



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

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

In Re: 9531809

Date: JULY 8, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner, a provider of health insurance products, seeks to temporarily employ the Beneficiary as a “senior data reporting 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 Vermont 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 asserts that the Director erred and that the proffered position is a specialty occupation.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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) 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”).

## II. ANALYSIS

The Petitioner seeks to employ the Beneficiary as a “senior data reporting analyst” and maintains that a minimum of a bachelor’s degree in computer science or a related field is required for entry into the position.<sup>1</sup> The Petitioner provided multiple lists of duties and while for the sake of brevity we will not list each duty here, we have carefully reviewed and considered each one.<sup>2</sup> Upon review of the record in its totality and for the reasons set out below, we conclude that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Specifically, the record does not include sufficient consistent, probative evidence establishing that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.<sup>3</sup>

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<sup>1</sup> The Petitioner most recently employed the Beneficiary through STEM-related post-completion optional practical training. 8 C.F.R. § 274.a.12(c)(3)(i)(B); 8 C.F.R. 214.2(f)(10)(ii)(C).

<sup>2</sup> For instance, the Petitioner discussed the Beneficiary’s previous coursework for the purpose of correlating the need for the Beneficiary’s education with the associated job duties of the position. However, we are required to follow long-standing legal standards and determine first, whether the proffered position qualifies for classification as a specialty occupation, and second, whether the Beneficiary was qualified for the position at the time the nonimmigrant visa petition was filed. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm’r 1988) (“The facts of a beneficiary’s background only come at issue after it is found that the position in which the petitioner intends to employ him falls within [a specialty occupation].”).

<sup>3</sup> The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

The Director concluded the evidence was insufficient to establish that the position qualified as a specialty occupation under at least one of the criteria in 8 C.F.R. § 214.2(h)(4)(iii)(A). On appeal, the Petitioner asserts that the position meets criterion (1) and criterion (4) at 8 C.F.R. § 214.2(h)(4)(iii)(A). It does not challenge the Director's determination of ineligibility, under the criteria in the first and second alternative prongs of criterion (2), or under criterion (3) of 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, we will focus our discussion on whether the position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A) in criterion (1) and (4).

#### A. First Criterion

The criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), 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 will consider the information contained in the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* regarding the duties and educational requirements of the wide variety of occupations it addresses.<sup>4</sup> The Petitioner designated the proffered position on the labor condition application (LCA)<sup>5</sup> as a Standard Occupation Classification (SOC) code 15-1199 "Computer Occupations, All Other" occupation, and asserts that the duties of the proffered position are consistent with the duties of the "Business Intelligence Analysts" sub-category corresponding to SOC code 15-1199.08.

The *Handbook* is a career resource offering information on hundreds of occupations. However, there are occupational categories which the *Handbook* does not cover in detail, and instead provides only summary data.<sup>6</sup> The subchapter of the *Handbook* titled "Data for Occupations Not Covered in Detail" states, in relevant part, that the "[t]ypical entry-level education" for a variety of occupations within the category of "[c]omputer and mathematical occupations" is a "Bachelor's degree," without indicating that the bachelor's degree must be in a specific specialty.<sup>7</sup> Thus, the *Handbook* is not probative in establishing that these positions comprise an occupational group for which the normal minimum requirement for entry is at least a bachelor's degree in a specific specialty, or its equivalent.

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<sup>4</sup> 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 we regularly review the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. All of our references to the *Handbook* may be accessed at the Internet site <http://www.bls.gov/ooh/>.

<sup>5</sup> A petitioner is required to submit an LCA to the Department of Labor 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. Section 212(n)(1) of the Act; 20 C.F.R. § 655.731(a).

<sup>6</sup> Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Data for Occupations Not Covered in Detail, <https://www.bls.gov/ooh/about/data-for-occupations-not-covered-in-detail.htm> (last visited July 7, 2020). Here, the *Handbook* does not provide specific information for various occupations which might be classified within the occupational category.

<sup>7</sup> The *Handbook* also indicates that this occupation does not require work experience in a related occupation or typical on-the-job training. *Id.*

The Petitioner also references the DOL's Occupational Information Network (O\*NET) summary report for "Business Intelligence Analysts." The O\*NET summary report does not establish that a bachelor's degree *in a specific specialty*, or the equivalent, is normally required. It provides general information regarding the occupation, but it does not support a conclusion that the proffered position requires a bachelor's degree in a specific specialty, or the equivalent.

