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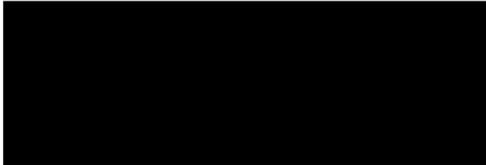
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: WAC 04 255 53615 Office: CALIFORNIA SERVICE CENTER Date: JUN 25 2007

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

for *Michael T. Kelly*
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner imports wood furniture and other items, employs nine personnel, and had a gross annual income of approximately three million dollars in 2003. It seeks to employ the beneficiary as a contract administrator. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition determining that the position was not a specialty occupation.

The record of proceeding before the AAO contains: (1) the September 28, 2004 Form I-129 with supporting documentation; (2) the director's October 4, 2004 request for further evidence (RFE); (3) the petitioner's December 20, 2004 response to the director's RFE; (4) the director's December 30, 2004 denial decision; and (5) the Form I-290B and petitioner's brief in support of the appeal. The AAO reviewed the record in its entirety before issuing its decision.

The issue before the AAO is whether the proffered position qualifies as a specialty occupation. To meet its burden of proof in this regard, the petitioner must establish that the job it is offering to the beneficiary meets the following statutory and regulatory requirements.

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 term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

An occupation which 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 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, the 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.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the above criteria to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

In a September 10, 2004 letter appended to the petition, the petitioner stated it was offering the position of contract administrator and business advisor/planner to the beneficiary and that the position would include the following duties:

1. Assist the President in establishing strategic contracts with suppliers and vendors in China. Develop draft of contract, subcontract and agreement in accordance with Chinese commercial regulation. Make sure all the contracts adhere to company and government regulations. (10%)
2. Represent the company to participate in the negotiation process with product suppliers in China to determine pricing of products and the terms of agreement. (15%)
 - Negotiate change orders and evaluate contractor and vendor claims and submit for approval.
 - Perform cost and price analysis of various proposals and bids.
 - Clarification of contract terms, conditions and intent for all parties to contracts.
3. Analyze and review all terms and conditions of each specific contract to determine advantages and disadvantages. (20%)
 - Identify incoming correspondence by contract number with correspondent research data to ensure compliance with laws, merchant codes and Company established policies/procedures.
 - Diligently audit contract documentation for accurate pricing, legal name(s), signatures, credit terms, amendments, clauses, set-offs, riders and/or any other necessary revisions then process those revisions.
 - Review counterparties' General Terms and conditions and develop responses; follow up on amendments or revisions proposed from counterparties until a deal expires or is complete.
4. Participate in panel with the President and company's CPA (by contract), in preparation and drafting of budget plan for daily or monthly business operations and financial plans

- for the business expansion plan for the next three years. This plan will focus on cutting overhead cost and expense while increasing profit and efficiency. (15%)
5. Assist the President in preparing company development and expansion plan in details. Generally, the plan will cover following three areas: (20%)
 - Product development
 - Market development
 - Financial plan

The purpose of the development plan is to provide business partners in China with a description of the product's design, chart its development within the context of production, marketing and the company itself. And create a development budget that will enable the company to reach its goal within a limited time.
 6. Perform profile analysis and risk assessment to seeking [sic] the best business opportunities by contact with existing and potential suppliers and business partners to create, maintain and analyze those partners' profiles. (10%)
 7. Prepare reports including conclusions and recommendations for solutions of contract administration problems found and present reports to executive management level for review. (10%)

The petitioner added:

To handle the above duties, the incumbent must [be] well trained in Business Administration, Accounting, or Finance or Economic[s], so that he/she can generate financial analysis, business plan, budget plan, as well as manage business or operations procedures and function.

The petitioner also submitted three Forms I-129 with three different petitioners petitioning on behalf of other individuals for positions of contract administrator and approval receipts for the three petitions. The record does not disclose how the petitioner obtained these records or whether the other petitioner's authorized their submission.

