



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

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

MATTER OF S-I-, LLC

DATE: MAR. 30, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a wholesale trader and exporter of agricultural products, seeks to temporarily employ the Beneficiary as a "staff accountant" under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the proffered position qualifies as a specialty occupation.

On appeal, the Petitioner resubmits previously submitted evidence and asserts that the Director erred in denying the petition.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor. In addition, the regulations provide that the proffered position must meet one of the following criteria to qualify as a specialty occupation:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties [is] so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

8 C.F.R. § 214.2(h)(4)(iii)(A). We have consistently interpreted the term “degree” to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position. See *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing “a degree requirement in a specific specialty” as “one that relates directly to the duties and responsibilities of a particular position”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

II. PROFFERED POSITION

In response to the Director’s request for evidence (RFE), the Petitioner provided the following job duties for the position:

[T]he staff accountant will be responsible for the analysis & technical breakdown of a broad-range of related financial data. Her principal duties are to include [...]:

- **Overseeing [the Petitioner’s] accounting procedures** using quantitative data on sales and expenditures (20%)
- **Maintain month-to month analysis of fiscal reports to management** in order to project necessary expenses connected to the business (15%)
- **Analyze and give budgeting recommendations** to [the Petitioner’s] management to assess strengths and weakness of accounting operations (10%)
- **Give accurate and complete accounting estimations** for the entire fiscal year in order to provide guidance on key company decisions (10%)
- **Streamline company operating procedures** regarding intake & supply management for compliance with CPA regulations (15%)

- **Review cost intake operations** to determine which areas require development in order to reduce waste (10%)
- **Oversee accounting software protocol**, keeping operational intake procedures up-to-date (10%)
- **Help continue expected revenue levels of the business** by establishing any necessary cost accounting policies on sustained growth (10%)

The position involves applying fundamental accounting policies and interpreting analytical transaction data in order to streamline all business operations in accordance with proper public accounting regulations.

According to the Petitioner, “*at least* a Bachelor’s Degree in Accounting, Business Administration or a related field” is required in order to perform the duties of the position.

In addition, the Petitioner submitted a job announcement for the proffered position listing the following duties:

- Verify vendor’s invoices with purchase order and receiving report and prepare accounts payable and voucher and blank check.
- Prepare bank reconciliation monthly.
- Complete maintenance of financial accounting records for multiple entities.
- Prepare vendor account reconciliations monthly.
- Check progress report for purchase contract by tracking company’s inventory receiving report.
- Maintain fixed asset and depreciation schedules.
- Maintain intercompany transactions spreadsheet.
- Allocate common costs to the responsible departments.
- Prepare the payment requests weekly.
- Reviews and maintains intercompany transactions, provides the reconciliation report quarterly.
- Reviews inventory report monthly, calculates and records cost of goods sold quarterly.
- Reviews accounting records for all entities to make sure all the records are properly recorded.
- Reviews bank reconciliations for all entities and reconciles assigned bank accounts.
- Performs accounts receivable duties for all entities
- Reconcile the accounts receivable ledger to ensure that all payments are accounted for and properly posted.
- Review all accounts payable and other balance sheet accounts reconciliation

- Support month-end and year-end closing activities.
- Other duties as needed.

The provided job announcement indicated that a “Bachelor’s” degree was required for the position under the section “required education.”

Furthermore, the Petitioner submitted the Beneficiary’s resume in support of the petition which reflected that she had worked as a staff accountant with the Petitioner from February 2015 to the present. The resume listed the following duties for the Beneficiary’s position:

- Verify vendor’s invoices with purchase order and receiving report and prepare accounts payable voucher and blank check.
- Prepare bank reconciliations monthly.
- Complete maintenance of financial accounting records for multiple entities.
- Prepare vendor account reconciliations monthly.
- Check progress report for purchase contract by tracking company’s inventory receiving report.
- Prepare vendors 1099 annually.
- Classify company credit card statements into proper categories.
- Verify the items on the employee reimbursement request with associated invoices and reconcile travel advanced accounts.
- Maintain fixed asset and depreciation schedules.
- Maintain inventory roll forward spreadsheet.
- Maintain intercompany transactions spreadsheet.
- Allocate common costs to the responsible departments.
- Prepare annual payroll audit report to workers compensation insurance agent.
- Prepare the payment requests weekly.
- Support month-end and year-end closing activities.

