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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **DEC 01 2010**

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:

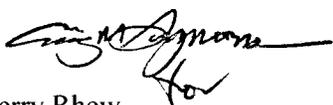
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is an information systems development company. It seeks to employ the beneficiary as a programmer analyst. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on two independent grounds. First, the director found that the petitioner failed to meet the requirements for filing a Form I-129, Petition for a Nonimmigrant Worker. Specifically, the director found that the petitioner had failed to comply with the requirements of 8 C.F.R. § 214.2(h)(4)(i)(B)(I), which requires the petition to be accompanied by a Labor Condition Application (LCA) certified by the Department of Labor (DOL). Additionally, the director found that the proffered position was not a specialty occupation.

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

In a letter of support submitted with the petition, the petitioner indicated that it is a multimillion dollar technology company providing Enterprise Resource Planning (ERP) systems software solutions and services. It claimed that it supported ERP initiatives for over 60 companies and organizations, including government agencies and corporations such as Intel, AT&T, and IBM.

The petitioner further indicated that it recently entered into a partnership agreement with [REDACTED], and claimed that it would develop the integration applications for a product called [REDACTED]. The petitioner claimed that the development process would take place in-house at its corporate offices in Dublin, Ohio, and stated that once the development process was complete, the petitioner would provide implementation, training, and support services.

With regard to the beneficiary, the petitioner indicated that she would be employed as a programmer analyst, and indicated that her employment would not be dependent on any third-party contracts. The petitioner provided a brief overview of the beneficiary's proposed duties, noting that the duties of a computer programmer are "sequential" in nature, and therefore can vary on a given day depending on where the beneficiary is in the particular process.

The director found that the initial evidence submitted in support of the petition was insufficient to establish eligibility. Consequently, a request for evidence (RFE) was issued on July 2, 2009. In the RFE, the director asked the petitioner to submit additional evidence in support of the petition, including more specific information on the claimed in-house project on which the beneficiary would work. The director noted that the petitioner appeared to be engaged in consulting, and requested copies of signed and valid contracts and/or

work orders, as well as an itinerary, which outlined the beneficiary's proposed work for the requested validity period.

In a response dated July 27, 2009, counsel for the petitioner addressed the director's queries. Specifically, counsel submitted, inter alia, tax records, including copies of the petitioner's 2007 and 2008 income tax returns and quarterly wage reports, as well as informational material about the petitioner's company. Regarding the in-house project, counsel for the petitioner indicated that it was submitting the partnership agreement between the petitioner and [REDACTED] as well as a Project Definition Statement, which counsel asserted contained all the necessary details. Also submitted was a copy of an employment offer letter from the petitioner to the beneficiary dated March 16, 2009.

On September 24, 2009, the director denied the petition. The director concluded that the petitioner had failed to submit a valid LCA for all work locations, and additionally found that the proffered position was not a specialty occupation. On appeal, counsel submits a brief and asserts that the director's decision was erroneous. No additional evidence is submitted in support of the appeal.

The first issue before the AAO is whether the petitioner established filing eligibility at the time the Form I-129 was received by U.S. Citizenship and Immigration Services (USCIS).

General requirements for filing immigration applications and petitions are set forth at 8 C.F.R. §103.2(a)(1) as follows:

[E]very application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions . . . being hereby incorporated into the particular section of the regulations requiring its submission

Further discussion of the filing requirements for applications and petitions is found at 8 C.F.R. § 103.2(b)(1):

Demonstrating eligibility at time of filing. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. All required application or petition forms must be properly completed and filed with any initial evidence required by applicable regulations and/or the form's instructions. . . .

In cases where evidence related to filing eligibility is provided in response to a director's request for evidence, 8 C.F.R. § 103.2(b)(12) states:

An application or petition shall be denied where evidence submitted in response to a request for initial evidence does not establish filing eligibility at the time the application or petition was filed

The regulations require that before filing a Form I-129 petition on behalf of an H-1B worker, a petitioner obtain a certified LCA from the DOL in the occupational specialty in which the H-1B worker will be employed. *See* 8 C.F.R. §§ 214.2(h)(4)(i)(B) and 214.2(h)(4)(iii)(B)(I). The instructions that accompany the

Form I-129 also specify that an H-1B petitioner must document the filing of a labor certification application with the DOL when submitting the Form I-129.