In a December 20, 2004 response to the director's RFE, the petitioner repeated the description previously provided omitting the beneficiary's duty described in numeral six above and adding:

Be responsible for all our ongoing business cooperation and transaction with Falcon Products Company, who does over 400 million dollars business with us per year, including purchase orders review, contracts administration and production and shipping control. [The petitioner] has been assigned as its ONLY Chinese Vendor. In summer of 2004, Falcon shut down their table factory and has [the petitioner] to supply tables instead. We have reached an agreement with Ningbo Hengfeng Wood Industry Company in China to form a joint venture to produce more tables for Falcon. (30%)

- Coordination of all wood chair and wood table products for pre-execution, execution and post project execution including all purchase orders, proactive expedites, and generation of turnaround progress reports.

- Communicate with existing vendors and suppliers in China via email, fax, and business letters and correspondence, to ensure product feature, raw material, design specification and weight and size meet the order requirement of our customers in the North America.
- Actively seek potential wood product manufacturers and providers in China. Contact potential business partners and collect their information, including but not limited to, product brochure, pricing, company registration record, financial credibility background, product specialty and so forth.
- Handle all matters related to setting up a joint venture with business partners in China, such as review business partners' financial situation and production capability, as well as prepare for joint venture's article, proposed business plan, cooperation agreement, and so forth.

The record includes an undated letter authored by the petitioner's owner indicating the petitioner had formed a joint venture with Ningbo Hengfeng Woodindustry Company. The owner referenced attachments including a purchase order from a division of Falcon Products, correspondence from Ningbo Hengfeng Woodindustry regarding the joint venture, and the joint venture agreement. The record contains a purchase order from a division of Falcon Products, as well as a number of other purchase orders and several pages of untranslated documents.¹ The petitioner also provided its business plan and customer list.

On December 30, 2004, the director denied the petition determining that the duties of the proffered position were duties similar to the position of a contract administrator described in the Department of Labor's *Occupational Outlook Handbook (Handbook)* under the chapter "Administrative Services Manager." The director noted the *Handbook's* report that managers of highly complex services, such as contract administration, generally need at least a bachelor's degree in business, human resources, or finance. The director determined that although a baccalaureate level of training may be preferred or generally required for some jobs, the position of administrative services manager is not an occupation that requires a baccalaureate level of education in a specific specialty as a normal minimum for entry into the occupation.

The director referenced the Forms I-129 that had been submitted for other contract administrators and determined that even if such petitions had been approved in the past, the position of contract administrator does not require a bachelor's degree in a specific specialty. The director noted that the petitioner had not submitted letters or affidavits from firms in the import/export industry or any other evidence showing that a degree requirement is common to the industry in parallel positions among similar organizations. The director determined that the petitioner's description of duties of the proffered position was generic in nature and did not detail any unique or complex aspect of the position. The director noted that the petitioner had been in business since 1996 but had not provided evidence that it had required the services of individuals with baccalaureate or higher degrees in a specific specialty for the offered position. The director determined that

¹ The AAO declines to speculate on the content of the untranslated documents and notes any document containing foreign language submitted to the Service shall be accompanied by a full English language translation that the translator has certified as complete and accurate. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

the petitioner had not established that the proffered position was any more complex or specialized than other administrative services manager's jobs. The director concluded that the petitioner had failed to show that the proffered position met any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A); thus, the petitioner had failed to establish the proffered position as a specialty occupation.

On appeal, the petitioner indicates that the proffered position has two components: (1) overseeing business transactions with a major client, Falcon Products Company; and (2) contacting potential business partners in China and establishing strategic contracts with them. The petitioner asserts that with many foreign suppliers and partners located in China, familiarity with Chinese business culture and bilateral trade operation is a prerequisite for the position and that it requires a qualified and bilingual professional to review, analyze and manage ongoing and potential contracts and agreements. The petitioner indicates that without extensive knowledge of business finance, operation management and marketing analysis, the incumbent will not have the ability to clarify the contract terms and to conduct a review and analyze purchase orders with its major clients.

The petitioner claims that the job duties of the proffered position are specialized and complex and thus require knowledge usually associated with the attainment of a baccalaureate degree or its equivalent; that the position should be more appropriately classified as a purchasing manager, buyer, and purchasing agent as described in the *Handbook*; and that even the *Handbook's* report on administrative services managers includes a reference to managers of highly complex services, such as contract administration, that requires at least a bachelor's degree in business.

