



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

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

MATTER OF A-B-S-

DATE: OCT. 26, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, an information technology consulting business, seeks to temporarily employ the Beneficiary as a “systems analyst” under the H-1B nonimmigrant classification for specialty occupations. *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 California Service Center Director denied the petition, concluding that the Petitioner had not established that the proffered position is a specialty occupation.

On appeal, the Petitioner contends that it submitted sufficient evidence to establish the proffered position is a specialty occupation.¹

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.

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

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). We construe the term “degree” 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 on the Form I-129, Petition for a Nonimmigrant Worker, as a systems analyst. On the labor condition application (LCA)² 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 (SOC) code 15-1121.³

² The Petitioner is required to submit a certified LCA to demonstrate that it will pay an H-1B worker the higher of either the prevailing wage for the occupational classification in the “area of employment” or the actual wage paid by the employer to other employees with similar duties, experience and qualifications who are performing the same services. *See* Section 212(n)(1) of the Act; 20 C.F.R. § 655.731(a).

³ The Petitioner classified the proffered position at a Level I wage (the lowest of four assignable wage levels). The “Prevailing Wage Determination Policy Guidance” issued by the Department of Labor 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://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf. A wage determination starts

In a memorandum submitted in support of the petition, the Petitioner noted that it is a provider of Test Automation products for Oracle PeopleSoft customers and that it has developed a proprietary test automation tool that it licenses to third party companies. The Petitioner added that in addition to selling the license for the test automation tool it also sells maintenance contracts that include developing features and enhancements and servicing changes necessary to maintain compatibility with the Oracle PeopleSoft applications and tools.

In the memorandum, the Petitioner stated that the Beneficiary will be assigned to three main job roles including: (1) product deployment, (2) product design, development and testing, and (3) product maintenance. The Petitioner explained further that the Beneficiary will assist in deploying the Petitioner's product to clients, by remotely installing the software on the client server, conducting training via web conference, remotely configuring the product and providing technical support. The Petitioner added that the Beneficiary will contribute to the design, development, and test of new product features, enhancements, or modifications, and will provide software support. The Petitioner also provided a 14-bullet point list of duties for a test automation "product design analyst" which included (1) offering training to clients who purchase the Petitioner's test automation product, (2) offering product support, updates, and bug fixes for clients who purchase the Petitioner's test automation product, and (3) implementing and managing Oracle Cloud ERP solutions for the Petitioner. The Petitioner deleted these duties from its list of duties outlined in a separate letter submitted in support of the petition and in subsequent outlines of the duties associated with the proffered position. The Petitioner did not identify a particular course of study to perform the duties described in the memorandum, but noted that "the beneficiary is trained and certified in Oracle ERP Cloud" and has "implementation and support experience of other similar packaged finance applications."

In a separate letter submitted in support of the petition, the Petitioner identified the essential functions of the proposed position as implementing PeopleSoft financial and supply chain management applications. The Petitioner repeated the bullet-point list provided in the memorandum but, as noted above, deleted the duties referring to the test automation product and the implementation and management of Oracle Cloud ERP solutions for the Petitioner. The Petitioner does not offer an explanation for these deletions.⁴ In response to the Director's request for evidence (RFE), the Petitioner provided the same description of the proposed position included in the letter in support of the petition and allocated the time the Beneficiary will spend performing the duties. The Petitioner submits the same description again on appeal.

In the letter in support of the petition, the Petitioner stated that a computer systems analysts occupation must have "knowledge in the field of Computers and/or Engineering and requires a

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.*

⁴ In addition to deleting the references to the specific test automation product, the Petitioner stated that the Beneficiary will be involved in market research gathering and analysis to help the company promote their product. In response to the Director's request for evidence, the Petitioner indicated the Beneficiary will spend 5 percent of his time on this duty.

bachelor's degree or higher in the related field with the training in Computer Science, Electronics, Communication or Information Science or its equivalent." In response to the Director's RFE, the Petitioner stated that the offered position requires "knowledge of Computer Science, Computer Architecture, Software Applications, Operating Systems and Cloud Applications" and that "[a]quisition of this knowledge base necessitates a college or a higher degree in Computer Science or a related field." The Petitioner claimed that the specific duties demand the basic knowledge and technical skills gained through the minimum of having a bachelor or a master's degree in computer science and that the Beneficiary "has been offered this position because of his Degree of Master of Computer Science from [REDACTED] California and Masters of Information and Communication Technology from [REDACTED] Australia."

III. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.