Instead, O\*NET assigns these positions a "Job Zone Four" rating, which states "most of these occupations require a four-year bachelor's degree, but some do not." Moreover, the Job Zone Four designation does not indicate that any academic credentials for Job Zone Four occupations must be directly related to the duties performed. In addition, the specialized vocational preparation (SVP) rating designates this occupation as 7 < 8. An SVP rating of 7 to less than ("<") 8 indicates that the occupation requires "over 2 years up to and including 4 years" of training. While the SVP rating indicates the total number of years of vocational preparation required for a particular position, it is important to note that it does not describe how those years are to be divided among training, experience, and formal education. The SVP rating also does not specify the particular type of degree, if any, that a position would require.<sup>8</sup> Further, although the summary reports provide the educational requirements of "respondents," it does not account for 100% of the "respondents." Moreover, the respondents' positions within the occupation are not distinguished by career level (e.g., entry-level, mid-level, senior-level). Furthermore, the graph in the summary report does not indicate that the "education level" for the respondents must be in a specific specialty. For all of these reasons, O\*NET does not establish the proffered position as a specialty occupation.

Also in support of its arguments, the Petitioner cites to *RELX, Inc. v. Baran*.<sup>9</sup> The Petitioner acknowledges on appeal that in contrast to the broad precedential authority of the case law of a United States circuit court, we are not bound to follow the published decision of United States district courts in matters arising even within the same district.<sup>10</sup> Although the reasoning underlying a district judge's decision will be given due consideration when it is properly before us, the analysis does not have to be followed as a matter of law.<sup>11</sup>

The Petitioner cites to *RELX* to support the proposition that since O\*NET "states most of the occupations require a four-year bachelor's degree, the position of (Computer Occupations, All Other) was indeed found to be a specialty occupation." However as discussed, O\*NET does not establish the proffered position as a specialty occupation. Moreover, as the foregoing discussion demonstrates, while we agree that the bachelor's degree does not have to be a degree in a *single* specific specialty, we do not agree with the analytical framework set forth by the *RELX* court.

In *RELX*, the court did not address the statutory and regulatory provisions as they pertain to the requirement that the bachelor's degree, or its equivalent, be in a *specific specialty*. To avoid restricting the qualifying occupations to those for which a single, specific specialty exists, the court did not consider the requirement for specialization and overlooked that neither the *Handbook* nor O\*NET stated that the referenced bachelor's degree must be in a specific specialty. In overlooking this relevant

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<sup>8</sup> For additional information, see the O\*NET Online Help webpage available at <http://www.onetonline.org/help/online/svp>.

<sup>9</sup> *RELX, Inc. v. Baran*, 397 F.Supp.3d 41 (D.D.C. Aug. 5, 2019).

<sup>10</sup> See *Matter of K-S-*, 20 I&N Dec. 715, 719-20 (BIA 1993).

<sup>11</sup> *Id.*

detail, the court disposed of the precedential authority created by *Royal Siam Corp. v. Chertoff*<sup>12</sup> and continued to do so when it examined the evidence presented for the other criteria.

We also disagree with the court's statement that "[the Petitioner] did not just make a general reference to O\*NET. Rather, [the Petitioner] stated that the Data Analyst position is aligned with the DOL's "Business Intelligence Analyst" position for which there is a detailed description that is directly relevant to the inquiry of whether the position is specialized."<sup>13</sup> While we agree that O\*NET is relevant, the court's treatment of O\*NET as dispositive simply because the proffered position aligned with the occupational category disregards the *specific specialty* analysis that underpins *Royal Siam Corp.* The *RELX* court further stated that "[s]ince the [*Handbook*] indeed does provide specific detailed information regarding educational requirements for the computer operations category, and the detailed information states most of the occupations require a four-year bachelor's degree, the agency's rationale was both factually inaccurate and not supported by the record."<sup>14</sup> Here, again the court did not undertake the proper inquiry regarding the specific educational requirements of the position and instead regards a general requirement for a bachelor's degree as sufficient to discharge the petitioner's burden.

