



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

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

MATTER OF S-C-, INC.

DATE: JUNE 1, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a development and consulting firm, seeks to temporarily employ the Beneficiary as an “ERP systems analyst” under the H-1B nonimmigrant classification. *See* Immigration and Nationality Act (the Act) § 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 there is insufficient evidence to establish that the proffered position qualifies 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’s basis for denial of the petition was erroneous and contends that it satisfied all evidentiary requirements. 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:

- (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 the H-1B petition, the Petitioner stated that the Beneficiary will serve as an “ERP systems analyst.” In the letter of support, the Petitioner provided the Beneficiary’s job duties in the proffered position.¹ In addition, the Petitioner stated that the proffered position requires a bachelor’s degree in business, or related fields.

In response to the Director’s request for evidence (RFE), the Petitioner provided a revised job description for the position, along with the approximate percentage of time the Beneficiary will spend on each duty:

DAILY TASK ACTIVITY	TIME UTILIZED ON EACH TASK
System Design (Gross Design and Modification)	10%
Systems Analysis	20%
Software Development	10%
Write code and Develop programs	10%
Developing / implementing and creating new software	10%
Downloading historical data	10%
Unit and System testing, performance and debugging	20%

¹ We observe that the wording of the duties provided by the Petitioner for the proffered position in the letter of support is taken almost verbatim from the Occupational Information Network (O*NET) OnLine’s list of tasks associated with the occupation category “Computer Systems Analysts.”

Generating management reporting and implementation and provision of technical software support.	10%
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- Convert project specifications and statements of business processes and problems to detailed logical flow charts and diagrams (workflow) for coding in Advanced Business Application;
- Programming (ABAP) programming language for functional modules like SAP Finance and Controlling (FI/CO) etc.;
- Work on Reports, Enhancements, Conversion Programs, SAP script & Smart Forms, User-Exits using suitable Business Add-In (BADIs) and assist in migrating legacy data to SAP three-tier architecture (R/3) using Batch Data Communication (BDC);
- Identify the critical elements of application problems, develop and evaluate data, determine solutions and make logical recommendations;
- Troubleshoot and correct SAP modules problems by using ABAP programming language to implement Online Service System (OSS) notes;
- Interact with business analysts to ensure the proper integration of business processes and procedures to information technology;
- Prepare comprehensive and detailed technical program documentation including specifications, test conditions, test plans, test data, etc.;
- Provide support in defining technical requirements for on-going systems maintenance and future functionalities keeping system optimization in mind;
- Modify system screens to provide default values and eliminate unnecessary fields using transaction variants;
- Train users on programming of forms and reports, define authorization roles for security purposes, custom workflows, and other related areas;
- Consult with management to ensure agreement on system principles; expand or modify system to serve new purposes or improve work flow;
- Interview or survey workers, observe job performance or perform the job to determine what information is processed and how it is processed;
- Determine computer software or hardware needed to set up or alter system;
- Train staff and users to work with computer systems and programs.

The Petitioner also provided the following:

Here is the list of Roles & Responsibilities [the Beneficiary] would per [sic] performing during the assignments:

- Designing mapping documents in order to check the need of creation in BW.
- Preparing design documents from the Business Requirement docs and identified the relevant data targets for satisfying the customer requirements.
- Developing various objects like Cubes, ODS, Info Sources, InfoObjects etc.

- Designing Transfer Rules and update rules including start routines, update routines and Transfer routines as per the requirement.
- Responsible to deliver (Transport into Prod) the object as per the scheduled deadlines; with accuracy of deliverables by considering the quality norms.
- Conceptual understanding of SAP Hana.
- Enhancements as per Business requirement.
- Involving in the Client/Onsite communication for any client side clarifications, for assignment of work, for discussing on project status related issues, etc.

According to the Petitioner, the position requires a bachelor's degree in computer applications, computer science, or a related field.

III. ANALYSIS

Upon review of the record of proceedings, we find that there are inconsistencies and discrepancies in the petition and supporting documents, which do not support the Petitioner's credibility with regard to the services the Beneficiary will perform, as well as the nature and requirements of the proffered position. When a petition includes numerous discrepancies, those inconsistencies will raise serious concerns about the veracity of the Petitioner's assertions.

For example, there are additional discrepancies and inconsistencies in the record of proceedings with regard to the Beneficiary's rate of pay. For instance, in the H-1B petition, the Petitioner stated that the Beneficiary would be paid \$70,000 a year. However, in the Labor Condition Application (LCA), the Petitioner stated that the Beneficiary's compensation would be \$60,000 per year. The Petitioner did not acknowledge or provide any explanation for the discrepancy.

Furthermore, the Petitioner has provided inconsistent information regarding the requirements for the proffered position. Specifically, in the letter of support, the Petitioner stated that the proffered position requires a bachelor's degree in business, or related fields. However, in response to the RFE, the Petitioner stated that the proffered position can only be performed by an individual with a baccalaureate degree or higher in computer applications, computer science, or a related field. No explanation for this apparent inconsistency was provided by the Petitioner.

