



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 03 2015** OFFICE: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed. The petition will be denied.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a fifteen-employee "Information Technology" business established in [REDACTED]. In order to employ the beneficiary in what it designates as a full-time "Business Development Specialist" position at a salary of \$52,000 per year, 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 denied the petition, concluding that the evidence of record does not demonstrate that the position proffered qualifies as a specialty occupation.

On appeal, the petitioner asserts that the director's basis for denial was erroneous and contends that the petitioner satisfied the evidentiary requirements.

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

Upon review of the entire record of proceeding, we find that the evidence of record does not overcome the director's grounds for denying this petition. Accordingly, the appeal will be dismissed, and the petition will be denied.

I. FACTUAL AND PROCEDURAL HISTORY

The petitioner filed the Form I-129 on April 15, 2014, indicating that it is a fifteen-employee "Information Technology" company located at [REDACTED] New Jersey. The petitioner indicated on the Form I-129 that it seeks to employ the beneficiary as a "Business Development Specialist" and that the beneficiary will work at his home in California during the validity period. The Form I-129 is signed by [REDACTED] who is identified elsewhere in the record as the petitioner's President.

The Labor Condition Application (LCA) submitted to support the visa petition states that the proffered position is a "Business Development Specialist," and that it corresponds to Standard Occupational Classification (SOC) code and title "13-1199, Business Operations Specialists, All Others," from the Occupational Information Network (O*NET). The LCA further states that the proffered position is a Level I, entry-level, position.

In support of the initial petition, the petitioner submitted a letter, dated April 11, 2014, on company letterhead listing the petitioner's address as [REDACTED] New York. In this letter, the petitioner described itself and its overseas affiliates as a "comprehensive IT service

provider who can offer technically & commercially viable solutions to address all your IT needs." With regards to the duties of the proffered position, the petitioner stated the following:

The role of Business Development Specialist in our company is very critical to our growth. This role reports to the President, and will be responsible for continued business development in line with our stated goals and projections. Beneficiary's job duties shall include planning, directing, or coordinating marketing policies and programs, such as determining the demand for products and services offered by a firm and its competitors, and identify potential customers.

He will develop pricing strategies with the goal of maximizing the firm's profits or share of the market while ensuring the firm's customers are satisfied. Oversee product development or monitor trends that indicate the need for new products and services.

Beneficiary will be required to bring in highly qualified leads & sales. He will then respond to inbound leads using consultative sales methods to close contracts. He must prepare monthly recap of sales highlights including wins, losses, and suggestions for improving sales processes. He will ensure that all data is appropriately collected in our [REDACTED]. He will also [be required] to send weekly sales force report detailing all open leads.

The petitioner stated that "[t]he usual minimum requirement for performance of the job duties of a Business development specialist in our company, as with any other similar organization, is a Bachelor's degree in Science, computer science, computer engineering, electronics, engineering, physical sciences or equivalent."

In support of the petition, the petitioner submitted, *inter alia*, its "Offer Letter" to the beneficiary which states, in pertinent part: "Your responsibilities will include but will not be limited to Business Development and Sales." It also states that the beneficiary "will be required to report to Mr. [REDACTED] at [the petitioner's] corporate office." The petitioner also submitted evidence of the beneficiary's foreign degrees.

The director issued an RFE instructing the petitioner to submit, *inter alia*, additional documentation establishing that the proffered position qualifies as a specialty occupation.

In response to the RFE, the petitioner reiterated the same description of the duties of the proffered position, adding percentages of time spent on each duty. The petitioner explained that the beneficiary "will be deeply involved in early stage operations of industry analysis and account mining and will work directly with clients in developing account-holding relationships, providing go-to-market plans for the delivery of the employer's custom software products, and promoting IT service offerings directly to clients." The petitioner also stated that the position "will be responsible for executing the mechanics of actual client-facing sales processes, and must be capable of understanding software in aligning products with client requirements." Because of these duties, the

petitioner asserted that the position requires "a Bachelor's degree background in an applicable computing [field] (coupled with the necessary business development and marketing knowledge needed to then execute product sales and marketing operations)." The petitioner elaborated:

The broad and expansive duties of the position could not be adequately performed without a Bachelor's degree in Computer Science, Computer Engineering or other closely related field Moreover, a Bachelor's level education includes core, applicable concepts of product engineering, design, and functionality, such as will enable the Business Development Specialist to understand the products and to align product specifications with larger trends and innovations in the field.