The petitioner also submits job advertisements for: (1) a contract administrator for a footwear company that requires a bachelor's degree in business administration, marketing, management or a related field; (2) an entry-level contract administrator for an organization that requires a bachelor's degree in business or a related field; and (3) a contracts administrator for an organization that requires a bachelor's degree in business administration or equivalent work experience. The petitioner also includes four letters from companies in the import/export industry. The president of Proway Forwarding, Inc. states that a degree requirement is essential to perform the contract/marketing assistant position with his company and submits an advertisement for the position, an H-1B approval notice for one such employee, and the employee's diploma. The president of D.D. Toys Corp. indicates that a degree requirement is essential to perform the position of contract specialist with her company and submits a job posting, an H-1B approval notice, and a copy of an individual's diploma. The president of Deltamedia International Inc. affirms that her company requires a degree to perform the position of contract administrator and submits its job announcement for the position, an H-1B approval notice, and a copy of an employee's diploma. The president of Asian Link Home Collection & Deco claims that a degree requirement is essential to perform the business contract administrator position with his company, and submits its business plan, an H-1B approval notice, and a copy of an individual's diploma.

The petitioner also submits its job posting for a marketing/contract specialist/administrator, an April 16, 2001 offer of employment to an individual to hold the position of contract administrator/coordinator, and a translation of the individual's diploma indicating the individual graduated from a four-year degree program with a major in international trade from a foreign university.

The petitioner asserts the information submitted responds to the director's concerns and that it has validated the position of contract specialist as a specialty occupation.

The petitioner's assertions and information submitted on appeal are not persuasive. The AAO observes that the critical element is not the title of the position nor an employer's self-imposed standards, but whether the position actually requires 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, as required by the Act. In this matter, the petitioner provides a broad description of the duties of the proffered position that correspond generally to the duties of a contract administrator and of a purchasing agent. The *Handbook* reports that contract administrators: "oversee the preparation, analysis, negotiation, and review of contracts related to the purchase or sale of equipment material, supplies, products, or services." The *Handbook* notes that purchasing agents: "buy goods and services for use by their own company or organization such as raw materials for manufacturing or office supplies." As referenced above, the *Handbook* reports: "[m]anagers of highly complex services, such as contract administration, generally need at least a bachelor's degree in business, human resources, or finance." The *Handbook* reports in regard to the training for purchasing agents: "[q]ualified persons may begin as trainees, purchasing clerks, expeditors, junior buyers or assistant buyers," and "[i]n manufacturing, new purchasing employees often are enrolled in company training programs and spend a considerable amount of time learning about their firms' operations and purchasing practices."

Although the *Handbook* indicates that managers of highly complex services, such as contract administration, generally need a bachelor's degree in business, human resources, or finance, the *Handbook* does not further expound upon what constitutes highly complex services. In addition, although the *Handbook* reports employers generally require a bachelor's degree in business, human resources, or finance, the *Handbook* does not elaborate on the general requirement of such disparate degrees as those of business, human resources, or finance. It is not possible to conclude from the *Handbook's* brief discussion of contract administration or the education required for contract administrators that a baccalaureate or higher degree or its equivalent in a specific specialty is normally the minimum requirement for entry into the position of contract administrator. Likewise, the *Handbook* notes there are a variety of avenues available to obtain a position as a purchasing manager, buyer, or purchasing agent and a baccalaureate degree in a specific discipline is not listed as usually required. Thus, the *Handbook* does not provide a method, in and of itself, to conclude that either a specific contract administrator or a purchasing agent is one position wherein a baccalaureate or higher degree in a specific discipline is normally the minimum requirement for entry into the particular position.