III. ANALYSIS

We determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.¹ Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.²

As a preliminary matter, we observe that the Petitioner provided inconsistent minimum requirements for entry into the proffered position. First, the Petitioner did not articulate a clear minimum degree requirement in support of the position, but merely indicated that the position “requires a person of

¹ Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

² The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. Although we may not discuss every document submitted, we have reviewed and considered each one.

distinguished merit and ability” and referenced the Beneficiary’s qualifications. In response to the Director’s RFE, the Petitioner stated that the proffered position required at “least a Bachelor’s Degree in Accounting, Business Administration or a related field.” The Petitioner also submitted a job announcement for the staff accountant position indicating that only a bachelor’s degree was required, as it did not reference any degree in a specific specialty. On appeal, the Petitioner again does not clearly articulate a minimum degree requirement for the position, but states that it has “previously required at least a Bachelor’s of Science Degree in Accounting, Finance, or related degrees for its Staff Accountants and lateral positions within the company.” However, the Petitioner provides no supporting documentation or evidence to support its claim that it has previously employed staff accountants or required that these employees have bachelor’s degrees in accounting or finance.

Further, it is noteworthy that to the extent that the Petitioner did articulate a minimum bachelor’s degree requirement in response to the RFE, it stated that a bachelor’s degree in business administration would suffice. We note that a petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business administration, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm’r 1988). To prove that a job requires the theoretical and practical application of a body of highly 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 or its equivalent.

We interpret the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty that is directly related to the proposed position. Although a general-purpose bachelor’s degree, such as a degree in business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a finding that a particular position qualifies for classification as a specialty occupation. *Royal Siam*, 484 F.3d at 139, 147.³ The Petitioner in this matter claims that the duties of the proffered position can be performed by an individual with only a general-purpose bachelor’s degree, i.e., a bachelor’s degree in business administration. Without more, this assertion alone indicates that the proffered position is not in fact a specialty occupation.

³ Specifically, the judge explained in *Royal Siam*, 484 F.3d at 147, that:

The courts and the agency consistently have stated that, although a general-purpose bachelor’s degree, such as a business administration degree, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify the granting of a petition for an H-1B specialty occupation visa. *See, e.g., Tapis Int’l v. INS*, 94 F.Supp.2d 172, 175-76 (D. Mass. 2000); *Shanti*, 36 F. Supp. 2d at 1164-66; *cf. Matter of Michael Hertz Assocs.*, 19 I & N Dec. 558, 560 ([Comm’r] 1988) (providing frequently cited analysis in connection with a conceptually similar provision). This is as it should be: otherwise, an employer could ensure the granting of a specialty occupation visa petition by the simple expedient of creating a generic (and essentially artificial) degree requirement.

On the labor condition application (LCA) submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category “Staff Accountants” corresponding to the Standard Occupational Classification code 13-2011.⁴

We recognize the U.S. Department of Labor’s (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.⁵ In response to the RFE, the Petitioner provided duties largely consistent with the duties listed for an accountant or auditor in the *Handbook*, such as ensuring compliance with CPA regulations, overseeing and establishing the company’s accounting procedures, and providing budget recommendations and guidance to management. U.S. Dep’t of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., Accountants and Auditors, <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm#tab-2> (last visited Mar. 21, 2017). However, the Petitioner also submitted conflicting duty descriptions in the Beneficiary’s resume and in the position’s job announcement reflecting duties more consistent with a bookkeeping, accounting, or auditing clerk, including duties such as using bookkeeping software, online spreadsheets, and databases; entering financial transactions into software; receiving and recording cash, checks, and vouchers; assigning costs to appropriate accounts; and checking for accuracy in figures, postings, and reports. U.S. Dep’t of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., Bookkeeping, Accounting, and Auditing Clerks, <https://www.bls.gov/ooh/office-and-administrative-support/bookkeeping-accounting-and-auditing-clerks.htm#tab-2> (last visited Mar. 21, 2017).⁶