In support of the RFE, the petitioner submitted, *inter alia*, an "Expert Opinion Letter" from Dr. [REDACTED] Professor of Marketing at [REDACTED] concluding that proffered position requires "the attainment of a Bachelor's Degree in Computer Science, Computer Engineering or other closely related field, coupled with business development and marketing knowledge as could have been obtained via further study or professional experience."

The petitioner submitted three industry letters identically attesting that "the minimum educational qualification required for the position of Business Development Specialist in our Company is a baccalaureate or higher degree or its equivalent." These letters further identically attest that the companies have "had individuals in this position with the minimum of a baccalaureate or equivalent degree in Engineering, Science, Computer Applications, Math, or Information Technology, or Computer Information Systems, or Computer Science, or related field." These letters identically conclude: "We have never hired anyone without the minimum of a baccalaureate degree in the above-mentioned field or equivalent." The petitioner also submitted letters from its affiliate companies, [REDACTED] and [REDACTED] identically attesting to the same.

The petitioner submitted a list of employees who are employed by the petitioner or its affiliated companies as Business Development Specialists, along with copies of their foreign degrees and transcripts. The foreign degrees held by these individuals include: a Bachelor of Commerce; a Master in Personnel Management; a Post Graduate Diploma in Management with a concentration in Marketing and Human Resources Management; a general Bachelor of Arts; a Bachelor of Pharmacy; a Bachelor of Business Management; and several Masters of Business Administration.

The petitioner submitted several vacancy announcements, the majority of which required an unspecified bachelor's degree. Of the announcements that listed specific degree requirements, these announcements required degrees in the following fields of study: Finance, Accounting, Marketing, Business, Communications, Sales, Journalism, English, International Relations, or Life Sciences.

The petitioner submitted organizational charts for its U.S. office and two of its overseas affiliates. These charts do not identify the names of individual employees or the number of employees in each particular position. The U.S. organizational chart, which lists a total of twenty positions, does not

list the name and title of the individual who will direct the beneficiary despite the director's request in the RFE.

The director denied the petition, concluding that the evidence of record does not demonstrate that the proffered position qualifies as a specialty occupation.

The petitioner filed the instant appeal. In the supporting brief, the petitioner largely reiterates the same job descriptions and other assertions previously made in response to the RFE, and resubmits copies of previously submitted evidence.

II. SPECIALTY OCCUPATION

The issue to be addressed is whether the position proffered here qualifies as a specialty occupation. Upon review, we affirm that the evidence of record fails to establish that the proffered position is a specialty occupation.

A. The Law

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.

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:

- (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 also 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 rely simply upon a proffered position's title. The specific duties of the 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 beneficiary, and determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F. 3d at 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.

As recognized in *Defensor v. Meissner*, it is necessary for the end-client to provide sufficient information regarding the proposed job duties to be performed at its location(s) in order to properly ascertain the minimum educational requirements necessary to perform those duties. *See Defensor*, 201 F.3d at 387-388. In other words, as the nurses in that case would provide services to the end-client hospitals and not to the petitioning staffing company, the petitioner-provided job duties and alleged requirements to perform those duties were irrelevant to a specialty occupation determination. *See id.*

B. Analysis

The record of proceeding in this case is devoid of sufficient information regarding the specific job duties to be performed by the beneficiary. In establishing a position as a specialty occupation, a petitioner must describe the specific duties and responsibilities to be performed by a beneficiary in the context of its business operations. The petitioner has not done so here.

In this matter, the record of proceeding presents the duties comprising the proffered position in terms of broad and vague duties. The petitioner has not explained the duties of the proffered position with sufficient detail. For instance, the petitioner asserted that the beneficiary will spend 25% of his time "bring[ing] in highly qualified leads & sales" and "respond[ing] to inbound leads using consultative sales methods to close contracts." The petitioner does not clarify what specific tasks the beneficiary will perform in the execution of "bring[ing] in" leads and sales. The petitioner also asserted that the beneficiary will spend 15% of his time "[p]ricing strategies with the goal of maximizing the firm's profits or share of the market while ensuring the firm's customers are satisfied," but does not further clarify what specific tasks comprise "[p]ricing strategies."

