

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

02

FILE: LIN 05 082 51851 Office: NEBRASKA SERVICE CENTER

Date: APR 03 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:

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska 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 avers that it provides information technology services, employs four personnel, and has a net annual income of \$200,000. It seeks to employ the beneficiary as a technical recruiter. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant 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 proffered position is not a specialty occupation.

The record of proceeding before the AAO contains: (1) the January 24, 2005 Form I-129 with supporting documentation; (2) the director's March 30, 2005 request for additional evidence (RFE); (3) counsel for the petitioner's May 31, 2005 response to the director's RFE; (4) the director's November 21, 2005 denial letter; and (5) the Form I-290B, with counsel's brief and supporting 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 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.

The petitioner seeks the beneficiary's services as a technical recruiter. Evidence of the beneficiary's duties includes the petitioner's January 21, 2005 letter in support of the petition and the petitioner's May 26, 2005 letter appended to its response to the director's RFE. The petitioner initially indicated that it required a technical recruiter to supervise and direct functions such as:

- Planning, directing, coordinating and executing technical recruiting activities to ensure that the staffing objectives of the clients and the company are met;
- For technical personnel, he/she will be developing candidate data bases, interviewing the candidates and screening them to fill the technical positions;
- Developing long term technical recruitment programs for the company to ensure we are meeting our long term technical needs.

The petitioner added:

[The beneficiary] will seek out, interview, screen and recruit job applicants to fill technical job openings. She will discuss Technical needs with department to prepare and implement recruitment program, contact colleges to arrange on-campus interviews, and provide information on company facilities and job opportunities to potential applicants. She will be interviewing college applicants to obtain work history, education, training, job skills and salary requirements, screening and referring qualified applicants to company hiring Professionals for follow-up interviews.

She will supervise the arrangement of travel and lodging for selected applicants at company expenses, perform reference and background checks on applicants, and correspond with job applicants to notify them of employment considerations.

[The beneficiary's] duties will also include filing and maintaining employment records for future references and projecting yearly recruitment expenses for budgetary control.

In the May 26, 2005 letter in response to the director's RFE, the petitioner stated the beneficiary's actual day-to-day duties would include:

Analyze and understand the technical and business requirements pertaining to clients' permanent and contract IT openings and gather requirements and write job descriptions – 25 percent

Consult with the department heads and develop recruiting strategies; monitor effectiveness of recruiting process; and suggest improvements and suggest training goals for recruited employees – 15 percent

Identify and source technical candidates throughout the United States at various software skill levels – project managers, application consultants, data architects, Oracle Apps consultants, business systems analysts, business process engineers, operations managers, programmers, IT portfolio director, etc.; screen and evaluate technical competency of the applicants by conducting technical interviews and verifying the software and hardware skills of the candidates; and proactive recruitment of consultants with preferred technical skills – 40 percent

Coordinate interviews and perform background checks on the candidates and manage the resources/consultants deployed at client sites – 10 percent

Develop strong communication channels with internal and external clients; develop vendor/supplier relationships for subcontracting; and negotiate salary and employment contracts and prepare and present recruiting activity reports to the management – 10 percent.

The petitioner also provided a May 25, 2005 opinion letter authored by [REDACTED] Professor of Marketing at the Lubin Graduate School of Business, Pace University. Dr. Gould opined that an employer who provided staffing solutions for the information technology industry would require that its recruiters and staffing specialist possess a bachelor's-level background in an appropriate technical and/or human resources field. Dr. Gould stated: "it is fully reasonable for a company providing technically-oriented staffing services to ensure that the professionals engaged in the management and provision of those services possess a bachelor's level of skill and comprehension in the core technical and HR concepts and techniques." Dr. Gould indicated his belief that generalized knowledge of human resources and information technology, alone is not sufficient for a professional recruiter to handle the functional requirements of the proffered position. Dr. Gould opined: "[b]achelor's level training in an appropriate information technology field allows an individual to develop the necessary abilities in analyzing and understanding the specifications of information technology engagements and subsequently rendering his or her conclusions through the placement of information technology professionals. Furthermore, a specialty-level background in HR enables the recruiter to execute the interview, recruitment, and placement procedures required in operating at a professional level in the staffing industry." Dr. Gould stated his opinion was based on the petitioner's description of job duties and his general knowledge of the hiring patterns of information technology firms engaged in such placement services. Dr. Gould concluded that the technical recruiter position could not be performed without at least a bachelor's level training in human resources management along with appropriate knowledge of the underlying information technology concepts and/or training in an appropriate information technology field.