In the instant case, the petitioner filed the Form I-129 with USCIS on April 23, 2009. The petitioner submitted a certified LCA for the location of Dublin, Ohio. In reviewing the petitioner's supporting documentation, the director concluded that without a statement of work, work orders, or an itinerary, the actual work location(s) for the beneficiary could not be determined. Moreover, the director noted that the petitioner made specific claims that it would outsource the beneficiary to client sites as necessary. On appeal, the petitioner argues that it did submit a valid LCA, and that it therefore fully complied with the requirements for a valid LCA at the time of filing.

Upon review, the AAO concurs with the director's finding. The March 2, 2009 offer of employment letter, as noted by the director, specifically states that the offer of employment is subject to "[the petitioner] being able to obtain a suitable consulting assignment for you." The offer letter further states that as a computer programmer analyst, the beneficiary will provide IT consulting services to the petitioner's customers/clients and/or in-house projects at the petitioner's corporate offices.

Additionally, the partnership agreement between the petitioner and [REDACTED] affirms that the petitioner will provide integration services for [REDACTED] product, [REDACTED]. The agreement further states that [REDACTED] possesses the product knowledge and will be primarily responsible for the product implementation, while the petitioner may be responsible for integrating the product in a client's legacy infrastructure. Moreover, the agreement indicated that the terms of the engagement would be detailed in a statement of work prepared jointly by [REDACTED] and the petitioner. As noted by the director, a statement of work was not submitted.

A review of the Project Definition Statement submitted in response to the RFE indicates, as counsel contends, that the [REDACTED] project will be an internal project of the petitioner. However, when discussing the phases of the project, the statement indicates that, after the interfaces are developed, the last step of the project will be implementation of the interfaces "in a live environment at customer sites."

Based on this statement, coupled with the absence of a concise itinerary, work orders, or statements of work for the beneficiary, it is clear that, while the beneficiary may begin her employment working in-house for the petitioner to develop the interfaces discussed above, she will ultimately be assigned to various customer sites to implement these interfaces. Since the petitioner is requesting a three-year period of employment for the beneficiary, the failure of the petitioner to submit a concise itinerary or statements of work outlining the projected time frame until the development process is complete and the implementation phase begins renders it impossible to conclude that the beneficiary will only work in-house for the entire duration of her employment with the petitioner. Absent more detailed evidence, the AAO cannot conclude that the LCA submitted corresponds to the petition in that it covers all of the beneficiary's work locations. For this reason, the petition may not be approved.

The second issue is whether the beneficiary will be employed in a specialty occupation.

It should be noted that for purposes of the H-1B adjudication, the issue of bona fide employment is viewed within the context of whether the petitioner has offered the beneficiary a position that is viewed as a specialty

occupation. Of greater importance to this proceeding, therefore, is whether the petitioner has provided sufficient evidence to establish that the services to be performed by the beneficiary are those of a specialty occupation.

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.

Pursuant to 8 C.F.R. § 214.2(h)(4)(ii):

Specialty occupation means 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 also 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.

As a threshold issue, it is noted that 8 C.F.R. § 214.2(h)(4)(iii)(A) must logically be read together with section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). In other words, this regulatory language must be construed in harmony with the thrust of the related provisions and with the statute as a whole. *See K Mart Corp. v. Cartier Inc.*, 486 U.S. 281, 291 (1988) (holding that construction of language which takes into account the design of the statute as a whole is preferred); *see also COIT Independence Joint Venture v. Federal Sav. and Loan Ins. Corp.*, 489 U.S. 561 (1989); *Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996). As such, the criteria stated in 8

C.F.R. § 214.2(h)(4)(iii)(A) should logically be read as being necessary but not necessarily sufficient to meet the statutory and regulatory definition of specialty occupation. To otherwise interpret this section as stating the necessary *and* sufficient conditions for meeting the definition of specialty occupation would result in particular positions meeting a condition under 8 C.F.R. § 214.2(h)(4)(iii)(A) but not the statutory or regulatory definition. *See Defensor v. Meissner*, 201 F.3d 384 (5th Cir. 2000). To avoid this illogical and absurd result, 8 C.F.R. § 214.2(h)(4)(iii)(A) must therefore be read as stating additional requirements that a position must meet, supplementing the statutory and regulatory definitions of specialty occupation.

