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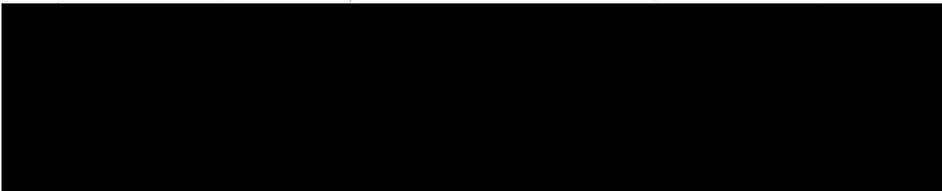
U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: SRC 05 039 52696 Office: TEXAS SERVICE CENTER

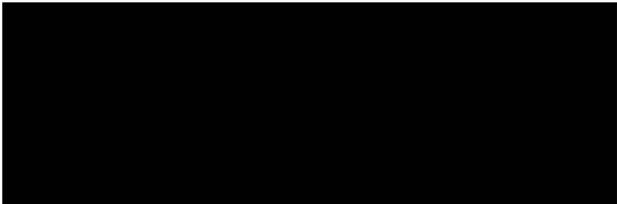
Date: DEC 12 2006

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 materials have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The petitioner filed a motion to reconsider. The director granted the motion, but again denied the petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner is an avionics repair station. It seeks to employ the beneficiary as a technical specialist, aircraft systems and to extend his classification as a nonimmigrant worker 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 on the ground that the record fails to establish that the proffered position qualifies as a specialty occupation.

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.

As provided in 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 criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response thereto; (4) the notice of decision; (5) the petitioner's motion to reconsider and supporting materials; (6) the director's decision on the motion; and (7) Form I-290B and an appeal brief. The AAO reviewed the record in its entirety before issuing its decision.

In its initial submission, including Form I-129 and an accompanying letter, the petitioner described itself as an FAA and JAA approved repair station with experience in every type of composite material – including fiberglass, carbon fiber, metal to metal bonding, graphite, and plastic – that offers repair and overhaul services, specializing in sheet metal/composite parts and components, on a variety of aircraft operated by civilian and freight airlines. The petitioner stated that it was established in March 2000 and has ten employees, but did not provide any annual income figures. The petitioner indicated that it proposes to employ the beneficiary as a technical specialist, aircraft systems for three years, at an annual salary of \$23,000, and described the position as follows:

[The beneficiary] will be responsible for advising and training customers and personnel in the operation, overhaul, and maintenance of the company's aircraft parts and spares by applying his knowledge of aircraft systems, company specifications, and Federal Aviation Administration (FAA) inspection procedures and specifications. [The beneficiary] will conduct investigations to determine the source of any technical problems, evaluate the results of investigations, and recommend corrective action. [The beneficiary] will train customers and personnel in the operation, overhaul, and maintenance of aircraft systems. He will further oversee mechanical and structural repairs and compile data relating to changes and/or improvements.

According to the petitioner the proffered position requires a bachelor's degree, or its equivalent, and an FAA license. The beneficiary has the equivalent of a bachelor's degree in mechanics and repair, the petitioner asserted, by virtue of his employment since 1987 in progressively responsible positions within the aircraft industry. In addition, he has been FAA licensed since 1992.

In response to the RFE counsel cited an opinion letter from Ted Beneigh, a professor of aeronautical science at Embry-Riddle Aeronautical University in Daytona Beach, Florida, who declares that the minimum educational requirement for the proffered position is a bachelor's degree in aviation technology or a related field. Counsel asserted that the proffered position differs from that of an aircraft mechanic, airframe mechanic, powerplant mechanic, or avionics repair specialist, as described in the Department of Labor (DOL)'s *Occupational Outlook Handbook (Handbook)*, and cited a letter from the petitioner providing a more detailed description of the job duties, which are listed as follows:

- Develop, coordinate, and conduct customer product training classes in the fitting, operation, and maintenance of company's products. Training courses are conducted both in the facility and at customer facilities.
- Develop and maintain quality inspection instructions.
- Provide training to personnel in quality methods, procedures and practices.
- Assure conformance with FAA requirements of all equipment, methods and procedures.
- Resolve problems that affect quality and reliability of equipment.
- Conduct inspections and oversee mechanical and structural repairs.
- Interface with customers to determine product requirements, and identify and suggest products that satisfy customer requirements.
- Support and conduct testing of products for qualification and/or certification.
- Build and maintain close relationships with customers by periodically conferring with them to verify satisfaction with products and services or to resolve complaints.
- Support and attend applicable trade shows for the aviation community.

- Provide expert consultation to staff in the area of equipment fitting and maintenance.
- Write and develop proposals and questionnaires for existing and future clients.
- Develop operations and maintenance manuals and technical training media for new and existing products to train staff and clients.
- Support other members of staff in aircraft integration studies.

In her decision the director found that the proffered position does not qualify as a specialty occupation under any of the criteria enumerated in 8 C.F.R. § 214.2(h)(4)(iii)(A). After quoting an extensive excerpt from the DOL *Handbook* on the occupational category of “aircraft and avionics equipment mechanics and service technicians” the director concluded that the *Handbook* does not indicate that the occupation requires a baccalaureate degree or the equivalent in a specific course of study directly related to the proffered position.

Counsel filed a motion to reconsider, pointing out that the instant petition requests an extension of previously approved H-1B status and asserting that the director erred by not considering the evidence presented – including the opinion letter from Professor Beneigh and the letter from the petitioner submitted in response to the RFE. Counsel also asserted that the director misinterpreted the *Handbook* excerpt on aircraft and avionics equipment mechanics and service technicians, which counsel submitted as evidence that the proffered position is different from that occupation.

In her decision on the motion, the director found that the majority of the proffered position’s duties are those of an aircraft mechanic, as described in the *Handbook*, and that the evidence of record failed to show that a bachelor’s degree in aviation technology or a related specialty is required for such a job. The director noted that the beneficiary would be subordinate to the director of maintenance and that the “employer’s quarterly report” filed with the State of Florida for the third quarter of 2004 listed just two employees, rather than the ten claimed in the petition. The director concluded that the record fails to demonstrate the beneficiary’s eligibility for H-1B classification.

On appeal counsel refers to its previously submitted evidence and asserts that the director abused her discretion by ignoring the fact that the beneficiary was previously granted H-1B status for an identical position with another company in 2001, neglecting to properly consider the evidentiary materials in the record, and failing to provide an explanation or rationale for departing from the ruling in 2001.

In determining whether a position meets the statutory and regulatory criteria of a specialty occupation, CIS routinely consults the DOL *Handbook* as an authoritative source of information about the duties and educational requirements of particular occupations. Factors typically considered are whether the *Handbook* indicates a degree is required by the industry; 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)). CIS also analyzes the specific duties and complexity of the position at issue, with the *Handbook*’s occupational descriptions as a reference, as well as the petitioner’s past hiring practices for the position. See *Shanti Inc. v. Reno, id.*, at 1165-66.

Though counsel submitted the *Handbook*’s occupational entry on “aircraft and avionics equipment mechanics and service technicians” as evidence that the duties of that occupation are distinguishable from those of the proffered position, the AAO agrees with the director that the duties of the proffered position accord with the

occupational category of aircraft and avionics equipment mechanics and service technicians. As described in the *Handbook*, 2006-07 edition, at 544-45:

[A]ircraft and avionics equipment mechanics and service technicians perform scheduled maintenance, make repairs, and complete inspections required by the Federal Aviation Administration (FAA).

Many aircraft mechanics, also called airframe mechanics, power plant mechanics, and avionics technicians, specialize in preventive maintenance. They inspect aircraft engines, landing gear, instruments, pressurized sections, accessories – brakes, valves, pumps, and air-conditioning systems, for example – and other parts of the aircraft, and do the necessary maintenance and replacement of parts. They also maintain records related to the maintenance performed on the aircraft. Mechanics and technicians conduct inspections They repair or replace worn or defective parts. Mechanics also may repair sheet metal or composite surfaces; measure the tension of control cables; and check for corrosion, distortion, and cracks in the fuselage, wings, and tail. After completing all repairs, they must test the equipment to ensure that it works properly.