Given these conflicting duty descriptions, we cannot conclude that the proffered position in this matter is a specialty occupation-level accountant. The Petitioner has not established the substantive nature

⁴ The Petitioner classified the proffered position at a Level I wage (the lowest of four assignable wage levels). We will consider this selection in our analysis of the position. The “Prevailing Wage Determination Policy Guidance” issued by the DOL provides a description of the wage levels. A Level I wage rate is generally appropriate for positions for which the Petitioner expects the Beneficiary to have a basic understanding of the occupation. This wage rate indicates: (1) that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; (2) that he will be closely supervised and his work closely monitored and reviewed for accuracy; and (3) that he will receive specific instructions on required tasks and expected results. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://flcdatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf. A prevailing wage determination starts with an entry level wage and progresses to a higher wage level after considering the experience, education, and skill requirements of the Petitioner’s job opportunity. *Id.*

⁵ All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. The occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and we regularly review the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

⁶ The *Handbook* indicates that bookkeeping, accounting, and auditing clerks may enter the occupation with some postsecondary education or just a high school diploma. *Id.* at <https://www.bls.gov/ooh/office-and-administrative-support/bookkeeping-accounting-and-auditing-clerks.htm#tab-2> (last visited Mar. 21, 2017).

of the work to be performed by the Beneficiary. This lack of probative evidence therefore precludes a finding that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), because it is the substantive nature of that work that determines (1) the normal minimum educational requirement for entry into the particular position, which is the focus of criterion 1; (2) industry positions which are parallel to the proffered position and thus appropriate for review for a common degree requirement, under the first alternate prong of criterion 2; (3) the level of complexity or uniqueness of the proffered position, which is the focus of the second alternate prong of criterion 2; (4) the factual justification for a petitioner normally requiring a degree or its equivalent, when that is an issue under criterion 3; and (5) the degree of specialization and complexity of the specific duties, which is the focus of criterion 4.

Accordingly, as the Petitioner has not established that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies for classification as a specialty occupation. The appeal will be dismissed and the petition denied for this reason.

Nevertheless, we will discuss whether the Petitioner has met any of the four criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), assuming for the sake of argument that the Petitioner had demonstrated that it was an accountant position.

A. First Criterion

The criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. As mentioned, we recognize the *Handbook* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.

The *Handbook* states the following with respect to the educational qualifications necessary for entrance into positions located within the accountants and auditors occupational category:

Most accountants and auditors need at least a bachelor's degree in accounting or a related field. Certification within a specific field of accounting improves job prospects. For example, many accountants become Certified Public Accountants (CPAs).

Education

Most accountant and auditor positions require at least a bachelor's degree in accounting or a related field. Some employers prefer to hire applicants who have a master's degree, either in accounting or in business administration with a concentration in accounting.

A few universities and colleges offer specialized programs, such as a bachelor's degree in internal auditing. In some cases, those with associate's degrees, as well as bookkeepers and accounting clerks who meet the education and experience

requirements set by their employers, get junior accounting positions and advance to accountant positions by showing their accounting skills on the job.

Many colleges help students gain practical experience through summer or part-time internships with public accounting or business firms.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., Accountants and Auditors, <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm#tab-4> (last visited Mar. 21, 2017).

