



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

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

MATTER OF P-S-, INC

DATE: JUNE 1, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a computer consulting company, seeks to temporarily employ the Beneficiary as a “computer programmer analyst” 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, California Service Center, denied the petition. The Director concluded that the evidence of record was insufficient to establish that the proffered position is a specialty occupation and that the Petitioner will have an employer-employee relationship with the Beneficiary.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that it has and continues to have specialty occupation work available for the Beneficiary and that it is the Beneficiary’s employer.

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

**I. 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) 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:

(b)(6)

*Matter of P-S-, Inc.*

- (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).

We note that, as recognized by the court in *Defensor*, 201 F.3d at 387-88, where the work is to be performed for entities other than the petitioner, evidence of the client companies’ job requirements is critical. 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.* 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.

## II. PROFFERED POSITION

The Petitioner identified the proffered position as a “computer programmer analyst” on the H-1B petition. In a letter submitted in support of the petition, the Petitioner stated that the Beneficiary “will design, write, develop and enhance custom-made software applications as per specific requirements and will render professional service, in this particular instance, for our client.” The Petitioner noted that the Beneficiary will work on the [REDACTED] project and provided an overview of the project. The Petitioner stated that the Beneficiary’s specific duties will include:

- Provide documentation (FSD) for each developed component/modules/scripts to be used for [REDACTED]

(b)(6)

*Matter of P-S-, Inc.*

- Build/Develop new features and/or components in applications as per requirements for the new of [sic] [REDACTED] as assigned by Client.
- Conduct Unit testing for new features and/or components of [REDACTED]
- SIT Support – Troubleshoot and resolve any defects as become evident during system integration (SIT)[.]
- Develop a Jar which will interact with Informatica API and make is as a self-executable Jar.

The Petitioner added that the Beneficiary will also perform the following duties (paraphrased and bullet points added):

- Be involved in programming, as well as in systems integration, trouble-shooting, and design, development and implantation of software applications/solutions.
- Maintain thorough and accurate documentation on all application systems and adhere to established programming and documentation standards.
- Provide technical evaluation of updated products, assess time estimation, and provide technical support within the organization.
- Responsible for updating existing software systems and appraising management on the software that is developed to increase business efficiency or adapt to new requirements.
- Involved in testing, updating, and reviewing computer programs and ensure the successful deployment and use of the system/solutions.

The Petitioner stated that the minimum requirement for this position is a “Bachelor’s degree or its equivalent in computer science, engineering or a closely related field.”

In response to the Director’s request for evidence (RFE) the Petitioner stated that the Beneficiary will work on the [REDACTED] project. The Petitioner described the Beneficiary’s duties as follows:

- Provide documentation (FSD) for each developed component/modules/scripts to be used for [REDACTED]
- Build/Develop new features and/or components in applications as per requirements for the new [REDACTED] service as assigned by client[.]
- Develop new web services for lockbox domain[.]
- Extend account web services for additional products[.]
- Develop new core domain web services[.]
- Develop new billing domain web services[.]
- Onshore-Offshore coordination[.]
- Work on enhancements for existing web services[.]
- Conduct Unit testing for new features and/or components of modified services[.]

(b)(6)

*Matter of P-S-, Inc.*

- SIT Support – Troubleshoot and resolve any defects as become evident during system integration (SIT).

On appeal, the Petitioner provides another description of the Beneficiary's duties with the percentages of time she will allocate to the duties:

- Requirement Gathering (20%): Analyze and gather requirements for each developed component/modules/scripts to be used for [REDACTED]
- Technical Discussions and Solutions (10%): Discussions with onshore technical and solution architects to identify how the requirements can be embedded into the product effectively; identify and determine solutions as to how the product can be made more scalable and robust; and discussions with technical design team to understand the framework that will be used in [REDACTED] program.
- Design and Documentation (10%): Work on design and architecture of the overall product considering the requirement gathered; Work on high level estimations and development road map based on the requirements; provide documentation (FSD) for each developed component/modules/scripts to be used; and prepare design documents such as High Level Design (HLDs) and Low Level Design (LLDs) with the help of UML diagrams such as ERDs, class diagram, Sequence diagram, Flow diagram etc.
- Coding and Development (30%): Build/develop new features and/or components in applications as per requirements for the new SEBS modules as assigned by Client; develop a Jar which will interact with Informatica API and make it as a self-executable Jar; and build an overall framework that generates the required metrics on the fly.
- Unit and Functional Testing (10%): Conduct Unit testing for new features and/or components developed/modified in [REDACTED] visual studio provides its internal tool for unit testing called test classes, a minimum of 75% of which is needed to package the application (for deployment); and perform basic functional testing for the developed features from UI.
- Production Support (10%): Support – troubleshoot and resolve any defects as become evident during system integration (SIT).
- Miscellaneous (10%): Coordination with offshore teams; onshore support for deliverables; technical help to onshore teams on implementation of key modules; walkthroughs of design and architecture of the HLD and LLDs to offshore team; clarification with offshore team on requirement front; and technical documentation.

The Petitioner states that its “understanding with the client is to select highly qualified functional and technical professionals for these projects given the complexity of this multi-billion dollar financial institution’s business and systems.”

(b)(6)

*Matter of P-S-, Inc.*

### III. ANALYSIS

In this matter the Petitioner has provided a general overview of the proffered position's duties and asserts that the Beneficiary will be assigned to perform this work on project(s) for a third party client.<sup>1</sup> The statements of work (SOW) provided show that an unidentified, undetermined number of the Petitioner's personnel will be assigned to work on the client project(s) which is either in the development or application support stage. The SOWs each provide a broadly-stated description of the scope of the project(s), and a brief, few-word description of the activities associated with the SOW.<sup>2</sup> None of the SOWs specifically lists the Beneficiary or a computer programmer analyst as one of the key assigned personnel.

We observe that the latest SOW, dated July 27, 2015, does not list anyone under "Key Vendor Personnel" (see subsection 5.1). Moreover, the latest SOW lists three subcontractor companies as performing 75% of the total work to be performed by the Petitioner (see subsection 5.2). The Petitioner has not explained the significance of this information reflecting that it will subcontract 75% of its work out to other companies, and how this will affect the availability of work for the Petitioner and the Beneficiary.

In addition, the latest SOW states that "[t]he Service Level Agreements are attached in Appendix A." However, the Petitioner has not provided any documents entitled "Service Level Agreements" or "Appendix A." The Petitioner also has not provided any other documents from the claimed third party client in support of the instant petition. Therefore, upon review of the totality of the record, it is not possible to ascertain the Beneficiary's assignment, her actual day-to-day duties, and whether the duties comprise specialty occupation work. Again, where the work is to be performed for entities other than the Petitioner, evidence of the client companies' job requirements is critical. *Defensor*, 201 F.3d at 387-88. In addition, "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 Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Taken as a whole, the record of proceedings does not contain sufficient, reliable evidence demonstrating the substantive nature of the proffered position and its constituent duties.<sup>3</sup> Nevertheless, we will review the Petitioner's general description of duties and the evidence of record to determine whether the proffered position as described would qualify for classification as a

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<sup>1</sup> The Petitioner initially stated that the Beneficiary would work on the [REDACTED] project. Subsequently, the Petitioner stated that the Beneficiary would work on the [REDACTED] project. The Petitioner has not established whether the [REDACTED] project and the [REDACTED] project are the same.

<sup>2</sup> For example, the SOW indicates that the project activities include: requirement analysis, development and unit testing, enhancements, system integration testing and user acceptance testing.

<sup>3</sup> Further, without full disclosure, we are unable to determine whether the requisite employer-employee relationship with exist between the Petitioner and Beneficiary.

specialty occupation.<sup>4</sup> To that end and to make our determination as to whether the employment described above qualifies as a specialty occupation, we turn to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

#### A. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.<sup>5</sup>

The Petitioner attested on the required labor condition application (LCA) that the occupational classification for the position is "Computer Systems Analysts," corresponding to the Standard Occupational Classification code 15-1121 at a Level I wage.

