



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

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

MATTER OF T-T- CO.

DATE: JUNE 1, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a landscaping company, seeks to temporarily employ the Beneficiary as an “associate systems administrator” 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 the proffered position as a specialty occupation.

The matter is now before us on appeal. On appeal, the Petitioner submits additional documentation and asserts that the proffered position is a specialty occupation under the pertinent statute and regulations.

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

I. LEGAL FRAMEWORK

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.

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

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties [is] so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

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

The Petitioner identified the proffered position as an "associate systems administrator" on the H-1B petition. In a letter of support, the Petitioner stated that the Beneficiary would perform the following duties (paraphrased and bullet points added):

- Administer and optimize [the Petitioner's] Server Infrastructure to include UNIX, Linux, and Windows Server Administration;
- Responsible for storage administration, backup/restores, managing upgrades, and identifying, recommending, and implementing approved systems and process improvements;
- Create plans for growth or increases in capacity, and maintain, troubleshoot, and manage server environment for high performance and stability;

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- Utilize his experience with SQL, JAVA, JavaScript, VB, and Linux to identify and resolve problems affecting server performance, efficiency, and availability, respond to incidents, and track and update tickets; and,
- Design and deliver new technology solutions aligned with company growth.

The Petitioner stated that it requires a minimum of a bachelor's degree in computer science, information technology, mathematics, or a related field to perform the duties of the proffered position.

In response to the Director's request for evidence (RFE), the Petitioner allocated the Beneficiary's time to the following functions:

Systems Administration and Maintenance – 70%
Break/Fix – 15%
Installation and Configuration – 10%
Technical Planning and Documentation – 5%

III. ANALYSIS

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.¹

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 (SOC) 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."

¹ 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.

<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.² 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.

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.

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.³

² On appeal, the Petitioner asserts that “every reference to a non-computer degree in the Computer Systems Analyst OOH occupation description is accompanied by a reference to also requiring information technology or computer programming experience, expertise, or skill.” However, as previously stated, the *Handbook* does not specify the amount of technical or programming experience needed. Therefore, the *Handbook* does not establish whether the required technical or programming experience, combined with a liberal arts degree, would be equivalent to a bachelor’s degree in a specific specialty.

³ 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

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On appeal, the Petitioner provides information regarding the number of LCAs certified by DOL for computer systems analyst positions. It is important to note, however, that while DOL is the agency that certifies LCA applications, USCIS determines whether the occupation is a specialty occupation. *See* 20 C.F.R. § 655.705(b). Further, there are a wide range of duties and levels of responsibilities within the occupation. Therefore, to satisfy the specialty occupation requirements, a petitioner must describe the specific duties and responsibilities to be performed by a beneficiary in the context of that petitioner's business operations.

We have also reviewed the opinion letter authored by [REDACTED]⁴ [REDACTED] based his opinion on his education and his professional and academic experience working in the academic setting and with various companies.

[REDACTED] repeats the Petitioner's overview of the duties of the proffered position and opines "that a qualified applicant for the System Administrator position must have an understanding of the computer systems development process and of the technical as well as mathematical requirements of complex transactional processes undertaken within the employer's large systems infrastructure." [REDACTED] concludes that "[t]he level of education most consistent with having the required background for this occupation, as performed specifically at [the Petitioner], is a Bachelor's Degree in Computer Science or other related field (such as Applied Mathematics)." [REDACTED] also concludes that the proffered position is a "highly professional and advanced technical occupation" and that "[g]eneralized (as opposed to Bachelor's-level or higher) knowledge of the applicable technical, scientific, and operational concepts of computer science, mathematics, and technical management, alone, is not sufficient for a System Administrator to handle the functional requirements for the instant position."

Upon review of the opinion letter, we find that [REDACTED] characterization of the proffered position as an "advanced" technical occupation that requires a bachelor's degree in a specific specialty appears inconsistent with the Petitioner's designation of the position as a Level I (entry) wage position. As noted above, a Level I position requires only a basic understanding of the occupation and does not include advanced knowledge or experience within the occupation. It is unclear if [REDACTED] was informed of the Petitioner's attestation on the LCA that the proffered position was a Level I (entry) wage position. The omission of any discussion of the entry wage designation diminishes the evidentiary value of this opinion as the opinion does not appear to be based on a complete understanding of the proffered position.

