U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

[redacted]

FILE: WAC 03 081 54690 Office: CALIFORNIA SERVICE CENTER Date: DEC 21 2005

IN RE: Petitioner: [redacted]
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:

[redacted]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the California Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a business operating six 7-Eleven franchises, with 30 employees and a combined gross annual income of more than $7.5 million. It seeks to extend its employment of the beneficiary as an accountant 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 because he determined that the position was not a specialty occupation.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence; (3) previous counsel's response to the director's request; (4) the director's denial; and (5) Form I-290B, with a letter from current counsel and additional documentation. The AAO reviewed the record in its entirety before issuing its decision.

The issue before the AAO is whether the petitioner's proffered position qualifies as a specialty occupation. To meets 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.

To determine whether a particular job qualifies as a specialty occupation, CIS does not simply rely on a position's title. The specific duties of the proffered position, combined with the nature of the petitioning entity's business operations, are factors to be considered. CIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d 384 (5th Cir. 2000). 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.

The petitioner seeks the beneficiary's services as an accountant. Evidence of the beneficiary's duties includes: the Form I-129; and the petitioner's December 11, 2002 letter of support. As described by the petitioner, the duties of the proffered position would require the beneficiary to:

- Prepare, analyze and verify the quarterly and yearly tax returns;
- Perform audits;
- Prepare payroll statements and deductions, monthly expense reports and financial statements;
- Prepare the general ledger, monthly and yearly financial reports;
- Monitor information systems;
- Compile and analyze financial information to prepare entries into accounts;
- Detail assets, liabilities, and capital;
- Provide tax planning advice;
- Review finances and current taxes, and devise a long-range tax plan and recommend ways to reduce taxes;
- Advise and recommend tax strategies, advantages and disadvantages of business decisions or transactions;
- Be responsible for devising a financial system to assist the petitioner in establish a more systematic and smooth inventory process;
- Prepare balance sheets, profit and loss statements, necessary checks, payroll, tax remittances and other reports to summarize current and projected financial positions;
- Modify and coordinate implementation of accounting and accounting control procedures;
- Monitor budgeting, performance evaluation, cost and asset management;
- Prepare correspondence regarding transactions, financing and billing statements; and
- Analyze transactions and prepare billing statements.

To make its determination whether the employment just described qualifies as a specialty occupation, the AAO turns to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)*(1)* and *(2)*: a baccalaureate or higher degree or its

equivalent is the normal minimum requirement for entry into the particular position; and a degree requirement is common to the industry in parallel positions among similar organizations or a particular position is so complex or unique that it can be performed only by an individual with a degree. Factors considered by the AAO when determining these criteria include: whether the Department of Labor's *Occupational Outlook Handbook (Handbook)*, on which the AAO routinely relies for the educational requirements of particular occupations, reports the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." *See Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In his denial, the director determined that the record failed to establish that the petitioner was engaged in the type of business that typically requires the services of an accountant. The discussion of the occupational title of accountants and auditors in the *Handbook* does not, however, support the director's conclusion. It indicates, instead, that accountants perform in a range of business settings, working throughout private industry and government. The fact that the petitioner's business is a group of six 7-Eleven franchises would not preclude its hiring an accountant. Accordingly, the AAO withdraws the director's finding in this regard.

The director also concluded that the accounting duties of the proffered position, as described by the petitioner, were already provided by the 7-Eleven corporation's automated Retail Information System (RIS). He based his findings on the 7-Eleven website's discussion of the financial support available to franchises and the "Financial Summaries and Assistance That We Provide You" language of the 7-Eleven franchise agreements submitted in response to his request for evidence. On appeal, the petitioner contends that the RIS support noted by the director does not provide the accounting services required by a business operating multiple franchises. It states that it receives only two RIS accounting reports – a balance sheet and a profit and loss statement – for each of its six stores and that the RIS simply provides the financial data used by the beneficiary in the performance of the proffered position's duties. The petitioner contends that the 7-Eleven corporation does not offer the store-by-store financial comparisons currently performed by the beneficiary, nor does it provide monthly auditing of purchases of supplies and equipment, the auditing of financial records, reconciliation of accounts, tax planning and advice, budget creation and review, performance evaluation and review, monitoring of accounting controls or the analysis of problem accounts.