The *Handbook* subchapter entitled "How to Become a Computer Systems Analyst" states, in pertinent part: "A bachelor's degree in a computer or information science field is common, although not always a requirement. Some firms hire analysts with business or liberal arts degrees who have skills in information technology or computer programming." U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., "Computer Systems Analysts," <http://www.bls.gov/ooh/computer-and-information-technology/computer-systems-analysts.htm#tab-4> (last visited May 4, 2016). The *Handbook* also states: "Although many computer systems analysts have technical degrees, such a degree is not always a requirement. Many analysts have liberal arts degrees and have gained programming or technical expertise elsewhere." *Id.*

The *Handbook* indicates that a bachelor's degree in a computer or information science field may be common, but not that it is a *requirement* for entry into these jobs. In fact, this chapter reports that "many" computer systems analysts may only have liberal arts degrees and programming or technical experience, but does not further qualify the amount of experience needed. The *Handbook* also notes that many analysts have technical degrees, but does not specify a degree level (e.g., associate's degree) for these technical degrees. The *Handbook* further specifies that such a technical degree is not always a requirement. Thus, this passage of the *Handbook* reports that there are several paths for

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<sup>4</sup> The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

<sup>5</sup> All of our references are to the 2016-17 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.

entry into the occupation.

When reviewing the *Handbook*, we must also consider that the Petitioner designated the proffered position as a Level I (entry) position on the LCA. The “Prevailing Wage Determination Policy Guidance” issued by the DOL describes a Level I wage rate as generally appropriate for a position 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 she will be closely supervised and her work closely monitored and reviewed for accuracy; and (3) that she will receive specific instructions on required tasks and expected results. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at [http://flcdatacenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](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.* Thus, in designating the proffered position at a Level I wage, the Petitioner has indicated that the proffered position is a comparatively low, entry-level position relative to others within the occupation.<sup>6</sup>

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.

### 1. First Prong

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<sup>6</sup> The Petitioner’s designation of this position as a Level I, entry-level position indicates that it is a comparatively low-level position 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.

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)).

As discussed above, 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 our 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.* Therefore, based upon a complete review of the record, we conclude that 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.

Upon review, we find that the Petitioner has not sufficiently developed relative complexity or uniqueness as an aspect of the proffered position. For instance, the Petitioner did not submit information relevant to a detailed course of study leading to a specialty degree and did not establish how such a curriculum is necessary to perform the duties it may believe are so complex and unique. While a few related courses may be beneficial in performing certain duties of the position, the Petitioner has not demonstrated how an established curriculum of such courses leading to a baccalaureate or higher degree in a specific specialty, or its equivalent, is required to perform the duties of the proffered position.

In this matter, the Petitioner highlights “the complexity of [its client’s] multi-billion dollar financial institution’s business and systems,” and asserts that the position’s “duties are both technical and very complex.” However, these vague descriptions of the client’s operations, without specifically relating the duties of the proffered position to the client’s operations, are insufficient to establish relative complexity or uniqueness as aspects of the proffered position. The general descriptions of the

(b)(6)

*Matter of P-S-, Inc.*

proffered duties do not identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. Rather, the duties the Petitioner ascribed to the proffered position indicate a need for a range of technical knowledge in the computer/IT field, but do not establish any particular level of formal, postsecondary education leading to a bachelor's or higher degree in a specific specialty (or its equivalent) as minimally necessary to attain such knowledge.

Further, the LCA submitted by the Petitioner indicates that the proffered position is a Level I (entry) wage, which, as noted above, is the lowest of four assignable wage levels. Without additional evidence, the record of proceeding does not indicate that the proffered position is so complex or unique, as such a position would likely be classified at a higher-level, which requires a significantly higher prevailing wage. For all of the above reasons, 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.

Here, the Petitioner submits on appeal a list of 52 employees whom it claims are "all the [P]etitioner's [client] onsite team members." The list identifies the employees by name, title, visa-type, and education level. The titles include computer programmer analyst, senior computer programmer analyst, architect, senior architect, delivery manager, and senior delivery manager, and their educational levels include bachelor's or master's degrees in engineering (information technology and electronics), computers, and technology.