Furthermore, the petitioner's repeated use of the word "or" in describing the duties of the proffered position is problematic. For example, the petitioner asserted that the beneficiary will spend 25% of his time "[p]lanning, directing, *or* coordinating marketing policies." (Emphasis added). The petitioner does not clarify whether the beneficiary will be involved in planning, directing, or coordinating. This lack of clarification precludes any meaningful understanding of the beneficiary's actual duties, as the nature of a position that coordinates marketing policies can vary significantly from a position that directs marketing policies. As another example, the petitioner asserts that the beneficiary will "[o]versee product development *or* monitor trends that indicate the need for new products and services," but does not clarify whether the beneficiary will actually be involved in

overseeing product development or monitoring trends. (Emphasis added). Again, this lack of clarification is critical, as the nature of a position that oversees product development can differ significantly from a position that only monitors trends.

Notably, the petitioner's "Offer Letter" to the beneficiary states that his job responsibilities "will include but *will not be limited to* Business Development and Sales." (Emphasis added). The phrase "will not be limited to" denotes that the beneficiary will perform other job duties outside of the scope of business development and sales. The petitioner has not provided any clarification as to what these other job responsibilities will be.

In addition, there are discrepancies and deficiencies regarding the petitioner's business operations that further hinder our understanding of the proffered position. For instance, despite the petitioner's repeated assertions that the beneficiary will report directly to its President, Mr. [REDACTED] the U.S. organizational chart does not depict a "President" position. Instead, it depicts the Business Development Specialist position as being subordinate to an unidentified Sales personnel or department, and all positions as being ultimately subordinate to an unidentified CEO. The petitioner's "Offer Letter" states that the beneficiary will report Mr. [REDACTED] but the evidence of record does not identify Mr. [REDACTED] position within the petitioning organization or further clarify his supervisory role, if any, over the beneficiary. The petitioner has not explained why it concurrently claims that the beneficiary will report directly to Mr. [REDACTED] as well as Mr. [REDACTED]. Moreover, the petitioner's U.S. organizational chart depicts twenty different positions, but the petitioner attested on the Form I-129 that it employs only fifteen employees. We note that on the Form I-129 filed on April 15, 2014, the petitioner listed its business address as [REDACTED] [REDACTED] New Jersey, however, the petitioner's initial support letter dated April 11, 2014 listed its address as [REDACTED] New York. The petitioner has not explained these different addresses.

We observe that the petitioner repeatedly emphasizes the marketing-related duties required of the proffered position, but none of the petitioner's organizational charts (for either its U.S. office or its overseas affiliates) depicts any marketing positions or personnel. For example, the petitioner states that the beneficiary's job duties include "planning, directing, or coordinating marketing policies and programs." However, the petitioner has not explained who will perform the actual marketing functions which the beneficiary will purportedly plan, direct, or coordinate. The petitioner's list of duties for the proffered position does not contain any explicit marketing duties. The petitioner's apparent lack of marketing personnel raises questions as to the petitioner's ability to relieve the beneficiary from performing non-specialty occupation marketing services, and undermines the credibility of the petitioner's descriptions of the proffered position within the context of its business operations.

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). Doubt cast on any aspect of the petitioner's proof may, of

course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

Based upon the deficiencies in the record, including the vague descriptions of the proposed duties and the unclear nature of the petitioner's business operations, the evidence of record fails to establish the substantive nature of the proffered position. The failure to establish the substantive nature of the work to be performed by the beneficiary, therefore, 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.

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 as a specialty occupation. For this additional reason, the appeal will be dismissed and the petition denied.

Furthermore, even if the petitioner were able to establish the substantive nature of the work to be performed by the beneficiary, we still could not find that the proffered the proffered position qualifies as a specialty occupation. Specifically, the petitioner asserts that the minimum educational requirement for the proffered position is "a Bachelor's degree in Science, computer science, computer engineering, electronics, engineering, [and] physical sciences."

With respect to "engineering," the issue is that the field of "engineering" is a broad category that covers numerous and various specialties, some of which are only related through the basic principles of science and mathematics, e.g., nuclear engineering and aerospace engineering. Therefore, besides a degree in electrical engineering, it is not readily apparent that a general degree in engineering or one of its other sub-specialties, such as chemical engineering or nuclear engineering, is closely related to computer science or that engineering or any and all engineering specialties are directly related to the duties and responsibilities of the particular position proffered in this matter.