Consonant with section 214(i)(1) of the Act and the regulation at 8 C.F.R. § 214.2(h)(4)(ii), USCIS consistently interprets the term “degree” in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position. Applying this standard, USCIS regularly approves H-1B petitions for qualified aliens who are to be employed as engineers, computer scientists, certified public accountants, college professors, and other such professions. These occupations all require a baccalaureate degree in the specific specialty as a minimum for entry into the occupation and fairly represent the types of professions that Congress contemplated when it created the H-1B visa category.

In addressing whether the proffered position is a specialty occupation, the record is devoid of substantial documentary evidence as to where and for whom the beneficiary would be performing her services, and whether her services would be that of a programmer analyst.

The regulation at 8 C.F.R. § 214.2(h)(4)(iv) provides that “[a]n H-1B petition involving a specialty occupation shall be accompanied by [d]ocumentation . . . or any other required evidence sufficient to establish . . . that the services the beneficiary is to perform are in a specialty occupation.” Moreover, the regulation at 8 C.F.R. § 214.2(h)(4)(iv)(A)(1) specifically lists contracts as one of the types of evidence that may be required to establish that the services to be performed by the beneficiary will be in a specialty occupation.

According to the petitioner’s letter submitted in support of the petition, the beneficiary’s duties as a programmer analyst will be as follows:

[The beneficiary] will implement her technical expertise in performing systems analysis and development, by analyzing product integration requirements and preparing detailed specification documentation, then design and test the system based on her analysis and input from product Subject Matter Experts (SME). She will develop applications used in writing programs and work with various tools used in the industry like writing queries, procedures, functions and packages.

In particular, [the beneficiary] will work on integration application using Visual Studio.Net, C#, HTML, JavaScript, ASP.Net, ADO.Net, SQL Server 2005, IIS 6.0. VB Net, HTML/CSS, DHTML, AJAX, ASP.Net 2.0, and XML.

Her ancillary duties will involve the monitoring of program development, analysis, troubleshooting and solving problems pertaining to the features developed, and development of test cases to test the integration application developed for the product. She will also change, compile and perform unit testing of the programs assigned.

A day-to-day description of the proposed duties using layman's terms, as well as specific and non-generic terms, would be best described as follows. Computer programs are the internal mechanisms which enable a computer to process information, such as words and data. The program can be thought of as a series of coded instructions which the computer follows to accomplish a given task. The employee must learn what information (data) is to be stored and how that data is to be accessed and displayed and for what reasons. This would fall within the scope of duties of an analyst, as they "analyze" the technology needs and develop a plan to address such needs. Then, the "programming" function is performed, whereby the computer professional reduces the mission to the computer coded instructions to accomplish the program objectives.

To describe what a programmer analyst would do on a given specific day would depend on where the computer professional is during the detailed process described above. *This is a sequential process, so the duties at any given time will depend on where he or [s]he is during the process.* For example, one day the programmer analyst would be analyzing procedures and issues, while on another day designing computer systems for the ascertained requirements, procedures, issues and programs, yet on another day inputting test data into computer systems, or testing and verifying the system and correcting any defects or program errors, commonly known as debugging the system, to eliminate system errors or otherwise unsatisfactory results.

The petitioner continued by stating that the minimum educational requirement for the proffered position is a bachelor's degree in computer science, engineering, or an equivalent field.

No independent documentation to further explain the nature and scope of the above-stated duties was submitted. Noting that the petitioner was engaged in an industry that typically outsourced its personnel to client sites to work on particular projects, the director requested documentation such as work orders that would outline for whom the beneficiary would render services and what her duties would include at each worksite. Despite the director's specific request for these documents, the petitioner submitted only a copy of its partnership agreement with [REDACTED] which specifically states that the petitioner will be responsible for implementing interfaces at client sites.