The petitioner also provided ten job announcements for positions including: (1) a contract recruiter for an independent computing services firm that referenced a bachelor's degree in an unspecified discipline but did not indicate if a degree was preferred or required but noted that candidates should have 5+ years of technical recruiting experience; (2) a recruiter for a placement firm that referenced a bachelor's degree in an unspecified discipline but did not indicate if a degree was preferred or required and required a minimum of two years of recruiting experience; (3) a contract recruiter for a Fortune 500 organization that preferred a bachelor's degree in human resources or business administration and experience; (4) an executive recruiter for an organization that did not specify the industry to be served and referenced a bachelor's degree in an unspecified discipline but did not indicate if a degree was preferred or required; (5) a recruiter leading into a sales/management position for a provider of staffing and managed services to the information technology and communications industry that listed a bachelor's degree in business administration, marketing, or a related field; (6) a search consultant for a health care executive search firm that listed a generic bachelor's of art or bachelor's of science as required; (7) a technical recruiter for a placement agency that listed a bachelor's of business administration but no specific area of concentration and two years experience with certificates/licenses; (8) an executive recruiter for an executive placement firm that preferred a bachelor's of business administration or master's of business administration; (9) a contract recruiter for advertising and new media professionals that referenced a bachelor's degree but did not indicate a specific discipline or whether a degree was preferred or required; and (10) a senior recruiter that indicated the successful applicant would need a four-year degree in an unspecified discipline or equivalent experience to be considered for the position.

On November 21, 2005, the director denied the petition finding that neither the Department of Labor's *Occupational Outlook Handbook (Handbook)* nor the job advertisements submitted by the petitioner indicated that a degree in a specific discipline was required to perform the duties of the occupation of a recruiter. The director also noted the petitioner's claim that it had previously employed individuals with degrees in the position, but found that the petitioner had not provided evidence supporting its claim.

On appeal, counsel for the petitioner asserts that the petitioner's position of technical recruiter is so complex that only an individual with a degree can perform the duties associated with the position and that the nature of the specific duties are so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate degree or higher.

Counsel notes the failure of the director to consider the position evaluation letter authored by James S. Gould and asserts that Dr. Gould's opinion letter establishes that the position of technical recruiter is a specialty occupation. Counsel also references a CIS memorandum for the supposition that an opinion submitted by a reputable credentials evaluation service should be accepted without question unless containing obvious errors and cites an unpublished decision to support this supposition. Counsel contends that the *Handbook* also establishes that the position of technical recruiter is a specialty occupation. Counsel notes that the *Handbook* recognizes that many employers seek college graduates who have majored in human resources, personnel administration, or industrial or public relations and that some jobs may require a more technical or specialized background in engineering, science, finance, or law for example. Counsel claims that this statement substantiates that many employers seek college graduates who have majored in a narrow field of study and that the *Handbook* has concluded that a bachelor's degree in a narrow field of study is in fact normally required for entry into the position.

Counsel also asserts that the petitioner normally requires a bachelor's degree for the proffered position and submits education credentials pertinent to two recruiters employed by the petitioner.

Counsel's assertions are not persuasive. The AAO does not find that the record demonstrates that the petitioner will employ the beneficiary in a specialty occupation. The AAO elaborates on the brief decision rendered by the director, considering all the evidence and argument submitted. When determining whether the employment described qualifies as a specialty occupation, the AAO first turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I) which requires that a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position. One of the factors considered by the AAO when determining this criterion includes whether the *Handbook* reports that the industry requires a degree. The proffered position's duties fall within the occupational title of human resources, training and labor relations managers and specialists discussed in the 2006-2007 edition of the DOL *Handbook*:

Attracting the most qualified employees and matching them to the jobs for which they are best suited is important for the success of any organization . . . . In the past, [human resources, training, and labor relations managers and specialists] have been associated with performing the administrative functions of an organization, such as handling employee benefits questions or recruiting, interviewing, and hiring new personnel in accordance with policies and requirements that have been established in conjunction with top management. Today's human resources workers manage these tasks and, increasingly, consult top executives regarding strategic planning. They have moved from behind-the-scenes staff work to leading the company in suggesting and changing policies . . . .