Likewise, it is not readily apparent that a general degree in science or one of its other sub-specialties, such as physical sciences (which the petitioner expressly accepts), is closely related to computer science or that science or any and all science specialties are directly related to the duties and responsibilities of the particular position proffered in this matter. For instance, the petitioner states that "a Bachelor's level education includes core, applicable concepts of product engineering, design, and functionality, such as will enable the Business Development Specialist to understand the products and to align product specifications with larger trends and innovations in the field," but

has not explained why a degree in physical sciences would necessarily include courses in product engineering, design, and functionality.

Here and as indicated above, the petitioner, who bears the burden of proof in this proceeding, fails to establish either (1) that computer science, science, and engineering in general are closely related fields or (2) that engineering or any and all engineering specialties, and science or any and all science specialties, are directly related to the duties and responsibilities of the proffered position. Absent this evidence, it cannot be found that the particular position proffered in this matter has a normal minimum entry requirement of a bachelor's or higher degree in a specific specialty or its equivalent under the petitioner's own standards. Accordingly, as the evidence of record fails to establish a standard, minimum requirement of at least a bachelor's degree *in a specific specialty* or its equivalent for entry into the particular position, it does not support the proffered position as being a specialty occupation and, in fact, supports the opposite conclusion.

Therefore, absent 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 anything more than a general bachelor's degree. As explained above, USCIS interprets 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. USCIS has consistently stated that, although a general-purpose bachelor's degree 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. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007).

We note that the petitioner has undermined its own assertions regarding the minimum educational requirement for the proffered position. That is, despite the petitioner's statement that it and its affiliates have "never hired anyone without the minimum of a baccalaureate degree in [Engineering, Science, Computer Applications, Math, or Information Technology, or Computer Information Systems, or Computer Science, or related field] or equivalent," the evidence demonstrates that the employees who the petitioner asserts are employed by the petitioner or its affiliates as Business Development Specialists do not all possess these degrees. Specifically, the petitioner submitted evidence that it employs individuals as Business Development Specialists who possess foreign degrees in a variety of other fields including, *inter alia*, Commerce, Personnel Management, Management with a concentration in Marketing and Human Resources Management, Pharmacy, Business Management, and Business Administration. The petitioner has not established how all of these varying fields indicate a standard educational requirement that is directly related to the duties and responsibilities of the particular position.

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 591-92. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

As such, even if the substantive nature of the work had been established, the instant petition could not be approved for this additional reason.

Finally, we will briefly address why we decline to regard the "Expert Opinion Letter" from Dr. [REDACTED] as probative evidence of the proffered position as a specialty occupation. The petitioner has not established that Dr. [REDACTED] a Professor of Marketing, can reasonably be considered an "expert" or is otherwise qualified to render an advisory opinion about the proffered position.

Specifically, Dr. [REDACTED] explains his qualifications as having "a Doctoral Degree in Marketing (with minors in Accounting, Economics and Finance) from [REDACTED], and extensive experience as a professor of marketing, business, management, and related fields," as well as consulting experience "primarily focused in the areas of marketing, advertising, and branding." Dr. [REDACTED] does not, however, explain in detail the extent of his knowledge of the petitioner's industry in general, or with regard to the particular operations of business entities in that industry of the relative size and scope of the petitioner. While Dr. [REDACTED] summarily states that he has "had ample opportunity to observe the infrastructures and requirements of firms of varying sizes . . . including highly technical industries, such as the business information technology industry in which the employer operates," he does not further explain what particular business operations he has observed, the extent of his observations, and how such observations renders him an expert with respect to the proffered position. Moreover, we see no evidence that he has obtained first-hand knowledge of the petitioner's operations or otherwise obtained sufficient knowledge of the actual requirements of the proffered position for us to accord his opinion any weight at all.

We may, in our discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm'r 1988).

III. CONCLUSION AND ORDER

As set forth above, we agree with the director's finding that the evidence of record does not establish that the proffered position qualifies for classification as a specialty occupation. Accordingly, the director's decision will not be disturbed.

The petition will be denied and the appeal dismissed. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed. The petition is denied.