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U.S. Citizenship
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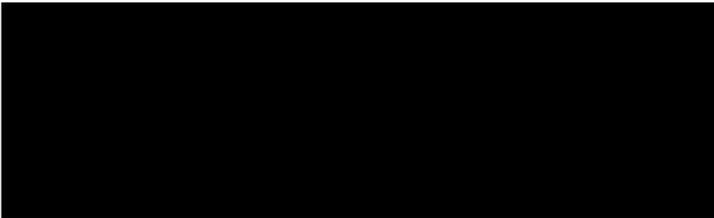


FILE: EAC 06 151 50713 Office: VERMONT SERVICE CENTER Date: OCT 23 2007

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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 of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner, a company with eight employees, owns and operates retail gift stores. It seeks to employ the beneficiary as an internal auditor. The petitioner, therefore, endeavors to employ the beneficiary as a 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 basis of his determination that the petitioner had failed to establish that the proposed position qualifies for classification as a specialty occupation under the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel contends that the director erred in denying the petition, and that the proposed position qualifies for classification as a specialty occupation.

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

Section 214(i)(1) of the Immigration and Nationality Act (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:

[A]n 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 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 proposed position.

To determine whether a particular position qualifies as a specialty occupation, CIS does not simply rely on the position's title. The specific duties of the proposed position, combined with the nature of the petitioning entity's business operations, are factors to be considered. CIS must examine the ultimate employment of the alien and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d. 384 (5th Cir. 2000). The critical element is not the title of the proposed position nor an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation, as required by the Act.

As noted previously, the petitioner owns and operates retail gift stores. It was established in 1998 and has eight employees, and stated gross annual income of \$1.2 million and a net annual income of \$11,000. It proposes to employ the beneficiary as an internal auditor. According to its June 28, 2006 response to the director's request for additional evidence, the duties of the proposed position are as follows:

- Audit management policies and procedures in operations, with special attention on cash transactions. (The nature of the business of retail sales involves a high volume of cash transactions) (2 hours).
- Prepare working papers that record and summarize all audit procedures performed on a daily basis. (1.5 hours).
- Execute detailed audit procedures for fixed assets category including review of transactions, documents, records, quotes comparison for property, supplies & inventory, warehousing, and other equipment and assets necessary to run the business. (1 hour).
- Apply applicable audit procedures on daily operations, such as Expense Statement. (1 hour).
- Perform audit procedures, including identifying and defining issues, developing criteria, reviewing and analyzing evidence, and documenting vendor processes and procedures. (1 hour).

- Analyze material deviations from established management policies for transaction generating documents and the further reporting to top management. (0.5 hours).
- Review books of original entry. (0.5 hours).
- Monitor movements in stock and supplies to verify journal and ledger entries. (0.5 hours).
- Follow-up to determine adequacy of corrective actions recommended. (0.5 hours).

* * *

- Coordinate with other related company offices in order to maintain and reconcile inter-company records. (3 hours per week).
- Review financial matters with company officials. (2 hours per week).
- Prepare analytical comparative reports for management regarding costs of supplier and other parties. (2 hours per week).
- Assist company officials in complying with federal, state and applicable local laws and regulations. (2 hours per week).
- Recommend changes in policies and procedures to increase efficiency of operations, such as setting standards for transactions with vendors and suppliers. (1 hour per week).
- Provide company with a performance evaluation on the basis of presented quarterly and semi-annual financial statements. (5-6 hours per quarter).
- Coordinate with external auditor in finalizing quarterly and semi-annual accounts and tax papers. (5-6 hours per quarter).

The petitioner also stated in the letter that the petitioner is an “umbrella company that operates a group of commonly owned companies.” The group consists of seven companies. The petitioner further explained that the beneficiary will be “coordinating with other related company offices in order to maintain and reconcile inter-company records.” It is not clear if the other seven companies employ their own internal auditor or if the beneficiary is the internal auditor for all the companies.

The director denied the petition, finding that the petitioner had satisfied none of the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A), and therefore had not established that the proposed position qualifies for classification as a specialty occupation.

On appeal, the petitioner contends that the director erred in denying the petition, and that the proposed position in fact qualifies for classification as a specialty occupation under the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A). The petitioner noted that it is “involved with the oversight and operations of seven retail gift stores,” and that the nature of the duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

In determining whether a proposed position qualifies as a specialty occupation, CIS looks beyond the title of the position. It determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the minimum of a baccalaureate degree in a specific specialty for entry into

the occupation, as required by the Act. The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) for its information about the duties and educational requirements of particular occupations. The AAO agrees with the director's finding that the proposed position does not qualify for classification as a specialty occupation.