*Recruiters* maintain contacts within the community and may travel considerably, often to college campuses, to search for promising job applicants. Recruiters screen, interview, and occasionally test applicants. They may also check references and extend job offers. These workers must be thoroughly familiar with the organization and its human resources policies in order to discuss wages, working conditions, and promotional opportunities with prospective employees. They also must keep informed about equal employment opportunity (EEO) and affirmative action guidelines and laws, such as the Americans with Disabilities Act.

The educational backgrounds that may qualify an individual for a career in human resources management are diverse. As indicated by the *Handbook*:

The educational backgrounds of human resources, training, and labor relations managers and specialists vary considerably because of the diversity of duties and levels of responsibility. In filling entry-level jobs, many employers seek college graduates who have majored in human resources, human resources administration, or industrial and labor relations. Other employers look for college graduates with a technical or a business background or a well-rounded liberal arts education.

The duties given to entry-level workers will vary, depending on whether the new workers have a degree in human resource management, have completed an internship, or have some other type of human resources-related experience. Entry-level employees commonly learn the profession by performing administrative duties – helping to enter data into computer systems, compiling employee Handbooks, researching information for a supervisor, or answering the phone and handling routine questions. Entry-level workers often enter formal or on-the-job training programs in which they learn how to classify jobs, interview applicants, or administer employee benefits. They then are assigned to specific areas in the human resources department to gain experience. Later, they may advance to a managerial position, overseeing a major element of the personnel program – compensation or training, for example.

While the *Handbook's* discussion notes that many employers seek job candidates for human resources positions who have degrees, it does not state that a degree requirement is normally required for entry into the profession. The *Handbook* further observes that those employers who do require job candidates to hold degrees do not require those degrees to be in a field of study directly related to their employment, as required for classification as a specialty occupation. The *Handbook's* discussion of entry-level human resources employment also appears to indicate that some employers are willing to fill entry-level positions based on candidates' experience. The AAO does not find that the proffered position of a technical recruiter normally imposes a degree requirement on the beneficiary.

The AAO acknowledges counsel's interpretation of the *Handbook's* discussion of employers who seek college graduates who have majored in human resources, personnel administration, or industrial or public relations and the reference to some jobs that may require a more technical or specialized background in engineering, science, finance, or law for example. Counsel claims that these statements show that many employers seek college graduates who have majored in a narrow field of study and that the *Handbook* has concluded that a bachelor's degree in a narrow field of study is in fact normally required for entry into the position.

The AAO disagrees with counsel's interpretation. The *Handbook's* discussion in this regard is recognition of some employers' preferences but does not indicate that a degree in a narrow field of study is a normal requirement. Employer preference is not synonymous with the "normally required" language of the criterion. The *Handbook* does not indicate that a degree in a specialized field is a requirement for the occupation of a recruiter. Moreover, as will be discussed below, the advertisements for recruiting positions submitted by the petitioner confirm the diversity of backgrounds suitable for positions in the human resources and recruiting field.

Further, although the *Handbook* discusses recruiters, as well as human resources managers, it does not specify that technical recruiters or human resources employees must have a bachelor's degree in a specific discipline in order to perform the duties of the position. While the *Handbook* recognizes that some employers may look for college graduates with a technical or a business background or a well-rounded liberal arts education, it does not indicate that a technical background is necessary to obtain a position as a technical recruiter. The *Handbook* does not provide sufficient information to conclude that the position of a technical recruiter requires a bachelor's level education in either technology or human resources or both to successfully perform the position. Rather, the *Handbook* suggests that a diverse education will assist an applicant in obtaining a human resource or technical recruiter position, an implication that undercuts the petitioner's claim that this is a specialty occupation. The AAO

does not find that the proffered position of technical recruiter to be a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I) – a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position.