Mechanics specializing in repair work rely on the pilot's description of a problem to find and fix faulty equipment

Airframe mechanics are authorized to work on any part of the aircraft except the instruments, power plants, and propellers. *Powerplant mechanics* are authorized to work on engines and do limited work on propellers. *Combination airframe-and-powerplant mechanics* – called A&P mechanics – work on all parts of the plane except the instruments. Most mechanics working on civilian aircraft today are A&P mechanics. In small, independent repair shops, mechanics usually inspect and repair many different types of aircraft.

[A]vionics technicians repair and maintain components used for aircraft navigation and radio communications, weather radar systems, and other instruments and computers that control flight, engine, and other primary functions

While counsel asserts that the duties of the proffered position differ from those of the above occupation in that they focus on training rather than on maintenance, the training component of the job is directly linked with, and grounded in an understanding of, the job's repair, maintenance, and inspection functions. Only three of the fourteen job duties listed in the petitioner's response to the RFE involve training, and like the other duties in the list, they are directly tied to the repair, maintenance, and inspection of aircraft and aircraft parts. The *Handbook* notes that mechanics in this occupation who have an inspector's authorization can certify work completed by other mechanics and that uncertified mechanics are supervised by those with certificates. As aircraft mechanics gain experience, they may advance to lead mechanic or shop supervisor positions. The AAO determines that the training aspect of the proffered position does not change its essential nature from that of an aircraft and/or avionics equipment mechanic and service technician, as described in the *Handbook*.

With respect to the educational and training requirements of the occupation, the *Handbook* states the following:

Most mechanics who work on civilian aircraft are certified by the FAA as an airframe mechanic” or a “powerplant mechanic”

The FAA requires at least 18 months of work experience for an airframe or powerplant certificate. For a combined A&P certificate, at least 30 months of experience working with both engines and airframes is required. Completion of a program at an FAA-certified mechanic school can substitute for the work experience requirement To obtain an inspector’s authorization, a mechanic must have held an A&P certificate for at least three years, with 24 months of hands on experience

Although a few people become mechanics through on-the-job training, most learn their job in one of about 170 trade schools certified by the FAA. About one-third of these schools award two-year and four-year degrees in avionics, aviation technology, or aviation maintenance management.

[A]ircraft trade schools are placing more emphasis on technologies such as turbine engines, composite materials – including graphite, fiberglass, and boron – and aviation electronics, which are increasingly being used in the construction of new aircraft

[A]s aircraft mechanics gain experience, they may advance to lead mechanic (or crew chief) inspector, lead inspector, or shop supervisor positions

Id. at 545-46. As indicated in the *Handbook*, a baccalaureate degree in a specific specialty, or its equivalent, is not the normal minimum requirement for entry into a positions as an aircraft and/or avionics equipment mechanic and service technician, as required for the position to meet the first alternative criterion of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). Though four-year degrees are available at some trade schools, there is ample opportunity to enter the occupation with a two-year degree or, as in the case of the beneficiary in this case, through on-the-job experience.

As for the second alternative criterion of a specialty occupation, at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), the record includes the opinion letter from Professor Beneigh, professor of aeronautical science at Embry-Riddle Aeronautical University, who declares that based on the duties of the proffered position and those of parallel positions in similarly sized organizations a baccalaureate degree in aviation technology or a related field is required to perform the job. The professor does not identify any specific parallel positions and similarly sized companies on which he bases his finding, provides no information about the duties of those positions and the degrees possessed by the employees hired as “technical specialists, aircraft systems,” and does not cite any studies, industry surveys, or other business data in support of the conclusion that the job duties could not be performed without a baccalaureate level of education. Going on record without supporting documentation does not satisfy the petitioner’s burden of proof. *See 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 *Handbook*, which is a compilation of national data from industry surveys, literature, interviews, and other business data, establishes that a baccalaureate degree is not required for entry into the occupation. The professor recites the job duties as described by the petitioner, which fail to distinguish the proffered position in any meaningful way from aircraft and avionics equipment mechanics and service technicians, as discussed in the *Handbook*, which do not require a baccalaureate degree in aviation technology or a related specialty to perform the job.

