



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

MATTER OF W-S- INC.

DATE: AUG. 18, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, an importer and distributor of novelty gift products, seeks to temporarily employ the Beneficiary as a “business development specialist” under the H-1B nonimmigrant classification. *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, Vermont Service Center, denied the petition. The Director concluded that the position offered to the Beneficiary does not qualify as a specialty occupation.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director erred in finding that the position of “business development specialist” is not a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A).

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

I. THE LAW

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) states, in pertinent part, the following:

Specialty occupation means an occupation which [(1)] requires 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 [(2)] requires 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.

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). U.S. Citizenship and Immigration Services (USCIS) has consistently interpreted 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 proposed position. See *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing “a degree requirement in a specific specialty” as “one that relates directly to the duties and responsibilities of a particular position”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

II. PROFFERED POSITION

In its initial letter of support, the Petitioner provided a list of the job duties for the proffered position, and expanded this list in response to the Director's request for evidence (RFE). Specifically, the Petitioner described the Beneficiary's duties in the position of business development specialist as follows (verbatim):

- 30% of his time will be devoted to identifying and maintaining business relations with customers for lighters, special accessories and other novelty gift products through identifying and estimating customer needs, concerns, maintaining knowledge of products and sales related issues facing the customers and following up on customers interactions;

- 25% of his time will be devoted to managing accounts and following up on customer interactions, and initiating daily contact with production resources, including Far East sourcing partners, manufacturers, third party vendors, and other functions. He is expected to apply knowledge of products/services and customer needs to capitalize on opportunities and take full advantage of his Chinese background to streamline coordination between production in China and marketing of products in the United States;
- 25% of his time will be devoted to providing customers with product and sales related information, including product specifications, pricing, contract terms and availability, as well as recommending appropriate products to customers according to their requirements and needs based on market research findings;
- 10% of his time will be devoted to negotiating sales terms and participating in trade shows and other marketing activities to promote the company's products and services to customers;
- 10% of his time will be devoted to coordinating with logistics related companies and foreign freight forwarders to meet shipping deadlines, as well as developing new customers and accounts.

According to the Petitioner's initial letter of support, the position requires at least a bachelor's degree in business administration or a related field. In response to the RFE, the Petitioner claimed that a bachelor's degree in business, marketing, or a related field of academic studies is an acceptable prerequisite for entry into the position.

III. 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. Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.¹

Here, the Petitioner asserts that the minimum educational requirement for entry into the proffered position includes a bachelor's degree in business administration or business. However, although a general-purpose bachelor's degree in business administration or business 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 at 147.²

¹ 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.

² Specifically, the judge explained in *Royal Siam*, 484 F.3 at 147, that:

The courts and the agency consistently have stated that, although a general-purpose bachelor's degree, such as a business administration degree, may be a legitimate prerequisite for a particular position,

As previously stated, USCIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty (or its equivalent) that is directly related to the proposed position. 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 or business, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Associates*, 19 I&N Dec. 558, 560 (Comm'r 1988). Based on the Petitioner's own requirement of a general-purpose bachelor's degree, we cannot find that the proffered position qualifies as a specialty occupation which, by definition, requires at least a minimum of a bachelor's degree in "the" or "a" specific specialty, or its equivalent. Section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii).

Moreover, we cannot find that the proffered position qualifies as a specialty occupation under any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).³

A. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor's (DOL's) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.⁴

On the labor condition application (LCA) submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Market Research Analysts and Marketing Specialists" corresponding to Standard Occupational Classification code 13-1161 at a Level I wage.⁵

requiring such a degree, without more, will not justify the granting of a petition for an H-1B specialty occupation visa. *See, e.g., Tapis Int'l v. INS*, 94 F.Supp.2d 172, 175-76 (D. Mass. 2000); *Shanti*, 36 F. Supp.2d at 1164-66; *cf. Matter of Michael Hertz Assocs.*, 19 I & N Dec. 558, 560 ([Comm'r] 1988) (providing frequently cited analysis in connection with a conceptually similar provision). This is as it should be: otherwise, an employer could ensure the granting of a specialty occupation visa petition by the simple expedient of creating a generic (and essentially artificial) degree requirement.

³ Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

⁴ All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. That is, the occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and USCIS regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

⁵ We will consider the Petitioner's classification of the proffered position at a Level I wage (the lowest of four assignable wage levels) in our analysis of the position. The "Prevailing Wage Determination Policy Guidance" issued by the DOL provides a description of the wage levels. A Level I wage rate is generally appropriate for positions for which the Petitioner expects the Beneficiary to have a basic understanding of the occupation. This wage rate indicates: (1) that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; (2) that he will be closely supervised and his work closely monitored and reviewed for accuracy; and (3) that he will receive specific

The *Handbook* subchapter entitled “How to Become a Market Research Analyst” states in pertinent part: “Market research analysts typically need a bachelor’s degree in market research or a related field. Many have degrees in fields such as statistics, math, and computer science. Others have backgrounds in business administration, the social sciences, or communications.”⁶ The *Handbook* further states that “[c]ourses in statistics, research methods, and marketing are essential for these workers. Courses in communications and social sciences, such as economics or consumer behavior, are also important.”⁷

The *Handbook* reports that market research analysts have degrees and backgrounds in a wide variety of disparate fields. That is, while the *Handbook* states that employees typically need a bachelor’s degree in market research or a related field, it continues by specifying that many market research analysts have degrees in fields such as statistics, math, or computer science. According to the *Handbook*, other market research analysts have backgrounds in fields such as business administration, the social sciences, or communications. This passage of the *Handbook* identifies various courses as essential to this occupation, including statistics, research methods, and marketing. It further elucidates that courses in communications and social sciences (such as economics or consumer behavior) are also important.

In general, provided the specialties are closely related, e.g., statistics and math, 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 disparate fields, such as market research and computer science, 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.⁸ Section 214(i)(1)(B) of the Act (emphasis added). The Petitioner has not done so here.

instructions on required tasks and expected results. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://flcdatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf. A prevailing wage determination starts with an entry level wage and progresses to a higher wage level after considering the experience, education, and skill requirements of the Petitioner’s job opportunity. *Id.* A Level I wage should be considered for research fellows, workers in training, or internships. *Id.*

⁶ For additional information regarding the occupational category “Market Research Analysts,” see U.S. Dep’t of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., “Market Research Analysts,” <http://www.bls.gov/ooh/business-and-financial/market-research-analysts.htm#management/print/property-real-estate-and-community-association-managers.htm> (last visited Aug. 16, 2016).

⁷ *Id.*

⁸ Whether read with the statutory “the” or the regulatory “a,” both readings denote a singular “specialty.” Section 214(i)(1)(B) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). Still, 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. This also includes even seemingly disparate specialties provided the evidence of record establishes how each acceptable, specific field of study is directly related to the duties and responsibilities of the particular position.

The *Handbook* also states that “others have a background in business administration.” The *Handbook* is consistent with the Petitioner’s own requirement of a degree in business administration or business. As previously discussed, however, the requirement of a general-purpose bachelor’s degree in business administration or business, 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 at 147; cf. *Matter of Michael Hertz Associates*, 19 I&N Dec. at 560. The *Handbook’s* recognition that a general degree requirement is sufficient for entry into the occupation further supports the conclusion that a bachelor’s degree *in a specific specialty* is not normally the minimum entry requirement for this occupation.

The Petitioner also submitted a printout of the Occupational Information Network (O*NET) report for “Market Research Analysts and Marketing Specialists.” The Petitioner asserts that since the occupation is assigned a Job Zone Rating of Four, the occupation, and the proffered position by extension, requires at least a bachelor’s degree for entry into the occupational category. We note the Petitioner’s assertions, but point out that O*NET does not state a requirement for a bachelor’s degree in a specific specialty. More specifically, O*NET Job Zone designations make no mention of the specific field of study from which a degree must come.⁹

Further, the O*NET summary report provides the educational requirements of “respondents,” but does not account for 100% of the “respondents.” The respondents’ positions within the occupation are not distinguished by career level (e.g., entry-level, mid-level, senior-level). Additionally, the graph in the summary report does not indicate that the “educational level” for the respondents must be in a specific specialty. Therefore, the O*NET information is not probative of the proffered position’s being a specialty occupation.