The AAO has reviewed the financial support and assistance language of the current 7-Eleven franchise agreements submitted by the petitioner, as well as that discussing the auditing services that a franchise may expect from the 7-Eleven corporation. These agreements indicate that the petitioner will receive unspecified financial statements for each accounting period and that it may expect assistance, to the extent information is available, in the preparation of its business tax reports and returns, but not with its income taxes.[1] The auditing assistance provided on an annual basis to a franchise by the 7-Eleven corporation appears to be related to its inventory, rather than its finances. Accordingly, the AAO does not find the language of the franchise agreements to indicate that the petitioner's stated accounting needs can be met through the financial

[1] The AAO notes that the language of the petitioner's previous franchise agreements describes the financial statements to be provided to the franchisee as including an income statement and balance sheet.

services it receives from the 7-Eleven corporation. Accordingly, it withdraws the director's finding to the contrary.

The petitioner has stated that the proffered position is that of an accountant. To determine whether the duties of the proffered position support the petitioner's characterization of its employment, the AAO turns to the *Handbook* for its discussion of management accountants, the category of accounting most closely aligned to the duties described by the petitioner. As stated at pages 68-69, management accountants:

> [r]ecord and analyze the financial information of the companies for which they work. Other responsibilities include budgeting, performance evaluation, cost management, and asset management . . . . They analyze and interpret the financial information that corporate executives need to make sound business decisions. They also prepare financial reports for nonmanagement groups, including stockholders, creditors, regulatory agencies, and tax authorities. Within accounting departments, they may work in various areas, including financial analysis, planning and budgeting, and cost accounting.

The AAO finds the above discussion to be generally reflected in the petitioner's description of the duties of the proffered position and agrees that the petitioner's employment would require the beneficiary to have an understanding of accounting principles. However, the performance of duties requiring accounting knowledge does not establish the proffered position as that of an accountant. The question is not whether the petitioner's position requires knowledge of accounting principles but rather whether it is one that normally requires the level of accounting knowledge that is signified by at least a bachelor's degree, or its equivalent, in accounting. To make this determination, the AAO must consider the petitioner's business operations.

While the size of a petitioner's business operations is normally not a factor in determining the nature of a proffered position, both level of income and organizational structure are appropriately reviewed when a petitioner seeks to employ an H-1B worker as an accountant. In cases where a petitioner's business is relatively small, the AAO reviews the record for evidence that its operations, are, nevertheless, of sufficient complexity to establish that the proffered position's accounting duties would require a level of knowledge obtained only through a baccalaureate degree in accounting or its equivalent.

In the instant case, the record establishes the petitioner as a business operating six 7-Eleven stores, with each store independently grossing more than $1 million annually. On appeal, the petitioner contends that, while he might be able to manage the operations of a single 7-Eleven franchise without an accountant, the financial management of six such franchises requires a degree in accounting. The AAO agrees. It finds the financial oversight and management of six discrete businesses operations to be accounting employment of sufficient complexity to impose a baccalaureate degree requirement in accounting or a directly related field on the beneficiary. Therefore, the petitioner has established the proffered position as a specialty occupation under the requirements at 8 C.F.R. § 214.2(h)(4)(iii)(A)*(1)* – a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position. The director's finding to the contrary is withdrawn.

The AAO now turns to the record before it to determine whether the beneficiary is qualified to perform the duties of the proffered position.

To prove that a beneficiary is qualified to perform the duties of a specialty occupation, a petitioner must establish that the beneficiary meets one of the requirements set forth at Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2) -- full state licensure to practice in the occupation, if such licensure is required; completion of a degree in the specific specialty; or experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Further discussion of how an alien qualifies to perform services in a specialty occupation is found at 8 C.F.R. § 214.2(h)(4)(iii)(C), and requires the individual to:

(1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

(2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

(3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or

(4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

At the time of filing, the petitioner submitted evidence to establish that the beneficiary holds a foreign degree that is the equivalent of a U.S. baccalaureate degree in a field of study directly related to accounting. This evidence includes copies of the beneficiary's diploma from the Philippines School of Business Administration documenting her 1982 bachelor of science degree in business administration, as well as her academic transcripts that indicate she graduated with a major in accounting; and an evaluation of the beneficiary's educational credentials provided by Academic and Professional International Evaluation (APIE), Inc. in Los Alamitos, California. The APIE evaluation finds the beneficiary's degree in business administration to be the equivalent of a U.S. baccalaureate degree in business administration, with a concentration in accounting, awarded by a regionally accredited college or university.