Moreover, the record does not include evidence that [REDACTED] has published, conducted research, run surveys, or engaged in any enterprise, pursuit, or employment - academic or otherwise

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.

⁴ On appeal, the Petitioner submits an additional opinion letter prepared by [REDACTED] which evaluates the Beneficiary's academic credentials and does not offer further analysis of the duties of the proffered position and the qualifications to perform them.

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regarding the minimum education requirements for the performance of the duties of the proffered position. While he may have anecdotal information regarding recruitment by employers for students who study computing and information systems, the record does not include any relevant research, studies, surveys, or other authoritative publications as part of his review and/or as a foundation for his opinion. “[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)).

We may, in our discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988). For the reasons discussed above, we do not find that [REDACTED] opinion letter constitutes probative evidence towards satisfying 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) or any other criterion. For efficiency’s sake, we hereby incorporate the above discussion and analysis regarding the opinion letter into each of the bases in this decision for dismissing the appeal.

The record lacks sufficient evidence to support a finding that the particular position proffered here, an entry-level computer systems analysts position (as indicated on the LCA), would normally have such a minimum, specialty degree requirement or its equivalent. The duties and requirements of the position as described in the record of proceedings do not indicate that this particular position is one for which a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry. 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

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

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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, as well as the fact sheets for the advertising organizations submitted on appeal. This documentation, however, does not establish that the advertising organizations are in the same industry as the Petitioner and for parallel positions.

The advertising organizations include IT providers and a specialty glass and ceramics manufacturer. The positions advertised are for a systems engineer, a scientific computing systems administrator, a senior IT systems administrator, a web systems administrator II, and a systems administrator. While the proffered position and the descriptions of duties for the advertised positions include some of the same duties, it is not possible to ascertain that the advertised positions are parallel to the proffered position. For example, the systems engineer position requires at least 5 years of experience, and the systems administrator position requires at least 11 years of experience. The senior IT systems administrator requires 8 to 10 years of experience in addition to a bachelor’s degree, or 6 to 8 years of experience in addition to a master’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 experience in addition to a degree.⁵ 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.

Even if all of the job postings indicated that 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 does not demonstrate what statistically valid inferences, if any, can be drawn from these limited number of advertisements with regard to the common educational requirements for entry into parallel positions in similar organizations, or even into the advertising organizations themselves.

⁵ 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.

We note that the Petitioner did not provide any independent evidence of how representative these job advertisements are of the particular advertising employers' recruiting history for the type of jobs advertised. Further, as they are only solicitations for hire, they are not evidence of the employers' actual hiring practices. 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.

Even though the Petitioner asserts that the proffered position's duties are complex, the Petitioner has not demonstrated how the described duties require the theoretical and practical application of a body of highly specialized knowledge, such that a bachelor's or higher degree in a specific specialty, or its equivalent, is required to perform them. 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 claims are complex. Rather, the duties the Petitioner ascribed to the proffered position indicate a need for 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 as minimally necessary to attain such knowledge.

In response to the Director's RFE, the Petitioner stated that the Beneficiary will draw upon the skills and knowledge he obtained when completing certain courses during his bachelor's-level studies. We note, however, that 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.⁶ That is, the Petitioner has identified one path that will qualify the Beneficiary to perform the duties of the proffered position. The Petitioner has not, however, demonstrated that the duties it described are so complex or unique that they can be performed only by an individual with a baccalaureate or higher degree in a specific specialty, or its equivalent.

This is further evidenced by the LCA submitted by the Petitioner in support of the instant petition. Again, the Petitioner attested on the submitted LCA that the wage level for the proffered position is a Level I (entry) wage, which indicates that the Beneficiary is only required to have a basic understanding of the occupation. The Level I wage rate is inconsistent with the Petitioner's assertions that the proffered position is "highly technical and complex" and "involves advanced

⁶ The Petitioner claimed that the Beneficiary's educational background will assist him in carrying out the duties of the proffered position, and takes particular note of the Beneficiary's mathematical and information technology courses. However, the test to establish a position as a specialty occupation is not the skill set or education of a proposed beneficiary, but whether the position itself requires the attainment of a bachelor's degree in a specific specialty.