Moreover, the petitioner in this matter initially provided a lengthy but general description of the duties of the proffered position. The description suggested that the beneficiary would be involved in developing drafts of contracts, would represent the petitioner in negotiating with product suppliers, and would review (audit) contracts and correspondence to ensure the accuracy of terms, names, and amendments. The petitioner did not describe any particular activities pertinent to its business or describe the daily tasks associated with carrying out the broadly-defined duties. In its December 20, 2004 response to the director's RFE, the petitioner added that the beneficiary would be responsible for the petitioner's transactions with a particular company, as well as ensuring the petitioner's Chinese vendors and suppliers could meet its customer's requirements, and would seek other Chinese manufacturers for potential joint ventures.

The record before the director contained: information relating to other petitioners and other beneficiaries, the undated letter authored by the petitioner's owner indicating the petitioner had formed a joint venture with another company, and general information regarding the petitioner's status as a company. The record before the director did not include other evidence sufficient to establish the proffered position as a specialty occupation pursuant to any of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner provides a more direct summary of the position by noting that the proffered position has two components: (1) overseeing business transactions with a major client, Falcon Products Company; and (2) contacting potential business partners in China and establishing strategic contracts with them. However, the petitioner does not provide a contract with Falcon Products Company. The AAO acknowledges that the record includes a number of purchase orders; but if reviewing these purchase orders is the oversight the petitioner expects of the proffered position, the petitioner has not explained how such routine review is a highly complex service. The petitioner has not provided any documentary evidence of its contact with potential business partners or suppliers and has not provided documentary evidence of joint ventures with other companies. The petitioner has not provided evidence supporting its purported customer list and does not appear to claim more than one major client on appeal. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The AAO finds that the petitioner's description and assertions on appeal are without substantiating evidence and do not establish that the duties of the proffered position include highly complex services. Upon review of the general duties of the proffered position, the AAO cannot conclude that the proffered position requires the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree in a specific specialty.

Moreover, as the AAO has long determined, the requirement of a generic four-year degree or the preference for any number of degrees does not qualify a job as a specialty occupation. When a job, like that of a contract administrator or a purchasing agent/buyer, can be performed by a range of degrees or a degree of generalized title, without further specification, the position does not qualify as a specialty occupation. See *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988). To prove that a job requires the theoretical and practical application of a body of specialized knowledge as required by Section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study. As observed above, CIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(A)(I) to require a degree in a specific specialty that is directly related to the proffered position. The petitioner has failed to establish that a baccalaureate or higher degree or its equivalent in a specific specialty is the normal minimum requirement for entry into the proffered position. Upon review of the totality of the record, the record does not establish the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

The AAO now turns to a consideration of the proffered position pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), whether a degree requirement is common to the industry in parallel positions among similar organizations or that a particular position is so complex or unique that only an individual with a degree can perform the duties associated with the position. Factors often considered by CIS when determining the industry standard include: whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms

"routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Minn. 1999)(quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In this matter, the petitioner initially did not present any evidence to demonstrate that a degree requirement is common to the industry in parallel positions among similar organization.² On appeal the petitioner submitted three job announcements for positions titled contract administrator. One advertisement listed a requirement for a bachelor's degree in business administration, marketing, management, or a related field, while a second advertisement listed a requirement for a bachelor's degree in business or a related field. As discussed above, however, when a job can be performed by a range of degrees or a degree of generalized title, without further specification, the position does not qualify as a specialty occupation. *Matter of Michael Hertz Associates*, 19 I&N Dec. at 558. A third advertisement indicated that either a bachelor's degree in business administration or equivalent work experience would be acceptable. Again, the employer required only a degree of generalized title and was also willing to accept work experience for entry into the position. The petitioner has also failed to establish that the companies advertising for positions of contract administrator are similar to the petitioner in size, number of employees, level of revenue, or type of business. Further, as the record offers only a generalized description of the proffered position, the duties listed in the advertisements may not be established as parallel to those outlined by the petitioner.