Finally, the professor does not establish his expertise in regard to the hiring requirements of other avionics repair stations.

CIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. When an opinion is not accord with other information or is in any way questionable, however, CIS is not required to accept or may give less weight to that evidence. See *Matter of Caron International, Inc.*, 19 I&N Dec. 791, 795 (Comm. 1988). The AAO determines that the opinion letter from Professor Beneigh is not persuasive evidence that a baccalaureate or higher degree in a specific specialty, or its equivalent, is a common requirement in the petitioner's industry for entry into parallel positions in similar organizations, as required for the position to qualify as a specialty occupation under the first prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

Nor does the record establish that the proffered position is so complex or unique that it can only be performed by an individual with a bachelor's degree in a specific specialty. The petitioner has submitted no evidence demonstrating the uniqueness of the position, and has not demonstrated that the training duties of the job distinguish the position in any decisive way from other aircraft and/or avionics equipment mechanics and service technicians and supervisors, such that a degree in a specific specialty would be required. Accordingly, the proffered position does not qualify as a specialty occupation under the second prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

As for the third alternative criterion of a specialty occupation, the proffered position is newly created and the petitioner has no hiring history for it. Thus, the petitioner cannot show that it normally requires its technical specialist, aircraft systems to have a bachelor's degree in a specific specialty, as required for the position to qualify as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Lastly, the proffered position does not qualify as a specialty occupation under the fourth alternative criterion, at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), because the record does not establish that the duties of the position are so specialized and complex that the knowledge required to perform them is usually associated with a baccalaureate or higher degree in a specific specialty. Though Professor Beneigh asserts in his opinion letter that the job duties "require a high level of specialized knowledge, technical understanding, and competence," he does not distinguish the duties of the position from those performed by aircraft and avionics equipment mechanics and technicians, as discussed in the *Handbook*, and his conclusory statement that the duties are so specialized and complex that they require a bachelor's degree in aviation technology or a related field is not supported by any explanation, such as what coursework would be required to perform the duties. Going on record without supporting documentation does not satisfy the petitioner's burden of proof. See *Matter of Soffici, id.* The record does not establish that the duties of the proffered position can only be performed by an individual with a baccalaureate level education in a specific specialty.

Thus, the proffered position does not meet any of the qualifying criteria of a specialty occupation enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A). The petitioner has not established that the beneficiary will be coming temporarily to the United States to perform services in a specialty occupation, as required under section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

Notwithstanding the service center's previous approval of H-1B status, the current petition to continue the beneficiary's H-1B classification cannot be approved unless the record establishes current eligibility. CIS is not required to approve a petition when eligibility has not been demonstrated merely because of a prior

approval that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). Moreover, the AAO is never bound by a decision issued by a service center or a district director. *See Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd* 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001). Each nonimmigrant petition is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, CIS is limited to the information contained in the petitioner's record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii).

Beyond the decision of the director, the record does not establish that the beneficiary is qualified to perform the services of a specialty occupation. Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), provides that an alien must have the following credentials to be qualified to perform the services of a specialty occupation:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

As further explained in 8 C.F.R. § 214.2(h)(4)(iii)(C), an alien must meet one of the following criteria to qualify to perform the services of a specialty occupation:

- (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.