Having reviewed the documentation provided by the petitioner, the AAO finds the beneficiary's academic transcripts to support the APIE evaluation. Accordingly, it finds the petitioner to have established that the beneficiary holds a foreign degree that is equivalent to a U.S. baccalaureate degree required by the proffered position, i.e., a degree in business administration, with a major in accounting. Therefore, the petitioner has established the beneficiary as qualified to perform the duties of a specialty occupation under the second criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C).

For the reasons previously discussed, the petitioner has established both that the proffered position is a specialty occupation and that the beneficiary is qualified to perform the duties of a specialty occupation. Accordingly, the petitioner's appeal is sustained.

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 met that burden.

ORDER: The appeal is sustained. The petition is approved.

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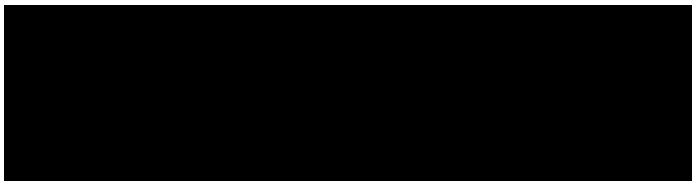
FILE: WAC 03 249 50181 Office: CALIFORNIA SERVICE CENTER Date: DEC 22 2005

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:



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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the California Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a plastics manufacturer, primarily providing packaging for the DVD and video markets. It has 11 employees and seeks to employ the beneficiary as a public relations specialist 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 because he determined that the record did not establish the proffered position as a specialty occupation.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence; (3) counsel's response to the director; and (4) Form I-290B, with counsel's brief, and new and previously submitted documentation. The AAO reviewed the record in its entirety before reaching its decision.

The issue before the AAO is whether the petitioner's 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.

To determine whether a particular job qualifies as a specialty occupation, CIS does not simply rely on a position's title. The specific duties of the proffered position, combined with the nature of the petitioning entity's business operations, are factors to be considered. CIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d 384 (5th Cir. 2000). 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.

The petitioner states it seeks the beneficiary's services as a public relations specialist. Evidence of the beneficiary's duties includes: the Form I-129; the petitioner's August 27, 2003 letter of support accompanying the Form I-129; and a November 19, 2003 letter provided by the petitioner in response to the director's request for evidence. As described by the petitioner, the duties to be performed by the beneficiary would be divided between statistical research and analysis, and public relations activities, requiring the beneficiary to:

- Determine which promotional and/or advertising source best enhances the petitioner's exposure to its target market, by conducting statistical research analysis coupled with the design of market surveys and questionnaires to determine how much exposure is needed;
- Devise a public relations program designed to foster, create and maintain a favorable public image for the petitioner, as well as promote the sale of its product line;
- Create, write and edit brochures, newsletters, Internet pages, newspaper and magazine articles; and oversee all promotional activities on behalf of the petitioner; and
- Prepare all promotional and informational materials, as well as news releases, articles, photo captions, bulletins, pamphlets and other documents where writing, both in an informative and persuasive manner, is paramount.

In response to the director's request for evidence, the petitioner indicated that it required the beneficiary's services to target large-scale retail end-users with potential interest in its products and to produce the promotional materials to support that effort. In referencing the beneficiary's research role, it indicated that she would "research which [type] of international exhibitions, trade shows, and conferences will be best suited to our own niche market." It also noted that the beneficiary's work would be performed without supervision.