The presidents of each of the other companies in the import/export industry³ in their letters in support of this petition indicate that a degree requirement is essential for the contract administration position. The advertisements submitted to demonstrate that each of the companies require a degree, list degrees in the fields of business administration, management, marketing, accounting, finance, economics, human resources, as acceptable or do not list a degree requirement. Again when a job can be performed by a range of degrees or a degree of generalized title, without further specification, the position does not qualify as a specialty occupation. *Matter of Michael Hertz Associates*, 19 I&N Dec. at 558. The petitioner has not submitted substantive evidence that a degree requirement is common to the industry in parallel positions among similar organizations. The petitioner has not met the first prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

In the alternative, the petitioner may show that the proffered position is so complex or unique that only an individual with a degree can perform the work associated with the position. In the instant petition, the petitioner has submitted inadequate description and insufficient documentation to distinguish the proffered position from similar but non-degreed employment. The record does not establish that the nature of the

² The AAO notes the three Forms I-129 petitions regarding other petitioners and other beneficiaries that were initially included in the record. The AAO notes that each of these petitions was submitted by one attorney, the petitioner's prior counsel, an individual no longer authorized to practice before CIS or the AAO. The record does not include evidence that the three other petitioners authorized their records to be submitted in other matters. Moreover, the record in this matter does not contain the complete records of the other matters, including whether those matters are still approved. The AAO declines to speculate regarding the unauthorized submission of other records or on the circumstances of other approvals when the complete records are not in evidence. The three Forms I-129 petitions will not be considered probative in this matter.

³ Petitioner's prior counsel, an individual not authorized to practice before CIS or the AAO, also represented these four companies.

specific duties of the proposed position is more specialized and complex than that of a typical contract administrator, a position that does not normally require a degree in a specific discipline or that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree in a specific discipline. The petitioner has failed to establish the proffered position as a specialty occupation under the second prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

When considering the third criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), the AAO usually reviews the petitioner's past employment practices, as well as the histories, including names and dates of employment, of those employees with degrees who previously held the position, and copies of those employees' diplomas. In this matter, the petitioner initially did not submit any evidence that it had previously employed an individual in the proffered position, even though the petitioner indicated it had been in the import/export business since 1996. On appeal, the petitioner submits its April 16, 2001 job advertisement for a marketing/contract specialist/administrator and an offer of employment to an individual to hold the position of contract administrator/coordinator. However, the petitioner does not submit substantiating evidence of when this individual was actually employed by the petitioner, in the form of payroll or tax records.

Furthermore, the AAO finds that while a petitioner may believe that a proffered position requires a degree, that opinion cannot establish the position as a specialty occupation. Were CIS limited solely to reviewing a petitioner's 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 required the individual to have a baccalaureate or higher degree. See *Defensor v. Meissner*, 201 F. 3d at 384. The petitioner has failed to establish the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) based on its normal hiring practices.

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires that the petitioner establish 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. On appeal, the petitioner references its many foreign suppliers and partners in China and indicates its need for a bilingual professional to manage its contracts and agreements. However, as observed above the petitioner does not provide documentary evidence of its foreign contacts or contracts. On appeal, the petitioner for the first time expands the proffered position's requirements to include extensive knowledge of business finance, operation management, and marketing analysis. The record suggests that the petitioner is re-defining the position on appeal to show that the position has complex and specialized elements. However, a petitioner may not make material changes to a petition in an effort to make a deficient petition conform to CIS requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm. 1998). Moreover, the petitioner does not explain what complex and specialized duties are involved in the routine review and analysis of purchase orders or in clarifying contract terms. The petitioner does not detail the specific duties that comprise operation management and marketing analysis or what complex and specialized duties require knowledge of business finance.

Although the petitioner claims that the job duties of the proffered position are specialized and complex and thus require knowledge usually associated with the attainment of a baccalaureate degree or its equivalent, the petitioner has not provided sufficient specificity regarding the proposed duties and their substantive content in relation to its business to show that the duties of the proffered position correlate to a position with specific duties so specialized and complex that the knowledge required for their performance is usually associated

with at least a bachelor's degree in a specific specialty. For example, the record contains no concrete information about the substantive issues involved in developing contracts for the petitioner, participating in the negotiating process, and analyzing the terms and provisions of contracts between the petitioner and other business entities. The record does not contain explanations or clarifying data sufficient to elevate the position to one that is so specialized or complex, that the knowledge to perform these additional tasks is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. In this matter, the petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

Based on the record of proceeding, the AAO has determined that the proffered position is not a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed. The petition is denied.