The Director concluded the evidence was insufficient to establish that the position qualified as a specialty occupation under any of the criteria in 8 C.F.R. § 214.2(h)(4)(iii)(A). On appeal, the Petitioner discusses the position's qualification as a specialty occupation under the criteria in subsections (2), (3), and (4) of 8 C.F.R. § 214.2(h)(4)(iii)(A).

A. Criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2)

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 concentrates upon 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.

On appeal, the Petitioner refers to the Department of Labor's *Occupational Outlook Handbook's* (*Handbook*) subchapter on computer systems analysts and asserts that the *Handbook* confirms that the typical entry-level education for this profession is a bachelor's degree. The Petitioner refers specifically to the *Handbook's* statements that a "bachelor's degree in a computer or information science field is common, although not always a requirement" and "[m]ost computer systems analysts have a bachelor's

degree in a computer-related field.” The Petitioner asserts that the Director did not address these statements and relied solely on the *Handbook’s* recognition that “[m]any analysts have liberal arts degrees and have gained programming or technical expertise elsewhere.” Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Computer Systems Analysts, <https://www.bls.gov/ooh/computer-and-information-technology/computer-systems-analysts.htm> (last visited Oct. 26, 2018). The Petitioner argues that the *Handbook* supports its contention that a bachelor’s degree in a specific specialty is common in the industry. We disagree.

The computer systems analysts occupation encompasses a broad base of responsibilities and duties and the required education and experience to adequately perform these duties also varies. The *Handbook* does not establish a common minimum requirement for entry into this particular position, but recognizes there are a number academic and experience paths to enter the occupation. The 54 job postings the Petitioner submitted in response to the Director’s RFE also confirms that there are a variety of methods to enter into employment as a computer systems analyst. Many of the advertisements indicate that experience equivalent to a bachelor’s degree will suffice but do not delineate the advertisers’ standards for determining equivalency. Other advertisements require only a general bachelor’s degree or indicate that a bachelor’s degree is a plus or a preference but do not state that the degree is required. Other advertisements list multiple acceptable degrees, including a bachelor’s degree in business administration.⁵ A number of the advertisements require the successful applicant to have between two and five years of specific experience in addition to a bachelor’s degree.⁶ The advertisements submitted when viewed in their totality confirm the *Handbook’s* report that a variety and mixture of degrees and experience is acceptable to perform the duties of this occupation.⁷

⁵ We have consistently stated that, although a general-purpose bachelor’s degree, such as a degree in business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a conclusion that a particular position qualifies for classification as a specialty occupation. *Royal Siam Corp.*, 484 F.3d at 147.

⁶ As the Petitioner designated the proffered position as an entry-level position on the LCA these advertisements appear to be for more senior positions and thus are not parallel to the proffered position.

⁷ The Petitioner also cites *Next Generation Tech., Inc. v. Johnson*, (S.D.N.Y. Sept. 29, 2017) as relevant here. This case arises out of a different jurisdiction than the instant matter. However, even if we considered the logic underlying the matter, we find that the Petitioner has not demonstrated that the proffered position is a specialty occupation. First, the court in *Next Generation Tech., Inc.* discussed our reading of the *Handbook’s* discussion of the entry requirements for positions located within a different and separate occupational category “Computer Programmers” rather than the “Computer Systems Analysts” category designated by the Petitioner on the LCA relating to this case. Moreover, the court in *Next Generation Tech., Inc.* relied in part on a U.S. Citizenship and Immigration (USCIS) policy memorandum regarding “Computer Programmers” indicating generally preferential treatment toward computer programmers, and “especially” toward companies in that particular petitioner’s industry. USCIS, however, rescinded the policy memorandum cited by the court in *Next Generation Tech. Inc.* See USCIS Policy Memorandum PM-602-0142, *Rescission of the December 22, 2000 “Guidance memo on H1B computer related positions”* (Mar. 31, 2017), https://www.uscis.gov/sites/default/files/files/nativedocuments/PM-6002-0142-H1B_ComputerRelatedPositionsRecission.pdf. The Petitioner has not established the relevance of this case to establishing that the proffered position is a specialty occupation.

The Petitioner also refers to the Occupational Information Network (O*NET) Summary Report for SOC code 15-1121.00 – Computer Systems Analysts as evidence that most employers require a four-year degree to enter into the profession. We agree that O*NET assigns this occupation a Job Zone “Four” rating, which groups it among occupations for which “most . . . require a four-year bachelor’s degree, but some do not.” O*NET OnLine Summary Report for “15-1121.00 – Computer Systems Analysts,” <http://www.onetonline.org/link/summary/15-1121.00> (last visited Oct. 26, 2018). Significantly, however, O*NET OnLine does not indicate that a four-year bachelor’s degree required by Job Zone Four occupations must be in a specific specialty directly related to the occupation. As the O*NET Online information does not indicate a requirement for a four-year degree to be in a specific discipline, the information is not probative of the proffered position being a specialty occupation under the statute.