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

B. Second Criterion

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

⁹ For more information about O*NET Job Zone ratings, see O*NET OnLine Help – Job Zones, <http://www.onetonline.org/help/online/zones> (last visited Aug. 16, 2016).

1. First Prong

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

In determining whether there is such a common degree requirement, factors often considered by USCIS include: whether the *Handbook* reports that the industry requires a degree; whether the industry’s professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms “routinely employ and recruit only degreed individuals.” See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

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

We have reviewed the printouts of the online job announcements submitted by the Petitioner in response to the RFE. This documentation, however, does not establish that the advertising organizations are similar to and in the same industry as the Petitioner, and are for parallel positions.

Although all positions advertised are for a business development manager with some similar duties, it is not possible to ascertain that the advertised positions are parallel to the proffered position. For example, all three advertisements require at least 5 to 7 years of experience in addition to a bachelor’s degree. As previously noted, the Petitioner designated the proffered position at a Level I, entry-level wage rate, which is appropriate for a worker-in-training or an individual performing an internship, not for a position that requires significant experience in addition to a degree.¹⁰ Without detailed information regarding the proffered position and additional evidence regarding the duties and responsibilities of the advertised positions, it is not possible to conclude that the advertised positions are parallel to the proffered position, either in terms of duties or qualifications.

Nor has the Petitioner submitted sufficient information about the general characteristics of the advertising organizations to demonstrate that they are similar to the Petitioner and in the same industry. The advertising organizations include a solar powered ventilations products manufacturer, a freight forwarding company, and an unidentified organization. No additional relevant information about these

¹⁰ For additional information regarding wage levels, see DOL, Employment and Training Administration’s *Prevailing Wage Determination Policy Guidance*, Nonagricultural Immigration Programs (Rev. Nov. 2009), available on the Internet at http://www.foreignlaborcert.doleta.gov/pdf/Policy_Nonag_Progs.pdf.

organizations, such as their level of revenue and staffing, was provided. On appeal, the Petitioner acknowledges that the submitted advertisements are not for positions within organizations identical to the Petitioner, and states that “it is simply impossible to find job postings for Market Research Analysts by other businesses doing exactly the same business as the petitioner.” The Petitioner asserts that the submitted advertisements are representative of parallel positions among similar organizations within the industry of manufacturing, importation, and distribution, and emphasizes that the postings represent an industry-wide hiring standard.

While the Petitioner’s assertions are noted, the regulatory criterion requires the Petitioner to demonstrate that “[t]he degree requirement is common to *the industry* in parallel positions among *similar organizations*.” 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The Petitioner does not state which aspects or traits (if any) it shares with these advertising organizations, and presents no evidence to establish similarities with the organizations. “[G]oing 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 Cal.*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)). Moreover, despite the Petitioner’s position that these advertisements are representative of positions within the industry of manufacturing, importation, and distribution, the Petitioner does not claim to be in the industry of manufacturing. Instead, the Petitioner describes itself as an importer and distributor of gift products.

Even if we were to accept the Petitioner’s assertions, the Petitioner does not demonstrate what statistically valid inferences, if any, can be drawn from this limited number of advertisements with regard to an industry-wide standard minimum entry requirement.¹¹ Therefore, the Petitioner’s request to treat these advertisements as from similar organizations within the Petitioner’s industry for parallel positions is not persuasive.¹²

Based upon a complete review of the record of proceedings, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

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

The Petitioner has not expressly asserted eligibility under this criterion and the record contains no evidence for our consideration under this criterion. Although the Petitioner claims that the Beneficiary is well qualified for the position, and references his educational background and bilingual skills, the test

¹¹ See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995).

¹² As the advertisements are deficient for the above reasons, further analysis regarding the specific information contained in each job postings is not necessary. That is, not every deficit of every job posting has been addressed.