The petitioner has stated that its proposed position is that of an internal auditor. To determine whether the duties of the proposed position support the petitioner's characterization of its employment, the AAO turns to the 2006-2007 edition of the *Handbook* for its discussion of management accountants, the category of accounting most closely aligned to the duties described by the petitioner. As stated by the *Handbook*, internal auditors:

Internal auditors verify the accuracy of their organization's internal records and check for mismanagement, waste, or fraud. Internal auditing is an increasingly important area of accounting and auditing. Internal auditors examine and evaluate their firms' financial and information systems, management procedures, and internal controls to ensure that records are accurate and controls are adequate to protect against fraud and waste. They also review company operations, evaluating their efficiency, effectiveness, and compliance with corporate policies and procedures, laws, and government regulations. There are many types of highly specialized auditors, such as electronic data-processing, environmental, engineering, legal, insurance premium, bank, and health care auditors. As computer systems make information timelier, internal auditors help managers to base their decisions on actual data, rather than personal observation. Internal auditors also may recommend controls for their organization's computer system, to ensure the reliability of the system and the integrity of the data.

The AAO finds the above discussion generally reflective of the petitioner's description of the duties of the proposed position and agrees that the petitioner's employment would require the beneficiary to have an understanding of basic accounting principles. However, not all accounting employment is performed by degreed accountants. Therefore, the performance of duties requiring accounting knowledge does not establish that the proposed position would impose a degree requirement on the beneficiary. Thus, the question is not whether the proposed position requires a knowledge of accounting principles, which it does, but rather whether it is one that normally requires the level of accounting knowledge that is signified by at least a bachelor's degree, or its equivalent, in accounting.

The *Handbook's* discussion of the occupation of accountants and auditors clearly indicates that accounting positions may be filled by individuals holding associate degrees or certificates, or who have acquired their accounting expertise through experience:

Capable accountants and auditors may advance rapidly; those having inadequate academic preparation may be assigned routine jobs and find promotion difficult. Many graduates of junior colleges or business or correspondence schools, as well as bookkeepers and accounting clerks who meet the education and experience requirements set by their employers, can obtain junior accounting positions and advance to positions with more responsibilities by demonstrating their accounting skills on the job.

It also notes in its description of the work performed by bookkeeping, accounting and auditing clerks that:

Demand for full-charge bookkeepers is expected to increase, because they are called upon to do much of the work of accountants, as well as perform a wider variety of financial transactions, from payroll to billing. Those with several years of accounting or bookkeeper certification will have the best job prospects.

Further proof of the range of academic backgrounds that may prepare an individual for accounting employment is provided by the credentialing practices of the Accreditation Council for Accountancy and Taxation (ACAT), an independent accrediting and monitoring organization affiliated with the National Society of Accountants. The ACAT does not require a degree in accounting or a related specialty to issue a credential as an Accredited Business Accountant® /Accredited Business Advisor® (ABA). Eligibility for the eight-hour comprehensive examination for the ABA credential requires only three years of “verifiable experience in accounting, taxation, financial services, or other fields requiring a practical and theoretical knowledge of the subject matter covered on the ACAT Comprehensive Examination.” Up to two of the required years of work experience may be satisfied through college credit.¹

To determine whether the accounting knowledge required by the proposed position rises above that which may be acquired through experience or an associate’s degree in accounting,² the AAO turns to the record for information regarding the nature of the petitioner’s business operations. In cases where a petitioner’s business is relatively small, like that in the instant case, the AAO reviews the record for evidence that its operations, are, nevertheless, of sufficient scope and/or complexity to indicate that it would employ the beneficiary in an accounting position requiring a level of financial knowledge that may be obtained only through a baccalaureate degree in accounting or its equivalent.

As noted previously, the petitioner is an eight-employee company that owns and operates retail gift stores. The petitioner indicated that it is an “umbrella” company of seven retail stores. In support of this claim, the petitioner submitted business licenses for seven stores that also indicated the petitioner as the owner. However, the petitioner did not provide any corroborating evidence of the business operations of all seven retail stores. The quarterly wage report submitted by the petitioner for the first and fourth quarter of 2006 is specifically for one retail store, International Shop, which had one employee in the first quarter of 2006 and zero employees in the fourth quarter of 2006. In addition, the petitioner submitted Form 1120, U.S. Corporation Income Tax Return for 2004, two years prior to the date the instant petition was filed, which does not indicate that the petitioner owns seven retail gift stores. Thus, the petitioner did not provide any

¹ Information provided by the ACAT website (<http://www.acatcredentials.org/index.html>). The *Handbook* identifies the ACAT website as one of several “Sources of Additional Information” at the end of its discussion of the occupation of accountants.