Because the *Handbook* and O\*NET do not describe the normal minimum educational requirements with sufficient specificity to establish that the positions falling within the occupational category are specialized, we disagree with the court's reliance on these sources as establishing the requisite eligibility. Instead, we believe that absent support from the *Handbook* and O\*NET, the court should have analyzed whether the petitioner had sufficiently demonstrated that its particular position was one for which a bachelor's degree would normally be required and whether the stated field(s) of study directly related to the performance of the duties.<sup>15</sup> In other words, though we agree with the *RELX* court that the bachelor's degree does not have to be a degree in a single specific specialty, this agreement is predicated upon the fields of study being closely related to the duties of the position and the record reflecting evidence sufficient to establish such relation.

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 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

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<sup>12</sup> *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").

<sup>13</sup> *RELX, Inc.*, 397 F.Supp.3d at 54.

<sup>14</sup> *Id.*

<sup>15</sup> Though the *RELX* court briefly discusses the duties of the position, it did not engage in analysis of whether the duties actually required the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation. Rather, after disposing of the authority set forth in *Royal Siam Corp.*, the court accepted the petitioner's stated standards concerning its position. See generally *Defensor v. Meissner*, 201 F.3d 384, 387.

responsibilities of the particular position.<sup>16</sup> For the foregoing reasons, we cannot agree with the reasoning contained in the *RELX* decision and therefore conclude that the Petitioner's reliance upon the case does not support its eligibility.<sup>17</sup>

To satisfy the first criterion, the burden of proof remains on the Petitioner to submit sufficient evidence to support a conclusion that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry. The Petitioner has not done so here. As the foregoing demonstrates, the Petitioner has not provided sufficient 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)(I).

#### B. 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.

As a preliminary matter, we note that the Petitioner conflates the Beneficiary's suitability or qualifications for the position with the minimum entry requirements for the position. The Petitioner states on appeal "the job description contains a specific list of the Computer Science-related tasks, methodologies, and applications that are required to perform each of the listed duties as well as the related bachelor's level (or higher) coursework through which the [B]eneficiary acquired such knowledge." The Petitioner's statements evidence that the Petitioner confuses *the ability* of a specialty degree individual to perform the duties of the proffered position with a degree requirement *in order to* perform the duties.

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.<sup>18</sup> Put simply, the duties dictate the required program of study rather than the program of study speaking to the nature of the duties. Stating that a person with a bachelor's degree in computer science could perform the duties of the proffered position is not the same as stating that such a degree is required to perform those duties. As such, the Petitioner misconstrues the statutory and regulatory requirements of a specialty occupation.

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<sup>16</sup> Section 214(i)(1)(B) of the Act (emphasis added).

<sup>17</sup> We further note that the Director's decision in *RELX* was not appealed to us. Based on the district court's findings and description of the record, if that matter had first been appealed through the available administrative process, we may very well have remanded the matter to the service center for a new decision to address many of the concerns articulated by the district court if they could not have been remedied by us in our *de novo* review of the matter.

<sup>18</sup> We are required to follow long-standing legal standards and determine first, whether the proffered position qualifies as a specialty occupation, and second, whether the beneficiary was qualified for the position at the time the nonimmigrant visa petition was filed. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988) ("The facts of a beneficiary's background only come at issue after it is found that the position in which the petitioner intends to employ him falls within [a specialty occupation].").

Upon review of the totality of the record, we conclude that the Petitioner has not sufficiently explained or documented why the proffered position is so specialized or complex that a bachelor's degree in a specific specialty is required. When determining whether a position is a specialty occupation, we look at whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline.

A crucial aspect of this matter is whether the Petitioner has sufficiently described the duties of the proffered position such that we may discern the nature of the position and whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline. When determining whether a position is a specialty occupation, we look at the nature of the business offering the employment and the description of the specific duties of the position as it relates to the performance of those duties within the context of that particular employer's business operations.

On a fundamental level, we conclude that the Petitioner has not provided sufficient material about the projects that the Beneficiary will be engaged in. The Petitioner is a provider of health insurance products, who recently "incorporated a new business services company to house its health information technology services as well as its various research and development teams." The Petitioner states that the Beneficiary will be an employee of this company working on in-house projects, and describes his role within the organization as follows:

[The Beneficiary] will be a member of the Business Management Analytics (*BMA*) team within the Enterprise Solutions at [the Petitioner]. The *BMA* team supports business operations reporting and analytics for internal customers across all of [the Petitioner]. The primary focus of this group includes utilization of resources, profitability, demand, and capacity planning. The *BMA* team's mission is to deliver world-class decision support tools for business and financial management across [the Petitioner].