As the record does not include sufficiently probative evidence that a “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, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

The second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) 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.

On appeal, the Petitioner refers to its description of duties in the initial memorandum submitted and the description of proposed duties submitted in response to the Director’s RFE. The Petitioner asserts that the Director did not consider the additional details provided regarding its business and proprietary work on test automation and thus did not consider the uniqueness of the proffered position. We have reviewed the Petitioner’s business operations and its work on a test automation product. However, the Petitioner does not support its conclusion that the “proprietary nature” of the duties described “inevitably makes the job requirement unique and complex as the duties are extremely customized as per the in-house product, instead of being common, general, and industry standard.” Although the Petitioner asserts that the Beneficiary will be involved in programming, developing and testing its automation test product, the Petitioner does not expand upon the actual duties involved in these functions and does not correlate these generic functions to the 14-bullet point list of the Beneficiary’s proposed duties.⁸ Moreover, as the list of duties in the memorandum and in the subsequent description include broadly-stated generic duties, it is not possible to ascertain

⁸ We note that the initial 14-point list of duties in the initially submitted memorandum identifies the described position as a “product design analyst.” It is not clear if this position is the same as the position proffered here. As noted above, the Petitioner deletes specific duties from the description provided in the memorandum from its descriptions of duties in the letter submitted in support of the petition, in response to the Director’s RFE, and on appeal. The Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

what the Beneficiary will be expected to do. The allocation of the Beneficiary's time to the various duties listed also does not demonstrate that the Beneficiary will spend a significant portion of his time on programming, developing, and testing duties. The lists of proposed duties provide a broad overview of a technology occupation but do not include sufficient detail relating to the Petitioner's product or its services to demonstrate that the duties are "unique" rather than common and general.

The Petitioner also seems to assert that because it will need to train the Beneficiary the job is complex and unique. The Petitioner claims that knowledge of testing tools and computer programming is required as a basic understanding to enter into the position and that then the employee will be trained to perform the complex tasks.⁹ Again, the Petitioner does not provide a description of the proposed complex tasks but describes the duties of a generic technology analyst position. Moreover, training the Beneficiary to perform complex tasks associated with the position suggests that the Beneficiary will not be required to perform complex tasks when entering into the proffered position.

Additionally, the Petitioner does not consistently identify a particular course of study to perform any of the general duties described. We recognize that the Petitioner refers to "knowledge of Computer Science, Computer Architecture, Software Applications, Operating Systems and Cloud Applications" and claims that "[a]quisition of this knowledge base necessitates a college or a higher degree in Computer Science or a related field." However, the Petitioner does not explain or offer analysis describing how the specific knowledge it finds beneficial relates specifically to the duties described.¹⁰ The record does not include sufficient consistent evidence supporting the Petitioner's claim that the duties as generally described are unique or complex and thus require a bachelor's degree or higher in computer science or a related field.

The Petitioner also appears to rely on the Beneficiary's certification in Oracle ERP Cloud and support experience implementing other similar packaged finance applications as an important aspect necessary to perform the duties of the position,¹¹ as well as his master's degree. 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 qualifies as a specialty occupation. Here, the Petitioner has provided an overview of the basic duties of a technology position and then added an assertion that these duties pertain to an in-house product. The Petitioner does not provide further explanation regarding how the duties specifically relate to the product or detail why the duties require a specialty

⁹ The Petitioner does not designate the amount of training needed to perform "complex" tasks.

¹⁰ On appeal, the Petitioner claims that the Beneficiary "will be applying the skills learned in his degree to prepare program specification and develop coding logic, to gather requirements, build reports and to develop test plans." This appears to be a reference to the Beneficiary's U.S. master's degree or his unevaluated foreign master's degree. However, if the position or the Petitioner requires the applicant to possess a master's degree, such a requirement necessitates an increase in the wage level designated on the LCA for this Job Zone four occupation.

¹¹ We note that this reliance appears to create an additional inconsistency in the record. This statement in the memorandum conflicts with the Petitioner's subsequent statement that although the Beneficiary has the educational requirements he has little relevant experience in this field, so that it would be imprudent to consider him for a higher wage level.

degree rather than particular certifications or some undefined amount of experience in implementing, third party software.