The AAO has considered Dr. Gould's opinion that a technical recruiter position could not be performed without at least a bachelor's level training in human resources management along with appropriate knowledge of the underlying information technology concepts and/or training in an appropriate information technology field. The AAO does not find that Dr. Gould's opinion establishes that the position of technical recruiter is a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I). Dr. Gould evaluates the proffered position as a human resource manager that has knowledge of technology. However, appropriate knowledge of technology concepts and training does not equate to a bachelor's degree in a specialized area. Knowledge associated with the requirements of a technical position and skill when determining whether an individual possesses the technical knowledge necessary to perform a technical position does not require the recruiter to apply the same theoretical and practical body of highly specialized knowledge attained by a bachelor's or higher degree in a technology field. As the *Handbook* and the job advertisements submitted by the petitioner recognize, technical recruiters require experience but do not necessarily require a bachelor's degree in a specific discipline.

Although Dr. Gould clearly indicates that it is his opinion that the industry standard for a technical recruiter is a bachelor's degree in human resources and appropriate knowledge of technical concepts and training, the record does not establish his authority to speak to the national hiring practices of U.S. employers. Dr. Gould bases his opinion on the petitioner's description of job duties and his general knowledge of the hiring patterns of information technology firms engaged in such placement services. General knowledge or claimed familiarity with the hiring patterns of information technology firms is insufficient to demonstrate knowledge of national hiring practices. The *Handbook*, which offers an overview of national hiring practices, draws on personal interviews with individuals employed in the occupation or from websites, published training materials and interviews with the organizations granting degrees, certification, or licenses in the field, to reach its conclusions regarding the nation's employment practices. Dr. Gould's opinion is insufficient to overcome the *Handbook's* indication that not all human resources or recruiting employment requires a degreed individual or a degreed individual in a specialized field of study.

The AAO may, in its discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). The AAO finds that the Dr. Gould's opinion is not in accord with the generally accepted standards and educational requirements set forth for technical recruiters as found in the *Handbook* and in industry advertisements. Counsel's reference to an unpublished decision to support his supposition that opinions should be accepted without question unless containing obvious errors is not persuasive. Counsel has furnished no evidence to establish that the facts of the instant petition are analogous to those in the unpublished decision. Further, while 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all CIS employees in the administration of the Act, unpublished decisions are not similarly binding.

The petitioner has not established that the position of "technical recruiter" is a position that normally requires a bachelor's degree or its equivalent as the minimum requirement for entry into the occupation. The petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

To establish a proffered position as a specialty occupation under the second criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), a petitioner must prove either that a specific degree requirement is common to the industry in parallel positions among similar organizations, or that the proffered position is so complex or unique that it can be performed only by an individual with a degree in the specific specialty. The AAO reiterates that when a job, like that of human resources manager, 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.

In this matter, as referenced above, the petitioner did not submit evidence or information to demonstrate that a degree requirement in a specific discipline is the norm within its industry. The petitioner's ten job advertisements include advertisements for a variety of "recruiters" from different types of recruiting firms and organizations. Out of the ten advertisements submitted only one, a search consultant for a health care executive search firm, indicates that a generic bachelor's degree in science or art is required. Only two of the advertisements submitted indicate that a bachelor's degree or higher in human resources or business administration is preferred. The majority of the remaining advertisements submitted reference a bachelor's degree but do not indicate that a bachelor's degree is required nor specify that the bachelor's degree must be in a specific field of study. The record does not demonstrate that a specific degree requirement is common to the industry in parallel positions among similar organizations. The petitioner has not submitted evidence establishing the first prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The AAO notes that counsel implies that the position of a technical recruiter is unique and complex. The AAO has considered the description of duties submitted by the petitioner, the opinion rendered by Dr. Gould, and the *Handbook*, in finding that the proffered position is not distinguishable from the routine duties of a technical recruiter. The petitioner initially noted that the incumbent would develop candidate databases, interview and screen candidates for technical positions, supervise travel and lodging arrangements, perform background checks, and file and maintain employment records. These duties coincide with the information in the *Handbook* regarding the occupation of recruiter, an occupation that does not require a bachelor's degree or higher in a specific discipline. In response to the director's RFE, the petitioner added that the successful applicant would understand clients' business requirements and write appropriate job descriptions, would evaluate and confirm candidates' competency by conducting "technical" interviews, and would develop vendor/supplier relationships. Although the petitioner has indicated that its "technical recruiter" must understand the requirements for technical positions and evaluate potential candidates' competency, the petitioner has not explained how these elements are unique or complex from other recruiting positions. The AAO does not find that a recruiter must have a bachelor's degree in human resources management and in a technology field to understand and conduct interviews of applicants who have technical qualifications.