Even if the proffered position had been established as that of a staff accountant, a review of the *Handbook* does not indicate that such a position qualifies as a specialty occupation as it does not state a normal minimum requirement of a U.S. bachelor's or higher degree in a specific specialty, or its equivalent, for entry into the occupation. The *Handbook* only indicates that "[m]ost accountant and auditor positions require at least a bachelor's degree in accounting or a related field." *Id.* The *Handbook* does not state that such a degree is a normal minimum entry requirement for all accountant and auditor positions.

Moreover, the Occupational Information Network (O*NET) Summary Report for 13-2011.01 – Accountants, states that most but not all of these occupations require a four-year bachelor's degree. O*NET OnLine Summary Report for "13-2011.01 – Accountants," <http://www.onetonline.org/link/summary/13-2011.01> (last visited Mar. 21, 2017). More importantly, the O*NET does not reference any specific specialty. As such, even if the proffered position were determined to be an accountant position, it cannot be concluded based on the *Handbook* or O*NET that the position qualifies as a specialty occupation normally requiring at least a bachelor's degree in accounting, or its equivalent.

The Petitioner has also designated the proffered position at a Level I wage for accountants and auditors, demonstrating that the proffered position is a comparatively low, entry-level position relative to others within the occupation. In accordance with the relevant DOL explanatory information on wage levels, this wage rate indicates that the Beneficiary is only required to have a basic understanding of the occupation and that the Beneficiary is only expected to perform routine tasks requiring limited exercise of judgment; that she would be closely supervised; that her work would be closely monitored and reviewed for accuracy; and that she would receive specific instructions on required tasks and expected results. Thus, even if the proffered position incorporates some duties of an accounting position, the Petitioner's designation of the position as a Level I position confirms that the position is at most a junior or entry-level accounting position which according to the *Handbook* would not require a bachelor's degree in the specific field of accounting or finance.

When the *Handbook* does not support the proposition that a proffered position is one that meets the statutory and regulatory provisions of a specialty occupation, it is incumbent upon the Petitioner to provide persuasive evidence that the proffered position more likely than not satisfies this or one of

the other three criteria, notwithstanding the absence of the *Handbook*'s support on the issue. In such case, it is the Petitioner's responsibility to provide probative evidence (e.g., documentation from other objective, authoritative sources) that supports a finding that the particular position in question qualifies as a specialty occupation. Whenever more than one authoritative source exists, an adjudicator will consider and weigh all of the evidence presented to determine whether the particular position qualifies as a specialty occupation.

The Petitioner has not established that the proffered position falls under an occupational category for which the *Handbook*, or other authoritative source, indicates that normally the minimum requirement for entry is at least a bachelor's degree in a specific specialty, or its equivalent. The record lacks sufficient evidence to support a finding that the position, an entry-level accountant, would normally have such a minimum, specialty degree requirement or its equivalent.

The Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

B. Second Criterion

The second criterion presents two alternative prongs: "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[.]" 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong casts its gaze upon the common industry practice, while the alternative prong narrows its focus to the Petitioner's specific position.

1. First Prong

To satisfy the first prong of the second criterion, the Petitioner must establish that the "degree requirement" (i.e., a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations.

As stated earlier, in determining whether there is such a common degree requirement, factors often considered include: whether the *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)).

As already discussed, the Petitioner has not established that the proffered position is one for which the *Handbook* (or other independent, authoritative sources) reports an industry-wide requirement for at least a bachelor's degree in a specific specialty, or its equivalent. Thus, we incorporate by reference the previous discussion on the matter. In addition, there are no submissions from the industry's professional association indicating that it has made a degree a minimum entry requirement. Furthermore, the Petitioner did not submit any letters or affidavits from similar firms

or individuals in the Petitioner's industry attesting that such firms "routinely employ and recruit only degreed individuals."