To make its determination whether the employment just described qualifies as a specialty occupation, the AAO first turns to the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)*(1)* and *(2)*: a baccalaureate or higher degree

or its equivalent is the normal minimum requirement for entry into the particular position; and a degree requirement is common to the industry in parallel positions among similar organizations or a particular position is so complex or unique that it can be performed only by an individual with a degree. Factors considered by CIS when determining these criteria include: whether the Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." *See Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In his denial, the director concurred with the petitioner's description of the proffered position as a public relations specialist, but determined that it did not impose a specific degree requirement on the beneficiary. On appeal, counsel contends that a degree requirement within a specific specialty is the norm for a public relations specialist and that CIS failed to consider the evidence submitted by the petitioner in reaching its decision.

Following its review of the record, the AAO also finds proffered position to encompass many of the duties performed by public relations specialists who, as described at page 270 of the *Handbook:*

> [s]erve as advocates for businesses, nonprofit associations, universities, hospitals, and other organizations, and build and maintain positive relationships with the public. As managers recognize the growing importance of good public relations to the success of their organizations, they increasingly rely on public relations specialists for advice on the strategy and policy of such programs.
>
> Public relations specialists handle organizational functions such as media, community, consumer, industry, and governmental relations; political campaigns; interest-group representation; conflict mediation; or employee and investor relations . . . . Understanding the attitudes and concerns of consumers, employees, and various other groups also is a vital part of the job. To improve communication, public relations specialists establish and maintain cooperative relationships with representatives of community, consumer, employee, and public interest groups, and with representatives from print and broadcast journalism.
>
> . . .
>
> Media specialists draft press releases and contact people in the media who might print or broadcast their material . . . .
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> . . .
>
> People who handle publicity for an individual or who direct public relations for a small organization may deal with all aspects of the job. They contact people, plan and research, and prepare materials for distribution. They also may handle advertising or sales promotion work to support marketing.

However, the petitioner has also indicated that the beneficiary would be required to conduct the research and analysis necessary to identify potential new clients, the type of employment usually performed by marketing managers who have responsibility for developing the marketing strategies of their employers. As stated by the *Handbook*, page 23, marketing managers "determine the demand for products and services" and "identify potential markets," including other businesses. Accordingly, the AAO also finds the proffered position to combine the duties of a public relations specialist with those of a marketing manager.

To make its determination as to whether the petitioner may qualify its proffered position as a specialty occupation under the first criterion at 8 C.F.R. 214.2(h)(4)(iii)(A) – a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position – the AAO first turns to the *Handbook,* at page 271, for its discussion of the requirements imposed on those seeking employment as public relations specialists:

> There are no defined standards for entry into a public relations career. A college degree combined with public relations experience, usually gained through an internship, is considered excellent preparation for public relations work . . . . Many entry-level public relations specialists have a college major in public relations, journalism, advertising, or communication. Some firms seek college graduates who have worked in electronic or print journalism. Other employers seek applicants with demonstrated communication skills and training or experience in a field related to the firm's business . . . . .

This broad range of acceptable backgrounds is also found in the *Handbook's* discussion of the type of preparation required for employment as a marketing manager. As stated at pages 24-25:

> A wide range of educational backgrounds is suitable for entry into advertising, marketing, promotions, public relations, and sales managerial jobs, but many employers prefer those with experience in related occupations plus a broad liberal arts background. A bachelor's degree in sociology, psychology, literature, journalism, or philosophy, among other subjects, is acceptable. However, requirements vary, depending upon the particular job.
>
> For marketing, sales, and promotions management positions, some employers prefer a bachelor's or master's degree in business administration with an emphasis on marketing. Courses in business law, economics, accounting, finance, mathematics, and statistics are advantageous . . . .
>
> Most advertising, marketing, promotions, public relations, and sales management positions are filled by promoting experienced staff or related professional personnel. For example, many managers are former sales representatives, purchasing agents, buyers, or product, advertising, promotions, or public relations specialists . . . .

Accordingly, as the *Handbook* indicates that employers will employ individuals as public relations specialists and marketing managers solely on the basis of experience, it does not support a finding that the performance of the proffered position's duties would normally impose a degree requirement on the beneficiary.