Without additional evidence regarding these individuals' job duties and positions, it is not possible to discern if the different titled positions within the list of 52 employees perform the same or similar duties with similar levels of responsibilities as the proffered position. For instance, the Petitioner's list of employees includes several individuals who appear to be employed in a "senior" capacity. However, as the Petitioner has designated the proffered position as a Level I entry position, it does not appear that these individuals are employed in the same capacity as the proffered position.

In addition, although the Petitioner asserts that all of these individuals are assigned to the same client as the Beneficiary, the Petitioner has not submitted sufficient evidence to support this assertion. We observe, for example, that these individuals reside in different states ranging from California to Minnesota. Regardless, even if they were all assigned to the same client as claimed, this still does not establish that these individuals are employed in the same capacity as the proffered position, which is the relevant inquiry under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Moreover, the Petitioner states that it was established in [REDACTED], and currently employs over 500 employees. The Petitioner has not specified how many of its 500 plus employees are in a computer programmer analyst position, and how many computer programmer analysts the company has

employed in the past. Thus, it is not possible to determine how representative this list of employees is of the Petitioner's employment practices for the proffered position.

On appeal, the Petitioner asserts that it is "inexplicable as to why USCIS has approved so many petitions over the years for the same or other similar specialty occupation positions, for [the Petitioner's] employees with the same or similar educational qualifications, for the very same . . . client and the specialty occupation work being done here." However, as discussed above, the record does not include sufficient evidence of the specific client assignments the individuals granted H-1B approval were given, and does not include evidence of the specific work these individuals performed. The record also does not include corroborating evidence of these individuals' claimed educational credentials. Accordingly, we do not have sufficient information to compare the proffered position to the positions previously approved for H-1B employment. A prior approval does not compel the approval of a subsequent petition or relieve the Petitioner of its burden to provide sufficient documentation to establish current eligibility for the benefit sought.<sup>7</sup> Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act, 55 Fed. Reg. 2,606, 2,612 (Jan. 26, 1990) (to be codified at 8 C.F.R. pt. 214).

Here, the record of proceedings is insufficient to establish that the Petitioner normally requires a bachelor's or higher degree in the specific specialty, or its equivalent, for the proffered position. The Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

#### D. Fourth Criterion

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

In the instant case, relative specialization and complexity have not been sufficiently developed by the Petitioner as an aspect of the proffered position. The Petitioner does not establish how the generally described duties of its computer programmer analyst elevate the proffered position to a specialty occupation. We again refer to our comments regarding the insufficient evidence of the

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<sup>7</sup> While a petitioner may believe or otherwise assert that a proffered position requires a degree in a specific specialty, that opinion alone without corroborating evidence cannot establish the position as a specialty occupation. Were USCIS limited solely to reviewing a petitioner's claimed self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the employer artificially created a token degree requirement, whereby all individuals employed in a particular position possessed a baccalaureate or higher degree in the specific specialty or its equivalent. *See Defensor v. Meissner*, 201 F. 3d at 387. In other words, if a petitioner's degree requirement is only symbolic and the proffered position does not in fact require such a specialty degree or its equivalent to perform its duties, the occupation would not meet the statutory or regulatory definition of a specialty occupation. *See* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

*Matter of P-S-, Inc.*

Beneficiary's job duties and assignment, as well as to the implications of the Petitioner's designation of the proffered position at a Level I (entry) wage level.

Upon review of the totality of the record, the Petitioner has not established that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent. For the reasons discussed above, the evidence of record does not satisfy the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

#### IV. CONCLUSION

The Petitioner has not satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, we cannot find that the proffered position qualifies as a specialty occupation. The appeal will be dismissed and the petition denied for this reason. As this basis for denial is dispositive of the Petitioner's eligibility for the benefit sought, we need not and will not address at this time any additional issues in the record of proceedings.

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 P-S-, Inc.*, ID# 16979 (AAO June 1, 2016)