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to establish a position as a specialty occupation is not the education or experience of a proposed beneficiary, but whether the position itself requires at least a bachelor's degree in a specific specialty, or its equivalent. The Petitioner has not satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Third Criterion

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

In response to the RFE, the Petitioner stated that it also employs a president, a vice president, and an accountant, all of whom hold bachelor's degrees. While we note the Petitioner's assertion that the employment of degreed individuals demonstrates a "high level of professionalism" within its organization, the Petitioner has submitted no evidence regarding employees who currently or previously held the position of business development specialist. The evidence of record, therefore, does not establish the Petitioner's eligibility under 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

D. Fourth Criterion

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

We reviewed the Petitioner's statements regarding the proffered position and its business operations. However, relative specialization and complexity have not been sufficiently developed by the Petitioner as an aspect of the proffered position. The Petitioner states that it regularly rents a booth at the [REDACTED] to sell its products, claiming that this is an example of the complex nature of the Beneficiary's duties. While the Petitioner emphasizes that the Beneficiary will draw upon his skills and knowledge learned from certain bachelor-level and master-level coursework, the Petitioner has not offered an analysis of why the duties it generically describes require a bachelor's degree in a specific specialty, or how the Petitioner's participation in a trade show renders the Beneficiary's duties specialized and complex. Although the Petitioner asserts that the nature of its operations, which involves the import and distribution of goods from China, requires the Beneficiary to draw upon his educational background and bilingual skills to facilitate the import and distribution of goods, the Petitioner has not provided probative evidence establishing that more than a general degree is necessary to perform the duties of the proffered position. That is, the duties of the position are not described in such a way that establishes that the duties require more than a general bachelor's degree.

We recall the Petitioner's assertions that the duties of the proffered position closely parallel those of a market research analyst as set forth in the *Handbook* and the O*NET, thus suggesting that the Beneficiary will perform general marketing duties typically performed by non-specialty degreed individuals within the industry. We also recall the Petitioner's own statements that the minimum

educational requirement for the proffered position can be satisfied by an otherwise unspecified, general-purpose degree in business administration or business. Although the Petitioner may desire a candidate that has a bachelor's degree, the Petitioner does not submit sufficient probative evidence explaining in detail how or why the proposed duties are so complex or specialized that they require a bachelor's degree in a specific specialty, or its equivalent, to perform them.

We additionally incorporate our earlier discussion and analysis regarding the designation of the proffered position in the LCA as a Level I position (of the lowest of four assignable wage-levels) relative to others within the occupational category.¹³ Without more, the position is one not likely distinguishable by relatively specialized and complex duties, as such a position would likely be classified at a higher-level, requiring a substantially higher prevailing wage.¹⁴

Although the Petitioner asserts that the nature of the specific duties is specialized and complex, the record lacks sufficient evidence to support this claim. Thus, the Petitioner has submitted inadequate probative evidence to satisfy the criterion of the regulations at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

IV. CONCLUSION

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

Cite as *Matter of W-S- Inc.*, ID# 07804 (AAO Aug. 18, 2016)

¹³ The Petitioner's designation of this position as a Level I, entry-level position undermines its claim that the position is particularly complex, specialized, or unique compared to other positions *within the same occupation*. Nevertheless, a Level I wage-designation does not preclude a proffered position from classification as a specialty occupation, just as a Level IV wage-designation does not definitively establish such a classification. In certain occupations (e.g., doctors or lawyers), a Level I, entry-level position would still require a minimum of a bachelor's degree in a specific specialty, or its equivalent, for entry. Similarly, however, a Level IV wage-designation would not reflect that an occupation qualifies as a specialty occupation if that higher-level position does not have an entry requirement of at least a bachelor's degree in a specific specialty, or its equivalent. That is, a position's wage-level designation may be a relevant factor but is not itself conclusive evidence that a proffered position meets the requirements of section 214(i)(1) of the Act.

¹⁴ For additional information regarding wage levels, see DOL, Employment and Training Administration's *Prevailing Wage Determination Policy Guidance*, Nonagricultural Immigration Programs (Rev. Nov. 2009), available on the Internet at http://www.foreignlaborcert.doleta.gov/pdf/Policy_Nonag_Progs.pdf.