The Petitioner further indicates that "the [*BMA*] team develops complex reports and visualizations for our customers using industry leading business intelligence and analytics tools like Tableau and Alteryx, and [the Beneficiary] is instrumental in our team's success in utilizing these tools." Here, the Petitioner indicates that the group focuses on "utilization of resources, profitability, demand, and capacity planning" for use by internal customers across the Petitioner's organization. While this material provides a general overview of the *BMA* team's mission, and the general business topics that are the focus of the team's reporting and analytical functions, it is not apparent from the record how the *BMA*'s work products are utilized by the Petitioner's "internal customers" in furtherance of its business objectives. This is important because the Petitioner emphasizes the complexity of the reports and "visualizations" that the *BMA* team creates for the organization, but as we will explain the material provided does not illustrate the specialization and complexity of the Beneficiary's work assignment which involves the creation of these products with the *BMA* team.<sup>19</sup>

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<sup>19</sup> Notably, the Director requested evidence, to include an explanation of the specific duties of the proffered position, as they relate to the Petitioner's products and services. The Petitioner has not sufficiently addressed this aspect. "Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the [petition]." 8 C.F.R. § 103.2(b)(14).

We conclude that the relative specialization and complexity of the Beneficiary's role within the context of the *BMA* team's work activities has not been sufficiently delineated in the record. To further illustrate, the Petitioner emphasized throughout the proceedings that the Beneficiary will liaise or interact with various internal stakeholder groups, including:

- Work with database ETL team to understand and build the Oracle SQL source data flow in Alteryx required for the dashboard.
- Conduct review sessions internally with the team and then with the stakeholders to make sure the drafts are analyzed and refined to a final product version.
- Work with business owners to understand the initial [Tableau dashboard requirements] request.
- Develop spreadsheet reports for multiple teams which benefit from the data provided by the *BAM* team.
- Interact with the intended audience on a regular basis to review drafts of Tableau dashboards on a test server.

Though these duties provide a general overview of work that a senior data reporting analyst might perform, the actual tasks involved in these duties remains unclear. For instance, “interact[ing] with” a team is too nebulous a description to enable us to understand what it will involve and as stated, we cannot ascertain why it requires specialized knowledge. The Petitioner described the job duties of the position, but the evidence does not show the operational structure within this initiative in a manner that would establish the claimed specialized nature of the Beneficiary's role. The organization chart for the *BAM* team indicates that the Beneficiary reports to its manager of business management analytics, and reflects that the team is staffed with his manager, a senior IT systems analyst, two senior data reporting analysts (including the Beneficiary in the proffered position), two data reporting analysts, and a business analyst. The organization chart suggests that beyond the team manager, three of the six positions within the team bear “senior” job titles, but the Petitioner has not distinguished how the tasks performed by the Beneficiary in his “senior” data reporting analyst position within the *BAM* team differs from the data reporting analyst positions that are not “senior.”<sup>20</sup> Here, the Petitioner has not substantiated the asserted specialized and complex nature of the Beneficiary's role within the context of the *BAM* team's reporting and analytical endeavors.

The Petitioner provided exemplars of the Beneficiary's work product in response to the Director's RFE, and notes on appeal “as you can see [the proffered position with the Petitioner] is responsible for delivering decision support tools for business and financial management computer applications across [the Petitioner's] various business units.” The Petitioner does not discuss the purpose of the exemplar reports and analytical dashboards, nor does it specifically explain how the development of these work products involve specialized or complex tasks such that a degree in a specific specialty is required in their creation. For instance, the “Workforce Plan for [the Petitioner]” work product includes the Alteryx workflow chart, and several pages of highly redacted data. The report indicates that it was created by the Beneficiary and that he will be responsible for performing data extracts from tables maintained by the *BAM* team, as well as running queries, and performing on-going

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<sup>20</sup> Though requested by Director requested in her RFE, the Petitioner did not provide evidence about its employment practices, such as copies of job postings, official position descriptions, and other material to demonstrate the educational and experience requirements for the positions listed within its organization chart. *See* 8 C.F.R. § 103.2(b)(14).