upper-level responsibilities and highly specialized duties,” as such a higher-level position would likely be classified as a Level III or Level IV position.⁷

The record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than other closely related positions that can be performed by persons without at least a bachelor’s degree in a specific specialty, or its equivalent. Accordingly, 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, in accordance with its “employment practices and policies, over the past fifteen (15) years, [its] company has not hired any individual in the Associate Systems Administrator role that does not meet [its] minimum criteria of possessing a Bachelor’s degree in a specific field.” However, the Petitioner has not submitted additional details and corroborating evidence to support this assertion. Again, “going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings.” *Matter of Soffici*, 22 I&N Dec. at 165. The evidence of record therefore does not establish the Petitioner’s eligibility under 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).⁸

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.

⁷ For more information, 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.

⁸ We point out, for the Petitioner’s information only, that to merit approval of the petition under this criterion, the record must establish that a petitioner’s imposition of a degree requirement is not merely a matter of preference for high-caliber candidates but is necessitated by performance requirements of the position. While a petitioner may assert that a proffered position requires a degree or even a degree in a specific specialty, such statements 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”).

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Here, the Petitioner has submitted broad descriptions of the proposed duties and identified certain software that the Beneficiary will use in performing his duties. While the Petitioner emphasizes that the Beneficiary will draw upon his skills and knowledge learned from certain bachelor-level coursework, the Petitioner has not offered an analysis of why the duties it generically describes require a bachelor's degree in computer science, information technology, or mathematics. The Petitioner has not provided probative evidence establishing that more than a general degree and technical experience are 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 technical training in computer technology. 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 duties are so complex or specialized that they require a bachelor's degree in a specific specialty, or its equivalent, to perform them.

The Petitioner additionally asserts that the proffered position includes the duties of other specialty occupations, including the occupations of database administrators, software developers, and network and computer systems administrators. The Petitioner submits excerpts from the *Handbook's* chapters on these occupations to demonstrate their standard minimum entry requirements.

However, we find the Petitioner's reliance upon these other occupations and their respective *Handbook* chapters misplaced. In particular, the Petitioner does not identify the amount of time the Beneficiary will perform database administrative duties, software development, or network and computer systems administrative duties. The record here does not include sufficient information to establish that the duties the Petitioner expects the Beneficiary to perform would incorporate duties for any of the occupations listed. Thus, it is not possible to ascertain whether these duties are primary duties or are merely incidental to the performance of the duties of the proffered position.

Moreover, if the duties of these other occupations comprise the Beneficiary's primary duties, then the LCA should reflect the occupational classification of the most relevant, i.e., highest-paying, occupation. 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 (noting that the highest-paying occupation should be used for positions involving duties of more than one occupation). In this instance, the Petitioner has not adequately established that the "Computer Systems Analyst" occupational classification (corresponding to SOC code 15-1121) selected here represents the most relevant occupational classification. Accordingly, the evidence of record does not corroborate the Petitioner's assertions regarding the relative specialization and complexity of the proffered position by virtue of its overlapping duties with other occupational classifications.⁹

⁹ As indicated on the LCA, the prevailing wage for a Level I "Computer Systems Analyst" position in the [REDACTED] MN-WI MSA, for the time period 7/2014 - 6/2015, is \$59,384 per year. In contrast, the prevailing wages for Level I "Software Developers, Applications" (SOC code 15-1132) and "Software Developers, Systems Software" (SOC 15-1133) positions in the same MSA and time period are \$65,957 per year, and \$64,917 per year, respectively. For more information regarding prevailing wages generally, see

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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. The Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(-).

IV. CONCLUSION

As the evidence does not satisfy any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), we cannot find that the proffered position qualifies as a specialty occupation. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of T-T- Co.*, ID# 17101 (AAO June 1, 2016)

<http://www.flcdatacenter.com/OesWizardStart.aspx> (last visited May 27, 2016).

Thus, if the Petitioner believed its position was appropriately described in a combination of occupations including "Software Developer" positions which have higher prevailing wages than "Computer Systems Analyst" positions, then the Petitioner should have submitted an LCA for a position corresponding to one of the two "Software Developers" occupational classifications. Because the Petitioner did not do so, the Petitioner cannot reasonably rely on the *Handbook's* information with respect to these other occupations.