A) but not the statutory or regulatory definition. *See Defensor v. Meissner*,

201 F.3d 384, 387 (5th Cir. 2000). To avoid this result, 8 C.F.R. § 214.2(h)(4)(iii)(A) must therefore be read as providing supplemental criteria that must be met in accordance with, and not as alternatives to, the statutory and regulatory definitions of specialty occupation.

As such and consonant with section 214(i)(1) of the Act and the regulation at 8 C.F.R. § 214.2(h)(4)(ii), U.S. Citizenship and Immigration Services (USCIS) consistently interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered 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"). Applying this standard, USCIS regularly approves H-1B petitions for qualified aliens who are to be employed as engineers, computer scientists, certified public accountants, college professors, and other such occupations. These professions, for which petitioners have regularly been able to establish a minimum entry requirement in the United States of a baccalaureate or higher degree in a specific specialty, or its equivalent, directly related to the duties and responsibilities of the particular position, fairly represent the types of specialty occupations that Congress contemplated when it created the H-1B visa category.

To determine whether a particular job qualifies as a specialty occupation, USCIS does not simply rely on a position's title. The specific duties of the proffered position, combined with the nature of the petitioning entity's business operations, are factors to be considered. USCIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F. 3d 384. The critical element is not the title of the position nor an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation, as required by the Act.

In ascertaining the intent of a petitioner, USCIS looks to the Form I-129 and the documents filed in support of the petition. It is only in this manner that the agency can determine the exact position offered, the location of employment, the proffered wage, et cetera. Pursuant to 8 C.F.R. § 214.2(h)(9)(i), the Director has the responsibility to consider all of the evidence submitted by a petitioner and such other evidence that he or she may independently require to assist his or her adjudication. Further, the regulation at 8 C.F.R. § 214.2(h)(4)(iv) provides that "[a]n H-1B petition involving a specialty occupation shall be accompanied by [d]ocumentation . . . or any other required evidence sufficient to establish . . . that the services the beneficiary is to perform are in a specialty occupation."

B. Proffered Position

In the support letter, the petitioner states that the beneficiary will perform the following job duties in the proffered position:

In general, as a Computer Programmer Analyst, the Beneficiary will confer with client management, customers, and staff to define system goals and then create necessary roadmaps, graphs, models, and other materials to document and present the steps necessary to realize system goals. The Beneficiary will specify inputs to be accessed by the system, design the processing steps, and format the output to meet user needs.

* * *

GENERAL DAILY TASK ACTIVITY	APPROXIMATE TIME UTILIZED ON EACH TASK
Responsible for software development cycle, including design, development, and unit testing	30%
Requirement gathering, developing new reports, writing functional specification and program specification, technical design, coding reviews, and drafting detailed unit test plans	30%
Running various reports, monitoring process scheduler, and implementing password controls	10%
Creating, planning, designing, and executing test scenarios, test cases, and test script procedures, as well as debugging	15%
Working with Quality Control team during integration testing and resolving any issues uncovered during the debugging process	15%

The petitioner also states that the proffered position requires "at least a Bachelor's Degree (or its equivalent) in Computer Science or related fields."

In response to the RFE, the petitioner clarifies that the beneficiary "will be engaged in the software development project called the for our client, " In addition, the petitioner provided a new job description. More specifically, the petitioner states that the position encompasses the following duties:

GENERAL DAILY TASK ACTIVITY	APPROXIMATE TIME UTILIZED ON EACH TASK
Responsible for software development utilizing J2EE framework, JSP, STRUTS, MVC, EJB, RMI, JMS including design, development, and unit testing. Design of system architecture, implement changes to existing logical & physical database design & changes to existing user interface design. Engage in configuration management & develop various components in compliance with system design. Integrate modules developed after unit	30%

testing.	
Requirement gathering, developing new reports, writing functional specification and program specification by interviewing business users, technical design, coding reviews, and drafting detailed unit test plans using Microsoft Visio, RedMine and Microsoft Project. Engage in resource planning, develop[ing] project schedule, & development standards.	30%
Running various reports, monitoring process scheduler, and implementing password controls using multifactor authentication algorithms.	10%
Creating, planning, designing, and executing test scenarios, test cases, and test script procedures, as well as debugging using RedMine. Create test cases and acceptance criteria for all use cases defined in design specifications and develop strategy & tool for Load, Stress, & Performance testing. Engage in Peer reviews and code walkthroughs. Also engage in integration and system testing.	15%
Develop quality plan (requirement review, design review, code, test review, release review). Work with Quality Control team during integration testing and resolving any issues uncovered during the debugging process.	15%