In response to the RFE, the Petitioner provided four job announcements for staff accountant positions in the [REDACTED] Texas area, each reflecting that a minimum of a bachelor's degree in accounting was required. The Petitioner asserts on appeal that these announcements demonstrate that a bachelor's degree in accounting is "common for like businesses and industries in the United States and specifically in the area of intended employment." However, even if the Petitioner had established that the proffered position is a staff accountant position, it does not specify why these positions would be considered parallel to that of the proffered position, other than vaguely referencing that they are in the [REDACTED] area. We are given no indication as to the size and revenue of these companies or their number of employees. The companies operate in varying industries such as funeral homes, real estate investment, and pediatric care. Further, each of the submitted announcements requires two or more years of experience, unlike that the proffered position, whose job announcement indicates that only one year of experience is required and which is designated as a wage Level I (or entry-level) position.

The Petitioner has not submitted probative evidence to demonstrate the degree requirement is common to the industry in parallel positions among similar organizations. Therefore, the Petitioner has not satisfied the criterion of the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

We will next consider the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which is satisfied if the Petitioner shows that its particular position is so complex or unique that it can be performed only by an individual with at least a bachelor's degree in a specific specialty, or its equivalent. On appeal, the Petitioner does not contend that the proffered position is complex or unique such that it can only be performed by an individual with at least a bachelor's degree in a specific specialty, or its equivalent. It does not credibly demonstrate relative complexity or uniqueness as aspects of the proffered position. Specifically, it is unclear how the proffered position necessitates the theoretical and practical application of a body of highly specialized knowledge such that a person who has attained a bachelor's or higher degree in a specific specialty or its equivalent is required to perform them. Even if we are to accept that the proffered position is that of a staff accountant, the evidence of record does not distinguish the proffered position from other positions falling within the "Accountants and Auditors" occupational category, which, the *Handbook* indicates, do not necessarily require a person with at least a bachelor's degree in a specific specialty or its equivalent to enter those positions.

Consequently, it cannot be concluded that the petitioner has satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Third Criterion

The third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) entails an employer demonstrating that it normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position.

The Petitioner states on appeal that it has previously required that its "staff accountants and lateral positions" hold at least a bachelor's degrees in accounting, finance, or a related field. However, the Petitioner submits no evidence to substantiate this claim, including evidence that it ever previously employed staff accountants, or if they were employed, what their educational credentials where. In fact, the submitted job announcement for the proffered position does not indicate that a bachelor's degree in science in accounting, finance, or a related field is required, but only a general bachelor's degree.

Accordingly, the Petitioner has not established the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) based on its normal hiring practices.⁷

D. Fourth Criterion

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires a petitioner to establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

The Petitioner does not assert that the job duties of the proffered position are specialized and complex. We refer to our earlier comments and findings with regard to the implication of the Petitioner's designation of the proffered position in the LCA as a Level I wage, and hence one not likely distinguishable by relatively specialized and complex duties. The Petitioner has not explained how these duties require the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in a specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States. The record does not include probative evidence that the duties require more than technical proficiency in the accounting and bookkeeping field. The Petitioner has not demonstrated in the record that its proffered position is one with duties sufficiently specialized and complex to satisfy 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

⁷ Although a petitioner may believe or otherwise assert that a proffered position requires a degree in a specific specialty, that opinion alone without corroborating evidence cannot establish the position as a specialty occupation. Were we limited solely to reviewing a petitioner's claimed self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the employer artificially created a token degree requirement, whereby all individuals employed in a particular position possessed a baccalaureate or higher degree in the specific specialty, or its equivalent. *See Defensor*, 201 F. 3d at 387. In other words, if a petitioner's degree requirement is only symbolic and the proffered position does not in fact require such a specialty degree, or its equivalent, to perform its duties, the occupation would not meet the statutory or regulatory definition of a specialty occupation. *See* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

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Because the Petitioner has not satisfied one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it has not demonstrated that the proffered position qualifies as a specialty occupation.

IV. CONCLUSION

The appeal must be dismissed because the Petitioner did not establish that the proffered position is a specialty occupation.

ORDER: The appeal is dismissed.

Cite as *Matter of S-I, LLC*, ID# 303387 (AAO Mar. 30, 2017)