The Petitioner does not support its claim that the duties as described require a detailed course of study leading to a specialty degree and does not establish how such a curriculum is necessary to perform the duties it claims are so complex and unique. While a few technical 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. The Petitioner has not demonstrated that this position is significantly different from other computer systems analysts positions such that it refutes the *Handbook's* information to the effect that there is a spectrum of degrees acceptable for computer systems analysts positions, including degrees not in a specific specialty or at the bachelor's level. In other words, the record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than computer systems analysts positions or other closely related positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

As the Petitioner does not demonstrate how its proffered position is so complex or unique relative to other computer systems analysts positions that do not require at least a baccalaureate degree in a specific specialty, or its equivalent, for entry into the occupation in the United States, we cannot conclude that the Petitioner satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

B. Criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3)

To satisfy this criterion, the record must establish the Petitioner's past recruiting and hiring history for the position as well as establish that the specific performance requirements of the position generated the recruiting and hiring history.

Here, the Petitioner submitted a table of its employees which listed 14 current employees and 41 past employees in the position of systems analyst and showed that each of these employees possess a general bachelor's degree. The table also included the number of years of experience held by each of the employees, which ranged from 2 years to 23 years, as well as their hourly wage which ranged from \$28.85 to \$76.50. The Petitioner provided copies of some of the employees' foreign diplomas showing the employees possess bachelor or master's degrees in information technology, engineering, computer science and engineering, and computer applications.

The record does not include evaluations of the employees' foreign degrees showing the foreign degrees evaluated to be the equivalent of a U.S. bachelor's degree in a specific discipline. The record also does not include evidence of the specific day-to-day duties these employees perform so that we may ascertain the nature and level of responsibility of the positions and determine if they are similar to the Beneficiary's proposed duties. The Petitioner does not submit any information regarding the complexity of the job duties, supervisory duties (if any), independent judgment

required or the amount of supervision received by the employees in these positions. The range of salaries offered and the employees' experience, however, suggest that the Petitioner's other employees in a "system analysts" position perform job duties that are different and more senior than the general job duties described for the proffered position. The Petitioner has not included sufficient evidence to conclude that the duties and responsibilities of these individuals are the same or similar to the proffered position.

The record also suggests that the Petitioner's computer science degree requirement is a matter of preference for high-caliber candidates but is not necessitated by the performance requirements of the position. *See Defensor*, 201 F.3d at 387-88. The Petitioner specifically states that the Beneficiary was offered the position because of his master's degrees.¹² 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 Id.* 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"). The Petitioner has not established this statutory requirement here.

C. Criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4)

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.

The Petitioner again refers to the additional information regarding its product in the initially submitted memorandum and in its response to the Director's RFE. The Petitioner asserts that the memorandum discusses its unique and proprietary products and that because of the nature of the work there are no candidates outside of the petitioning company with experience in these programs. The Petitioner contends that the "time and experience needed to work with the Petitioner's proprietary products are such that the offered position is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's degree." The Petitioner claims that its "employees must have a basic knowledge of testing tools and computer programming so that the employee can get trained and perform the complex task."

We have again reviewed the background information on the Petitioner's product including the emails submitted to and from the Beneficiary regarding testing aspects of what appears to be the product. However, the record does not establish that the already developed and designed product

¹² Again, if the Petitioner requires the individual in the proffered position to possess a master's degree, such a requirement would necessitate a one level increase in the wage designated on the LCA.

requires specialized and complex computer systems analysis. The Petitioner's description of duties includes the usual duties of a computer systems analyst. We understand that the Petitioner's product must be deployed and tested and will require upgrades and enhancements to maintain compatibility with third party software and to remain competitive. We also understand that the Beneficiary will need technical knowledge or some experience to perform these duties. However, the Petitioner has not adequately explained why the duties could not be performed by an individual with certificates in the third party software, some experience in programming, or some experience in technical customer support.

The Petitioner does not sufficiently develop relative specialization and complexity as an aspect of the proffered position. The Petitioner does not detail why or how the duties of its wage Level I computer systems analyst position, which we acknowledge requires some technical skill and knowledge, is elevated to a specialty occupation requiring a detailed course of study leading to at least a bachelor's degree in a specific discipline.¹³ The Petitioner does not include detailed descriptions or offer sufficient analysis showing how the duties are more specialized and complex than computer systems analysts positions that are not usually associated with at least a bachelor's degree in a specific specialty, or its equivalent. The Petitioner has not demonstrated 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).

As the Petitioner has not established that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies for classification as a specialty occupation.

IV. CONCLUSION

The Petitioner has not established the proffered position is a specialty occupation.

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

Matter of A-B-S-

ORDER: The appeal is dismissed.

Cite as *Matter of A-B-S-*, ID# 1637242 (AAO Oct. 26, 2018)