The petitioner also submitted a letter from the Chief Executive Officer (CEO) of confirming that the beneficiary "will be providing Computer Programmer Analyst services to the project " and that he will be providing these services from the petitioner's office.[3] The letter further states that the beneficiary "will engage in the complex analysis, design, testing of software systems/applications," and specifically lists the following tasks:

- Design the application using Java, J2EE technologies[;]
- Design and develop distributed systems, e-commerce, m-commerce, workflow and rich internet applications for [;]
- Develop application using Java, JSP, Struts, MVC, EJB, RMI, JMS, wireless technologies[;]
- Design and Implement web servers solutions and deploy Java Application Servers[; and]
- Perform Unit testing and system Testing.

[3] Notably, the end-client's address is similar to the petitioner's office address.

CEO also states that the proffered position requires at least a bachelor's degree "in an area such as Computer Science, Engineering or another closely related field."

C. Analysis

In the instant case, we find that the petitioner has provided inconsistent information regarding the requirements of the proffered position. The petitioner initially claimed that the position requires a bachelor's degree in computer science or related fields. However, in response to the RFE, the petitioner submitted a letter from the end-client, which states that the position requires a bachelor's degree in computer science, engineering, or another closely related field. No explanation for this inconsistency was provided. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Again, the petitioner has represented that the position requires a bachelor's degree in computer science and/or engineering. In general, provided the specialties are closely related, e.g., chemistry and biochemistry, a minimum of a bachelor's or higher degree in more than one specialty is recognized as satisfying the "degree in the specific specialty (or its equivalent)" requirement of section 214(i)(1)(B) of the Act. In such a case, the required "body of highly specialized knowledge" would essentially be the same. Since there must be a close correlation between the required "body of highly specialized knowledge" and the position, however, a minimum entry requirement of a degree in two disparate fields, such as philosophy and engineering, would not meet the statutory requirement that the degree be "in *the* specific specialty (or its equivalent)," unless the petitioner establishes how each field is directly related to the duties and responsibilities of the particular position such that the required "body of highly specialized knowledge" is essentially an amalgamation of these different specialties. Section 214(i)(1)(B) of the Act (emphasis added).

In other words, while the statutory "the" and the regulatory "a" both denote a singular "specialty," we do not so narrowly interpret these provisions to exclude positions from qualifying as specialty occupations if they permit, as a minimum entry requirement, degrees in more than one closely related specialty. *See* section 214(i)(1)(B) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). This also includes even seemingly disparate specialties providing, again, the evidence of record establishes how each acceptable, specific field of study is directly related to the duties and responsibilities of the particular position.

Again, the petitioner has represented that a bachelor's degree in computer science and/or engineering is acceptable. The issue here is that it is not readily apparent that these two fields of study are closely related or that the field of engineering is directly related to the duties and responsibilities of the particular position proffered in this matter.

Here and as indicated above, the petitioner, who bears the burden of proof in this proceeding, does not establish either (1) that the disciplines are closely related fields, or (2) that the field of

engineering is directly related to the duties and responsibilities of the proffered position. Absent this evidence, it cannot be found that normally the minimum requirement for entry into the particular position proffered in this matter is a bachelor's or higher degree in a specific specialty, or its equivalent, under the petitioner's own standards.

As the evidence of record does not establish how these dissimilar fields of study form either a body of highly specialized knowledge or a specific specialty, or its equivalent, the petitioner's assertion that the job duties of this particular position can be performed by an individual with a bachelor's degree in any of these fields suggests that the proffered position is not a specialty occupation. Therefore, absent probative evidence of a direct relationship between the claimed degrees required and the duties and responsibilities of the position, it cannot be found that the proffered position requires, at best, anything more than a general bachelor's degree. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

The petitioner in this matter provided a list of the beneficiary's proposed duties.[4] As observed above, USCIS in this matter must review the actual duties the beneficiary will be expected to perform to ascertain whether those duties require at least a baccalaureate degree in a specific specialty, or its equivalent, as required for classification as a specialty occupation. To accomplish that task in this matter, USCIS must analyze the actual duties in conjunction with the specific project(s) to which the beneficiary will be assigned. To allow otherwise, results in generic descriptions of duties that, while they may appear (in some instances) to comprise the duties of a specialty occupation, are not related to any actual services the beneficiary is expected to provide.