²According to the website of Skyline College, a community college located in San Mateo, California (<http://www.skylinecollege.net>), an associate’s degree in business or accounting would involve learning the fundamentals about financial accounting principles and concepts, balance sheets, income statements, cash flow statements, the GAAP, forecasting, budgeting, cost accounting, break even analysis, developing and operating a computerized accounting system. Thus, an associate’s degree would provide knowledge about the GAAP and accounting techniques that serve the needs of management and facilitate decision-making.

corroborating evidence to establish that the petitioner consists of seven retail gift stores. 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)). Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Though the size of the company does not, in and of itself, determine a company's need for an internal auditor, its income level and scale of operations have a direct and substantial bearing on the scope of the duties the beneficiary would perform as an internal auditor. The 2004 tax return indicates gross receipts of \$1,278,321 and net taxable income of (\$48,174). The responsibilities associated with a company that owns a retail gift store differ considerably from the responsibilities associated with larger companies, as well as from the responsibilities of performing accounting work for multiple clients. The record here does not support a finding that the petitioner will employ the beneficiary in an auditing position requiring a level of financial knowledge that may be obtained only through a baccalaureate degree in accounting or its equivalent. The petitioner has not demonstrated that its business, despite its relatively limited size, has the complexity of financial operations to require a degree in accounting.

Moreover, the record fails to offer evidence of the specific financial requirements associated with the petitioner's company, such as unique accounting systems or financial requirements that would add complexity to the beneficiary's duties. Neither does it indicate that the petitioner is currently required to manage outstanding business loans or other debt, or to deal with complex financial agreements or other issues that might complicate its financial situation.

Accordingly, the duties of the proposed position are not established as those of a degreed auditor. As a result, the petitioner has not established the proposed position as a specialty occupation under the first criterion at 8 C.F.R. § 214.2(h)(4)(A) – that a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position.

Nor does the proposed position qualify as a specialty occupation under either prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). The first prong of this regulation requires a showing that a specific degree requirement is common to the industry in parallel positions among similar organizations. To meet the burden of proof imposed by the regulatory language, a petitioner must establish that its degree requirement exists in parallel positions among similar organizations. Counsel did not submit any documentation to establish this criterion.

Accordingly, the proposed position does not qualify for classification as a specialty occupation under the first prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The second prong of this regulation requires that the petitioner prove that the duties of the proposed position are so complex or unique that only an individual with a degree can perform them. For reasons already set forth in this decision, the nature of the duties of the proposed position as set forth in this petition does not

support such a finding. There has been no demonstration that the proposed position is more complex or unique than the general range of duties of non-degreed internal auditors in other, similar organizations, which would not normally require a degreed individual. The *Handbook's* discussion of the occupation of accountants and auditors clearly indicates that accounting positions may be filled by individuals holding associate degrees or certificates, or who have acquired their accounting expertise through experience; and the evidence of record does not establish the proposed position as unique from or more complex than the general range of such positions requiring less than a baccalaureate degree.

Therefore, counsel has not established that the proposed position qualifies for classification as a specialty occupation under either prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The proposed position does not qualify as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), which requires a showing that the petitioner normally requires a degree or its equivalent for the position. To determine a petitioner's ability to meet this 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.

The petitioner stated that this is a newly-created position, which precludes approval under the third criterion. The petitioner indicated that it hired the president, vice president, bookkeeper, marketing analyst, and the accounts manager who all have a bachelor's degree or its equivalent. However, these positions do not perform the same duties as the internal auditor. Accordingly, the proposed position does not qualify for classification as a specialty occupation under the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

The fourth criterion requires the petitioner to establish that the nature of the specific duties of its position 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 the extent that they are described, the proposed duties do not indicate the specialization and complexity required by this criterion. As noted previously, the petitioner has not demonstrated a unique accounting system, established complex financial obligations or agreements, or otherwise established that the complexity of its financial operations require a person with a four-year degree in accounting. As a result, the record fails to establish that the proffered position meets the specialized and complex threshold at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

Accordingly, the petitioner has failed to establish that the proposed position qualifies for classification as a specialty occupation under any of the criteria set forth at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(1), (2), (3), and (4), and the petition was properly denied.

Beyond the decision of the director, the AAO finds that the petition may not be approved for an additional reason, as the record does not establish that the beneficiary qualifies to perform the duties of a specialty occupation. Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (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.