Before reaching its decision, the AAO has also considered the materials submitted by the petitioner to establish a degree requirement for employment as a public relations specialist, including documentation of the *Occupational Information Network (O*Net)* educational and training code assigned to the occupation of public relations specialist, letters from individuals working in the field of public relations or familiar with that field, materials from Internet sites related to careers in public relations, marketing, communications and on-line job advertisements for public relations specialists. While all the materials submitted by the petitioner are relevant to these proceedings, the AAO finds only "The Public Relations Profession," an overview of public relations careers published by the Public Relations Society of America (PRSA) to be an authoritative source of information regarding degree requirements for public relations professionals.

In "The Public Relations Profession," the PRSA states that, with regard to the academic preparation required for a public relations career, "a college degree is essential and a basic grounding in the liberal arts is strongly recommended." Accordingly, as the PRSA is a nationally recognized voice for the public relations industry, the AAO finds the record to establish that employment as a public relations specialist requires a degree, despite the discussion found in the *Handbook*. However, the degree requirement identified by the PRSA does not establish the proffered position as a specialty occupation under the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The PRSA material submitted by the petitioner establishes only that individuals seeking employment as public relations specialists must have college degrees, not that such degrees must be in a field directly related to their work, as required to establish the proffered position as a specialty occupation. This material corroborates the discussion in the *Handbook* indicating that when employers hire degreed individuals as public relations specialists, the degree may be in a broad range of fields. 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. *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.

The AAO now turns to a consideration of whether the petitioner, although unable to establish the proffered position as a specialty occupation under the first criterion, may qualify it under another of the alternate criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

Although the petitioner has submitted a significant amount of documentation on public relations careers and employment, this evidence does not establish that the proffered position is identifiable with an industry-wide educational standard, or distinguishable, based on its unique character or greater complexity, from a similar but nondegreed position, as required by the second criterion. Further, as the petitioner has indicated that the proffered position is newly created, it cannot qualify the position as a specialty occupation based on its usual hiring practices. However, the AAO does find the petitioner to have established that the proposed duties of

the proffered position of public relations specialist/marketing manager are sufficiently specialized and complex to require the type of knowledge usually associated with the attainment of a baccalaureate degree in public relations, journalism, advertising or communications. Therefore, the petitioner has satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*4*) and the AAO withdraws the director's determination that the proffered position is not a specialty occupation.

In that the petitioner has established the proffered position as a specialty occupation, the AAO now turns to a consideration of the beneficiary's qualifications to perform the duties of a specialty occupation.

To make this determination, CIS looks to the petitioner to establish that the beneficiary meets one of the requirements set forth at Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2) -- full state licensure to practice in the occupation, if such licensure is required; completion of a degree in the specific specialty; or experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Further discussion of how an alien qualifies to perform services in a specialty occupation is found at 8 C.F.R. § 214.2(h)(4)(iii)(C), and requires the individual to:

(1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

(2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

(3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or

(4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The beneficiary does not possess a U.S. baccalaureate degree required by the specialty occupation. She does, however, hold a foreign degree that the petitioner contends is the equivalent of such a degree. To establish this equivalency, the petitioner, at the time of filing, submitted a copy of the beneficiary's 1991 degree in mass communication from St. Scholastica's College in The Philippines, a transcript of the course work she completed toward that degree, and an evaluation of these materials prepared by International Credential Evaluators (ICE), Inc. in Norman, Oklahoma. The ICE evaluation finds the beneficiary's degree from St. Scholastica's College to be the equivalent of a degree in mass communications awarded by an accredited U.S. university.

Based on its review of the documentation provided by the petitioner, the AAO will accept the ICE evaluation of the beneficiary's academic background. It, therefore, finds the beneficiary to hold the equivalent of a U.S. baccalaureate degree in communications, a field of study directly related to the duties of the proffered position. Accordingly, the petitioner has established the beneficiary's qualifications to perform the duties of a specialty occupation under the second requirement at 8 C.F.R. § 214.2(h)(4)(iii)(C).

For the reasons related in the preceding discussion, the petitioner has established both that the proffered position qualifies as a specialty occupation and that the beneficiary is qualified to perform its duties. Therefore, the director's denial of the petition is withdrawn.

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 sustained that burden.

ORDER: The appeal is sustained. The petition is approved.