In that regard, we have reviewed the information in the record regarding the petitioner's information technology consulting business and the claimed project upon which the beneficiary would work. Upon review of this information, we find that the record of proceeding lacks sufficient

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[4] With regard to the duties, we note that the petitioner designated the proffered position on the LCA under the occupational category "Computer Programmers" as a Level II position. The "Prevailing Wage Determination Policy Guidance" issued by the U.S. Department of Labor (DOL) provides a description of the wage levels. A Level II wage rate is described by DOL as follows:

> **Level II** (qualified) wage rates are assigned to job offers for qualified employees who have attained, either through education or experience, a good understanding of the occupation. They perform moderately complex tasks that require limited judgment. An indicator that the job request warrants a wage determination at Level II would be a requirement for years of education and/or experience that are generally required as described in the O*NET Job Zones.

U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), *available at* http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.

documentation regarding the actual work that the beneficiary will perform to sufficiently substantiate the claim that the petitioner has H-1B caliber work for the beneficiary for the period of employment requested in the petition. That is, the record does not include any work product or other documentary evidence to confirm that the petitioner has ongoing projects to which the beneficiary will be assigned. Thus, the petitioner has not provided the underlying documentation necessary to corroborate that the beneficiary would perform the claimed duties set out in the petitioner's letter of support. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

Furthermore, as noted above, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1). Evidence that the petitioner creates after the issuance of an RFE is not considered independent and objective evidence for establishing eligibility for the benefit sought.

The agency made clear long ago that speculative employment is not permitted in the H-1B program. For example, a 1998 proposed rule documented this position as follows:

> Historically, the Service has not granted H-1B classification on the basis of speculative, or undetermined, prospective employment. The H-1B classification is not intended as a vehicle for an alien to engage in a job search within the United States, or for employers to bring in temporary foreign workers to meet possible workforce needs arising from potential business expansions or the expectation of potential new customers or contracts. To determine whether an alien is properly classifiable as an H-1B nonimmigrant under the statute, the Service must first examine the duties of the position to be occupied to ascertain whether the duties of the position require the attainment of a specific bachelor's degree. See section 214(i) of the Immigration and Nationality Act (the "Act"). The Service must then determine whether the alien has the appropriate degree for the occupation. In the case of speculative employment, the Service is unable to perform either part of this two-prong analysis and, therefore, is unable to adjudicate properly a request for H-1B classification. Moreover, there is no assurance that the alien will engage in a specialty occupation upon arrival in this country.

63 Fed. Reg. 30419, 30419 - 30420 (June 4, 1998).

Without detailed work orders, statements of work (SOW), or similar documentation describing the specific duties the petitioner requires the beneficiary to perform, as those duties relate to specific projects, USCIS is unable to 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 a baccalaureate program. Without a meaningful job description within the context of non-speculative employment, the petitioner may not establish any of the alternate criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

In the instant case, the petitioner submitted several documents in support of its petition, including an employment agreement between itself and the beneficiary, an SOW, a letter from the end-client, an organizational chart, its financial documents, a Master Service Agreement (MSA) between itself and (executed on July 22, 2013), and photos of its offices. The evidence does not establish, however, the substantive nature of the work to be performed by the beneficiary. There is a lack of documentation regarding the claimed project and the beneficiary's specific role in the project.

For instance, the petitioner asserts that "[t]he details of this project are provided in the Statement of Work (SOW) for issued by "; however, we find that the SOW lacks the necessary level of details regarding the beneficiary's claimed assignment. For example, while the SOW broadly describes the activities to be completed and the overall positions constituting the petitioner's "team," it does not illuminate what specific tasks will be performed, which team member(s) will perform them, and the manner and means through which they will be achieved. In fact, the SOW does not identify the beneficiary or any of the individuals constituting the petitioner's "team" by name. Furthermore, the SOW indicates that "[t]he team will consist of 10 Developers, 2 Testers and 1 Architect." Notably, it does not list the proffered position of computer programmer analyst as being part of the "team." In addition, the MSA states that a list of all of the petitioner's employees, consultants, and subcontractors providing services to would be attached to the MSA; however, no such attachment is appended to the MSA.

The letter from the end-client, too, is insufficient, as it does not describe the particular duties of the beneficiary in detail. It lists the beneficiary's services in general and vague terms that do not appear to be specifically tied to the " ' project. The letter does not further explain what each of these duties specifically entails, and how each duty specifically relates to the activities and timelines outlined in the SOW.[5] Notably, the end-client's job duties are significantly different from the petitioner's job descriptions for the proffered position submitted with the initial petition and in response to the RFE. No explanation for the variances was provided. Again, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591.