In making its determination as to whether the beneficiary qualifies to perform the duties of a specialty occupation, the AAO turns to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C), as described above. The beneficiary did not earn a degree from a United States institution of higher education, so she does not qualify under the first criterion.

Nor does the beneficiary qualify under the second criterion, which requires a demonstration that the beneficiary's foreign degree has been determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university. According to the evaluation submitted by Park Evaluations and Translations, dated March 23, 2006, the beneficiary's foreign education is not equivalent to a degree. Rather, it is equivalent to the completion of three years of academic coursework "towards a degree from an accredited institution of higher education in the United States."

The record does not demonstrate, nor has the petitioner contended, that the beneficiary holds an unrestricted state license, registration or certification to practice the specialty occupation, so she does not qualify under the third criterion.

The fourth criterion, set forth at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), requires a showing that the beneficiary's education, specialized training, and/or progressively responsible experience is equivalent to the completion of a United States baccalaureate or higher degree in the specialty occupation, and that the beneficiary also has recognition of that expertise in the specialty through progressively responsible positions directly related to the specialty.

It is this fourth criterion under which the petitioner must classify the beneficiary's work experience.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), equating a beneficiary's credentials to a United States baccalaureate or higher degree under this criterion is determined by 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 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.

The beneficiary does not qualify under the first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(D). The evaluation from Park Evaluations and Translations, referenced earlier in this decision, states that the beneficiary's foreign degree and work experience are equivalent to a bachelor's degree in business administration with a concentration in accounting from an accredited institution of higher education in the United States. However, the Park evaluation is defective for two reasons.

First, the Park evaluation is defective because a credentials evaluation service may evaluate educational credentials only. 8 C.F.R. § 214.2(h)(4)(iii)(D)(3). Further, there has been no showing that the evaluator, Dan Baugher, has the authority to grant college-level credit for training and/or experience at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience, as required by the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D)(1).³ Therefore, the beneficiary does not qualify under the first criterion.

No evidence has been submitted to establish, nor has counsel contended, that the beneficiary satisfies 8 C.F.R. § 214.2(h)(4)(iii)(D)(2), which requires that the beneficiary submit 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 The evaluation states that for a detailed statement of qualifications and experience of the evaluator see the attached resume, however, the petitioner did not submit the resume. 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)).

Nor does the beneficiary qualify under the third criterion. As was the case under 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), the beneficiary is unqualified under this criterion because the Park evaluation did not find the beneficiary's foreign education equivalent to a degree. Rather, it found her education equivalent to completion of academic studies that would eventually lead to a degree.

No evidence has been submitted to establish, nor has counsel contended, that the beneficiary satisfies 8 C.F.R. § 214.2(h)(4)(iii)(D)(4), which requires that the beneficiary submit 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.

The AAO next turns to the fifth criterion. When CIS determines an alien's qualifications pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D)(5), three years of specialized training and/or work experience must be demonstrated for each year of college-level training the alien lacks. 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 in the same specialty occupation⁴;
- (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 petitioner's submission traces the beneficiary's work experience from January 2000 to March 2006 (the petition was filed on March 25, 2006). The AAO's next line of inquiry is therefore to determine

⁴ *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).

whether at least three years⁵ of this work experience included the theoretical and practical application of specialized knowledge required by the specialty, whether it was gained while working with peers, supervisors, or subordinates who held a bachelor's degree or its equivalent in the specialty, and whether the beneficiary achieved recognition of expertise in accounting as evidenced by at least one of the five types of documentation delineated in sections (i), (ii), (iii), (iv), or (v) of 8 C.F.R. § 214.2(h)(4)(iii)(D)(5).

However, the evidence contained in the record does not establish that the beneficiary's previous work experience included the theoretical and practical application of specialty knowledge required by accountants, that it was gained while working with peers, supervisors, or subordinates who held degrees, or that she achieved recognition of expertise in accounting as described at section (v) of 8 C.F.R. § 214.2(h)(iv)(D)(5).

Accordingly, the beneficiary does not qualify under any of the criteria set forth at 8 C.F.R. §§ 214.2(h)(4)(iii)(D)(1)(2)(3)(4), or (5), and therefore by extension does not qualify under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4).

Thus, the petitioner has not demonstrated that the beneficiary qualifies to perform the duties of a specialty occupation. For this additional reason, the petition may not be approved.

The petitioner has failed to establish that the proposed position qualifies for classification as a specialty occupation or that the beneficiary qualifies to perform the duties of a specialty occupation. Accordingly, the AAO will not disturb the director's denial of the petition.

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

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

⁵ The AAO will recognize three years of university-level study in general coursework taken while the beneficiary earned her degree in India.