For the purpose of deciding whether the beneficiary is qualified under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), 8 C.F.R. § 214.2(h)(4)(iii)(D) provides that the determination shall be based on one or more of the following:

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;

- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service [CIS] that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience. For purposes of determining equivalency to a baccalaureate degree in the specialty, three years of specialized training and/or work experience must be demonstrated for each year of college-level training the alien lacks. For equivalence to an advanced (or Masters) degree, the alien must have a baccalaureate degree followed by at least five years of experience in the specialty . . . It must be clearly demonstrated that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as: (i) Recognition of expertise in the specialty occupation by at least two recognized authorities ¹ in the same specialty occupation; (ii) Membership in a recognized foreign or United States association or society in the specialty occupation; (iii) Published material by or about the alien in professional publications, trade journals, books, or major newspapers; (iv) Licensure or registration to practice the specialty occupation in a foreign country; or (v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

The beneficiary does not qualify to perform the services of the specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(C)(1) because he does not have a U.S. baccalaureate or higher degree, or under 8 C.F.R. § 214.2(h)(4)(iii)(C)(2) because he does not hold a foreign degree determined to be equivalent to a U.S.

¹ *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

baccalaureate or higher degree, or under 8 C.F.R. § 214.2(h)(4)(iii)(C)(3) because he does not have an unrestricted state license to practice the specialty occupation.

In order for the beneficiary to qualify under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) to perform services in a specialty occupation, the record must establish that he has a combination of education, specialized training and progressively responsible work experience equivalent to a U.S. baccalaureate or higher degree in the specialty occupation, as evidenced by one or more of the documentary forms set forth in 8 C.F.R. § 214.2(h)(4)(iii)(D). The record includes an evaluation report from an educational credentials evaluation service which concludes that the beneficiary has the equivalent of a bachelor's degree in mechanics and repair, with a specialization in aircraft mechanics and repair, from an accredited U.S. college or university. The report bases its conclusion on the beneficiary's diploma from National School of Civil Aeronautics in Asuncion, Paraguay, in December 1987, which the evaluator rates as equivalent to one year of credit at an accredited military academy in the United States, plus 14 years of work experience in the mechanics and repair of aircraft since 1987.

There is no evidence that the evaluation report is authored by an official with authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university with a program for granting such credit. Accordingly, the evaluation cannot be considered as evidence of the beneficiary's U.S. degree equivalency under 8 C.F.R. § 214.2(h)(4)(iii)(D)(1).

Since the evaluation report reviews the beneficiary's work experience, as well as his education, it cannot be considered as evidence of the beneficiary's U.S. degree equivalency under 8 C.F.R. § 214.2(h)(4)(iii)(D)(3).

Nor does the record establish that the beneficiary has the equivalent of a U.S. degree in accounting through a combination of education, specialized training, and/or work experience in the specialty occupation or related areas, and recognition of expertise therein, as required to meet the alternative qualifying criteria at 8 C.F.R. § 214.2(h)(4)(iii)(D)(5). There is no documentation in the record to corroborate any of the academic and work experience cited in the evaluation report. Going on record without supporting documentation does not satisfy the petitioner's burden of proof. *See Matter of Soffici, id.* Even if there were such documentation in the record, and the petitioner could demonstrate that the beneficiary's diploma from Paraguay's National School of Civil Aeronautics were equivalent to a year of college credit in the United States, the petitioner would have to demonstrate that the beneficiary has nine years of progressively responsible experience in the aviation industry, that the beneficiary's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in a specialty occupation, and that the beneficiary has documented recognition of expertise in the specialty. As the record does not contain such documentation, the beneficiary's work experience cannot be counted for the purpose of determining degree equivalency under 8 C.F.R. § 214.2(h)(4)(iii)(D)(5). The AAO concludes, therefore, that the evidence of record does not establish that the beneficiary's education, specialized training, and work experience is equivalent to a baccalaureate degree in aviation mechanics and repair from a U.S. college or university.

For the reasons discussed above, the petitioner has failed to establish that the beneficiary is qualified to perform services in a specialty occupation. For this reason as well, the petition may not be approved.

The petitioner bears the burden of proof in these proceedings. *See* section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the AAO will not disturb the director's decision denying the petition.

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