The AAO observes that Dr. Gould's opinion that bachelor's level training in human resources management and in an appropriate information technology field is required for the proffered position, is based on the description of job duties and his general knowledge of the hiring patterns of information technology firms engaged in such placement services. However, Dr. Gould fails to explain how the proffered position differs from the advertisements submitted for the record and fails to substantiate his general knowledge of hiring patterns of technology placement firms. 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 description of the proffered position's duties generally coincides with the information in the *Handbook* regarding the occupation. The record does not demonstrate how the proffered position is distinguished from the routine duties of human resources specialist/recruiter, an occupation that can be performed by an individual without a degree in specific specialty. The petitioner has not established that the proffered position qualifies as a specialty occupation under either prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The AAO next considers the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(3) and (4): whether the employer normally requires a degree or its equivalent for the position; or whether the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree.

To determine a petitioner's ability to meet the third criterion, the AAO normally 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 the instant matter, counsel submits the diploma, credential evaluation, and H-1B approval letter for one of its technical recruiters and a diploma for a second technical recruiter.

This record of proceeding does not, however, contain all of the supporting evidence submitted in the matter that resulted in an H-1B approval for the petitioner's prior technical recruiter. In the absence of all of the corroborating evidence contained in the record of that proceeding, the documents submitted are insufficient to enable the AAO to determine whether the petition was parallel to this petition and the offered position. Furthermore, 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 record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). In addition, the petitioner has not submitted documentary evidence substantiating its employment of either of these individuals or evidence that both individuals had attained four-year degrees in a specific discipline. Again, 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. at 165.

Further, the critical element is not the title of the position or 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. If CIS were limited to reviewing a petitioner's self-imposed employment requirements, then any alien with a bachelor's degree could be brought into the United States to perform a

non-professional or non-specialty occupation, so long as the employer required all such employees to have baccalaureate degrees or higher degrees. Accordingly, the AAO finds that proffered position cannot be established as a specialty occupation under the requirements at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

To qualify a proffered position as a specialty occupation under the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), a petitioner must establish that the nature of the position's specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree. To establish the proffered position as a specialty occupation under the fourth criterion, the petitioner must distinguish its duties from those normally performed by technical recruiters, employment the *Handbook* and other firms advertising for the position, indicate do not require a degree in a specific discipline.

Neither Dr. Gould nor the petitioner offers an analysis of the generally described duties of its technical recruiter as the duties relate specifically to the petitioner's business. Both Dr. Gould and the petitioner offer conclusions without analysis and without describing how the specific duties of a technical recruiter require the attainment of a bachelor's degree in human resources or in information technology. The petitioner has not described specific tasks or projects that the successful incumbent will perform in interviewing, evaluating, testing, or otherwise carrying out the routine duties of a recruiter recruiting individuals for technical positions. The record does not contain evidence or analysis demonstrating that the tasks the successful incumbent will perform in the position are more complex and specialized than those usually performed by technical recruiters, an occupation that does not require a bachelor's degree or higher to perform. The record does not establish what specific duties are so specialized and complex that the duties require the application of abstract thought normally gained through a four-year course of university-level education.

The AAO acknowledges that many employers would prefer the successful applicant for a technical recruiting position to have a general knowledge of technical terms as well as experience in interviewing individuals with technical backgrounds; however, the record does not contain documentary or other evidence substantiating that the position as described requires the performance of an amalgam of duties that elevates the position to one that is more specialized or complex than the duties of a skilled but non-degreed technical recruiter. 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. In this matter, the petitioner has not established that the specific duties of its technical recruiter require the performance of elements of complex and specialized duties that require the theoretical and practical application of a body of highly specialized knowledge. The petitioner has not established that the proffered position requires a greater level of knowledge or skill than that normally possessed by a technical recruiter or a human resources manager. Accordingly, the duties of the proffered position do not set it apart from the work routinely performed by technical recruiters and human resources managers and, therefore, do not establish it as a specialty occupation under the requirements of the criterion 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

For reasons related in the preceding discussion, the petitioner has not established that the proffered position is a specialty occupation. Accordingly, the AAO will not disturb the director's denial of the petition.

LIN 05 082 51851

Page 12

The petition will be denied and the appeal dismissed for the above stated reason. As always, 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 met that burden.

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