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

directly related to the duties and responsibilities of the particular position such that the required “body of highly specialized knowledge” is essentially an amalgamation of these different specialties. Section 214(i)(1)(B) of the Act (emphasis added).

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

Here, the Petitioner has represented that a bachelor’s degree in business, computer applications, and/or computer science is acceptable. The issue here is that it is not readily apparent that business is closely related to these fields or that the field of business is directly related to the duties and responsibilities of the particular position proffered in this matter. Further, the Petitioner’s claim that a bachelor’s degree in business is a sufficient minimum requirement for entry into the proffered position is inadequate to establish that the proposed position qualifies as a specialty occupation. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business, without further specification, does not establish the position as a specialty occupation.² Cf. *Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm’r 1988). Accordingly, as the evidence of record does not 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.

Nevertheless, we will continue our evaluation and analysis of the evidence provided by the Petitioner. 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 satisfies any of the criteria at

² A general degree requirement does not necessarily preclude a proffered position from qualifying as a specialty occupation. For example, an entry requirement of a bachelor’s or higher degree in business administration with a concentration in a specific field, or a bachelor’s or higher degree in business administration combined with relevant education, training, and/or experience may, in certain instances, qualify the proffered position as a specialty occupation. In either case, it must be demonstrated that the entry requirement is equivalent to a bachelor’s or higher degree in a specific specialty that is directly related to the proffered position. See *Royal Siam Corp. v. Chertoff*, 484 F.3d at 147.

It is also important to note that a position may not qualify as a specialty occupation based solely on either a preference for certain qualifications for the position or the claimed requirements of a petitioner. See *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000). Instead, the record must establish that the performance of the duties of the proffered position requires both the theoretical and practical application of a body of highly specialized knowledge and the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent, as the minimum for entry into the occupation. See section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term “specialty occupation”).

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8 C.F.R. § 214.2(h)(4)(iii)(A) and, therefore, qualifies as a specialty occupation.³ Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.⁴

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.⁵ 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.⁶

On the LCA submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Computer Systems Analysts," corresponding to the Standard Occupational Classification code 15-1121 at a Level I wage.⁷

³ In the decision denying the petition, the Director noted that the Petitioner had not established eligibility at the time of filing and noted that the Petitioner did not provide sufficient evidence to substantiate the current and continued development of its in-house mobile application project, such as: (1) competitive, marketing and/or cost analysis; (2) a short- or long- term budget; (3) evidence substantiating investments or revenue sources; (4) documentation regarding its sales, costs, and income projections; (5) contracts; (6) its timeline and staffing requirements for developing products; and/or (7) marketing materials, company brochures, pamphlets, or other documentation describing in detail its products and services. We agree with the Director that the record does not establish that there will be sufficient work through the entire requested H-1B validity period for the Beneficiary. Nevertheless, even assuming that the Petitioner had adequately addressed the discrepancy, the petition could not be approved because the Petitioner has not established that the proffered position qualifies as a specialty occupation.

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

⁵ Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

⁶ All of our references are to the 2016-2017 edition of the *Handbook*, available at <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.

⁷ 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 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://fledatacenter.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.*

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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 27, 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 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 entry into the occupation.

In addition, the Petitioner referenced the O*NET OnLine Summary Report for the occupational category “Computer Systems Analysts” to support the assertion that the proffered position qualifies as a specialty occupation. The Petitioner stated that the O*NET assigns a designation of Job Zone 4 to computer systems analyst positions and, therefore, it is clear that the position is a specialty occupation. A Job Zone 4 indicates that a position requires considerable preparation. It does not, however, demonstrate that a bachelor’s degree in any *specific specialty* is required, and does not, therefore, demonstrate that a position so designated is in a specialty occupation as defined in section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). The O*NET OnLine Help Center provides a discussion of the Job Zone 4 designation and explains that this zone signifies only that most, but not all of the occupations within it, require a bachelor’s degree. *See* O*NET OnLine Help Center at <http://www.onetonline.org/help/online/zones>. Further, the Help Center discussion confirms that a designation of Job Zone 4 does not indicate any requirements for particular majors or academic concentrations. Therefore, despite the Petitioner’s assertion to the contrary, the O*NET Summary Report is not probative evidence that the proffered position qualifies as a specialty occupation.

Thus, 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

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individual with a degree[.]” 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong contemplates the common industry practice, while the alternative prong narrows its focus to the Petitioner’s specific position.

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)).

As previously discussed, the Petitioner has not established that its proffered position is one for which the *Handbook*, or other authoritative source, reports a requirement for at least a bachelor’s degree in a specific specialty, or its equivalent. Thus, 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.”

In support of this criterion, the Petitioner submitted copies of job announcements placed by other employers. However, upon review of the documents, we find that the Petitioner’s reliance on the job announcements is misplaced. First, we note that some of the job postings do not appear to involve organizations similar to the Petitioner. For example, the advertising organizations include:

- [REDACTED] – a company that provides replacement parts for aviation ground support equipment;
- [REDACTED] – a company in the metals and minerals industry; and
- [REDACTED] – a company that provides aviation simulation and training solutions to the commercial and military markets.