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[5] We note that, as recognized by the court in *Defensor*, *supra*, where the work is to be performed for entities other than the petitioner, evidence of the client companies' job requirements is critical. *See Defensor v. Meissner*, 201 F.3d at 387-388. The court held that the former Immigration and Naturalization Service had reasonably interpreted the statute and regulations as requiring the petitioner to produce evidence that a proffered position qualifies as a specialty occupation on the basis of the requirements imposed by the entities using the beneficiary's services. *Id.* at 384. Such evidence must be sufficiently detailed to demonstrate the type and educational level of highly specialized knowledge in a specific discipline that is necessary to perform that particular work.

Furthermore, upon review of the employment agreement, we note that it does not mention the '[redacted]' project. In addition, the agreement states "irrespective of any client location or project that you may be assigned to, during the duration of your employment...you shall at all times remain an employee of [the petitioner]." According to the agreement, the beneficiary may be placed at various locations and assigned to various projects and, thus, not necessarily at the petitioner's office location and the '[redacted]' project as indicated on the Form I-129.

Based on the lack of detailed information and documentation regarding the "[redacted]" project and the specific duties the beneficiary will perform on it, we cannot find that the petitioner has met its burden of proof in establishing that the beneficiary will be employed to exclusively perform in-house services on this project, as claimed. Thus, we find that the evidence of record is insufficient to establish the substantive nature of the work to be performed by the beneficiary.

The failure to establish the substantive nature of the work to be performed by the beneficiary consequently 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 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.[6]

Accordingly, as the evidence of record does not satisfy any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies as a specialty occupation. For this reason, the appeal will be dismissed and the petition denied.

III. BEYOND THE DIRECTOR'S DECISION

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 proceeding. Nevertheless, we will briefly note and summarize it here with the hope and intention that, if the petitioner seeks again to employ the beneficiary or another individual as an H-1B employee in the proffered position, it will

[6] Even if the proffered position had been established as one located within the "Computer Programmers" occupational category (the occupational category certified on the submitted LCA), we note that the U.S. Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) specifically states that "some employers hire workers with an associate's degree" for such positions. *See* U.S. Dep't of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, 2014-15 ed., "Computer Programmers," http://www.bls.gov/ooh/computer-and-information-technology/computer-programmers.htm#tab-4 (last visited Jun. 26, 2015). The *Handbook* therefore would not support the proposition that the position is a specialty occupation.

submit sufficient independent objective evidence to address and overcome this additional ground in any future filing.

Beyond the decision of the director, the petition must be denied as the petitioner does not establish that it had sufficient work during the requested validity period for the beneficiary to perform when the petition was filed. The petitioner submitted an SOW, which specifies the delivery due date as August 2016. However, in the Form-129, the petitioner requested a validity period through September 18, 2017. Although the petitioner claims that "the SOW will be renewed and extended," there is insufficient corroborating evidence that the project has actually been extended beyond the acknowledged August 2016 due date.[7] By not submitting evidence demonstrating the work that the beneficiary will perform during the requested H-1B validity dates, the petitioner precluded the Director from exploring whether the petitioner has made a *bona fide* offer of employment to the beneficiary and that it has sufficient work for the beneficiary to perform for the duration of the petition. Furthermore, there are no contracts or other evidence in the record demonstrating that any particular work exists for the requested employment period. Therefore, beyond the decision of the Director, we find that the petitioner does not establish that it has made a *bona fide* offer of employment to the beneficiary. For this additional reason, the petition must be denied.

IV. CONCLUSION AND ORDER

An application or petition that does not comply with the technical requirements of the law may be denied by us even if the service center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

Moreover, when we deny a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it shows that we abused our discretion with respect to all of the enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1037, *aff'd*, 345 F.3d 683; *see also BDPCS, Inc. v. Fed. Communications Comm'n*, 351 F.3d 1177, 1183 (D.C. Cir. 2003) ("When an agency offers multiple grounds for a decision, we will affirm the agency so long as any one of the grounds is valid, unless it is demonstrated that the agency would not have acted on that basis if the alternative grounds were unavailable.").

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision.[8] In visa petition proceedings, it

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[7] The end-client's letter vaguely states that this project is "an ongoing, long-term project that is expected to last at least the next three years." However, without additional explanation, including why this statement differs from the information found in the SOW, the end-client's letter is insufficient to corroborate the petitioner's claims.

[8] Since the identified bases for denial are dispositive of the petitioner's appeal, we will not address other grounds of ineligibility we observe in the record of proceeding.

is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.