modifications and maintenance to the dashboard. The Petitioner provided similar information for other reporting dashboards bearing titles, such as “Daily Demand for [the Petitioner],” and “Project Profitability for [the Petitioner].” Each work product notes that the information technology tools used for their creation includes “Tableau 10.4, Alteryx, Oracle, and MS Excel.” The duties required to create these work products feature significant use of third-party technology, for which the Petitioner has not explained why skills using such technologies could not be gained through certifications in these technologies or a computer bootcamp. Much of the Beneficiary’s work is performed using Tableau, Alteryx, Oracle, and MS Excel, but the Petitioner makes little effort to explain how use of these technologies is specialized or complex or requires a bachelor’s degree in computer science or a related field. Accordingly, we conclude that the Petitioner has not shown that the duties of the position are so specialized or complex that they can be performed only by an individual with at least a bachelor’s degree in a specific specialty, or its equivalent.

We now turn to the position evaluation provided by [REDACTED] Associate Professor of Computer Information Systems at [REDACTED] University. The professor quotes verbatim from the Petitioner’s letter of support submitted with the H-1B petition, to include the general narrative about the Petitioner and the complete job description of the Senior Data Reporting Analyst position, rephrases the duties listed in O\*NET for this occupational category, and concludes “the duties described above are not those of a lower level employee,” indicating that the duties are “those of a professional employee with a strong background in information systems concepts and principles and a great level of responsibility within the company.”

Notably, the professor also opines “[w]hen evaluating the minimum degree requirement for a certain employment position, the specific responsibilities must be examined, along with the position title, to ascertain the nature of the academic requirements.” As discussed, the record does not substantiate the asserted specialized or complex responsibilities of the proffered position in the creation of the work products of the *BAM* team. While the professor may have conducted further research and analysis beyond studying the Petitioner’s letter of support, he does not otherwise indicate or describe the source of any other material that lead him to conclude that the proffered position holds “a great level of responsibility” within the Petitioner’s organization. It appears that the professor did not base his opinion on any objective evidence, obtained through performing research specifically about the Petitioning entity and the scope of the proffered position within that organizational construct, but instead largely analyzes the proffered position descriptions provided in support of the petition. The professor further concludes:

In more detail, duties such as providing regular updates to the Tableau dashboards and Alteryx data flow to maintain and update the required changes to the organizational and financial adjustments within the company while fixing incoming requests on issues relating to existing dashboards and Tableau data sources could only be competently performed by a candidate with at least a Bachelor’s degree in Computer Science or a related area.

Like the Petitioner, the professor does not explain why skills using such technologies as Tableau or Alteryx could not be gained through certifications in these technologies or a computer bootcamp. While the professor generally ties attaining a degree to concepts one might employ while engaged in the proffered position, his account lacks a sufficient analysis of the specific curriculum necessary to

perform in the position that is allegedly so specialized or complex.<sup>21</sup> The professor may draw inferences that computer science related courses may be beneficial in performing certain duties of the position, but we disagree with his inference that such a degree is required in order to perform the duties of the proffered position. While a few such courses may be beneficial in performing certain duties of the position, the Petitioner, who bears the burden of proof, 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.

Lastly, it is important to note that it appears as though the professor used a template with conclusory findings and generic analysis to support the Petitioner's particular position as a specialty occupation. The lack of cogent analysis strongly suggests that the professor was asked to confirm a preconceived notion as to the required degrees, not objectively assess the proffered position and opine on the minimum bachelor's degree required, if any.<sup>22</sup> While we will review the opinion presented, it has little probative value as it does not include sufficient substantive analysis of the duties of the particular position that is the subject of this petition.<sup>23</sup>

We may, in our discretion, use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). 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. *Id.* For the sake of brevity, we will not address other deficiencies within the professor's analyses of the proffered position.

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 evidence of record does not satisfy the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

### III. CONCLUSION

As the record does not satisfy the statutory definition of specialty occupation and at least one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. The appeal will be dismissed for the above stated reasons. 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. The Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

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<sup>21</sup> Similar to the Petitioner, the professor's statements indicate that he confuses *the ability* of a specialty degreed individual to perform the duties of the proffered position with a degree requirement *in order to* perform the duties.

<sup>22</sup> Service records show that this same template with the same language, organization, and similar conclusory statements regarding different occupations and also without sufficient supporting analysis has been submitted on behalf of other petitioners. These similarities lend further support to the suggestion that the author of the opinion was asked to confirm preconceived notions.

<sup>23</sup> We hereby incorporate our discussion of the professor's letter into our discussion of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).