Furthermore, one of the postings appears to be for a staffing agency, which little information is provided regarding the hiring employer. The Petitioner did not supplement the record to establish that the advertising organizations are similar to it.

When determining whether the Petitioner and the organization share the same general characteristics, such factors may include information regarding the nature or type of organization, and, when pertinent, the particular scope of operations, as well as the level of revenue and staffing

(to list just a few elements that may be considered). It is not sufficient for the Petitioner to claim that an organization is similar and in the same industry without providing a legitimate basis for such an assertion.

Moreover, many of the advertisements do not appear to be for parallel positions. For example, some of the positions appear to be for more senior positions than the proffered position. The Petitioner has not sufficiently established that the primary duties and responsibilities of the advertised positions are parallel to the proffered position.

In addition, some of the postings do not indicate that at least a bachelor's degree in a directly related specific specialty (or its equivalent) is required.⁸ The job postings suggest, at best, that although a bachelor's degree is sometimes required for ERP system analyst positions, a bachelor's degree in a *specific specialty* (or its equivalent) is not.⁹

As the documentation does not establish that the Petitioner has met this prong of the regulations, further analysis regarding the specific information contained in each of the job postings is not necessary.¹⁰ That is, not every deficit of every job posting has been addressed.

Without more, the Petitioner has not provided sufficient evidence to establish that a bachelor's degree in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations. Thus, 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

⁸ As discussed, the degree requirement set by the statutory and regulatory framework of the H-1B program is not just a bachelor's or higher degree, but a bachelor's degree in a specific specialty that is directly related to the duties of the position. See section 214(i)(1)(b) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). Further, a *desire* or *preference* for a degree in a field is not necessarily an indication of a minimum *requirement*.

⁹ It must be noted that even if all of the job postings indicated that a requirement of a bachelor's degree in a specific specialty is common to the industry in parallel positions among similar organizations (which they do not), the Petitioner has not demonstrated what statistically valid inferences, if any, can be drawn from the advertisements with regard to determining the common educational requirements for entry into parallel positions in similar organizations. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995). Moreover, given that there is no indication that the advertisements were randomly selected, the validity of any such inferences could not be accurately determined even if the sampling unit were sufficiently large. See *id.* at 195-196 (explaining that "[r]andom selection is the key to [the] process [of probability sampling]" and that "random selection offers access to the body of probability theory, which provides the basis for estimates of population parameters and estimates of error").

¹⁰ The Petitioner did not provide any independent evidence of how representative the job postings are of the particular advertising employers' recruiting history for the type of job advertised. As the advertisements are only solicitations for hire, they are not evidence of the actual hiring practices of these employers.

performed only by an individual with at least a bachelor's degree in a specific specialty, or its equivalent.

We reviewed the Petitioner's statements regarding the proffered position; however, in the appeal brief, the Petitioner does not assert that it satisfies this prong of the second criterion. Further, the Petitioner has not sufficiently developed relative complexity or uniqueness as an aspect of the proffered position. Thus, 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 "has only hired individuals for the position of ERP Systems Analyst that had the requisite baccalaureate degree in Computer Applications, Computer Science, or a related field." However, the Petitioner has not submitted evidence to support this assertion. "[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)). Therefore, 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 support of this criterion, the Petitioner provided a description of the duties of the proffered position and information regarding its business operations. The Petitioner claims that the "duties [of the proffered position] are so complex and specialized that only a person with a baccalaureate degree or higher in Computer Applications, Computer Science, or a related field could perform them." The evidence does not, however, support the Petitioner's assertion. Contrary to the Petitioner's assertion that the position is so complex and specialized, the Petitioner designated the proffered position on the LCA as a Level I wage level.¹¹ As discussed earlier, this designation indicates that the proffered

¹¹ The Petitioner's designation of this position as a Level I, entry-level position undermines its claim that the position is particularly complex 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

position is a low-level, entry position relative to others within the “Computer Systems Analysts” occupational category.¹²

While the Petitioner may believe that the proffered position meets this criterion of the regulations, it has not sufficiently demonstrated how the position as described requires the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor’s or higher degree in a specific specialty, or its equivalent. 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 tasks. 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 is required. The evidence in the record does not refute the *Handbook’s* information to the effect that a bachelor’s degree in a specific specialty, or its equivalent, is not required for entry into the occupation in the United States. Without more, the record lacks sufficiently detailed information to distinguish the level of judgment and understanding necessary to perform the duties as specialized and complex.

In addition, the Petitioner claims that the Beneficiary is well qualified for the position, and references his qualifications. However, the test 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 demonstrated in the record that its proffered position is one with duties sufficiently specialized and complex to satisfy 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 S-C-, Inc.*, ID# 17304 (AAO June 1, 2016)

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.

¹² A Level IV (fully competent) position is designated by DOL for employees who “use advanced skills and diversified knowledge to solve unusual and complex problems” and requires a significantly higher wage. For additional information regarding wage levels as defined by DOL, see U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.