Upon review of the evidence, the AAO concurs with the director's findings. The offer of employment contains little or no information regarding the terms under which the beneficiary would work or the nature of the beneficiary's duties. It is noted again that the employment agreement indicates that the beneficiary's employment is contingent on obtaining a suitable consulting agreement for the beneficiary. While counsel asserts that the beneficiary's duties are outlined by the partnership agreement and the Project Definition Statement, neither of these documents identify the beneficiary by name, nor do they specify the duration of the project or the specific role that programmer analysts such as the beneficiary will play in the project. Moreover, notwithstanding the agreement with [REDACTED] based on the petitioner's claim in the letter of support that it has numerous clients in various industries such as Intel, IBM, and government agencies, it is clear that had the petition been approvable on the previous grounds, the beneficiary's duties could potentially vary widely based on the requirements of a client at any given time. Once again, this possibility renders it

necessary to examine the ultimate end-clients of the petitioner to determine the exact nature and scope of the beneficiary's duties for each client, since it is logical to conclude that the services provided to one client may differ vastly from the services provided to another, particularly if they varied from one industry sector to another and/or from one project to another.

As discussed above, the record contains no substantiated evidence regarding the end-clients who will benefit from the partnership agreement for the [REDACTED] project and their requirements for the beneficiary. Without evidence of valid contracts, work orders, or statements of work describing the duties the beneficiary would perform and for whom, the petitioner fails to establish that the duties that the beneficiary would perform are those of a specialty occupation. Providing a generic job description that speculates what the beneficiary may or may not do at each worksite is insufficient. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

In support of this analysis, USCIS routinely cites *Defensor v. Meissner*, 201 F.3d 384, in which an examination of the ultimate employment of the beneficiary was deemed necessary to determine whether the position constitutes a specialty occupation. The petitioner in *Defensor*, Vintage Health Resources (Vintage), was a medical contract service agency that brought foreign nurses into the United States and located jobs for them at hospitals as registered nurses. The court in *Defensor* found that Vintage had "token degree requirements," to "mask the fact that nursing in general is not a specialty occupation." *Id.* at 387.

The court in *Defensor* held that for the purpose of determining whether a proffered position is a specialty occupation, the petitioner acting as an employment contractor is merely a "token employer," while the entity for which the services are to be performed is the "more relevant employer." *Id.* at 388. The *Defensor* court recognized that evidence of the client companies' job requirements is critical where the work is to be performed for entities other than the petitioner. *See id.* The *Defensor* court held that the legacy Immigration and Naturalization Service had reasonably interpreted the statute and regulations as requiring the petitioner to produce evidence that a proffered position qualifies as a specialty occupation on the basis of the requirements imposed by the entities using the beneficiary's services. *Id.* In *Defensor*, the court found that that evidence of the client companies' job requirements is critical if the work is to be performed for entities other than the petitioner. *Id.*

In this matter, it is unclear whether the petitioner will be an employer or will act as an employment contractor. The job description provided by the petitioner, as well as various statements from the petitioner both prior to adjudication and on appeal, indicate that the beneficiary will be working on client projects for clients based throughout the nation. Despite the director's specific request for documentation to establish the ultimate location(s) of the beneficiary's employment, the petitioner failed to fully comply with this request. Moreover, the petitioner's failure to provide evidence of an itinerary or work orders between the petitioner and its clients renders it impossible to conclude for whom the beneficiary will ultimately provide services and exactly what those services would entail. The AAO, therefore, cannot analyze whether the beneficiary's duties at each worksite would require at least a baccalaureate degree or the equivalent in a specific specialty, as required for classification as a specialty occupation. Accordingly, the petitioner has not established that the proposed position qualifies as a specialty occupation under any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) or that

the beneficiary would be coming temporarily to the United States to perform the duties of a specialty occupation as that term is defined at 8 C.F.R. § 214.2(h)(4)(ii).¹

¹ It is noted that, even if the proffered position were established as being that of a programmer analyst, a review of the U.S. Department of Labor's *Occupational Outlook Handbook* (hereinafter the *Handbook*) does not indicate that such a position qualifies as a specialty occupation in that the *Handbook* 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 of programmer analyst. See Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, 2010-11 Edition, "Computer Systems Analysts," <<http://www.bls.gov/oco/ocos287.htm>> and "Computer Software Engineers and Computer Programmers," <<http://www.bls.gov/oco/ocos303.htm>> (accessed November 30, 2010). As such, absent evidence that the petitioner's proffered position of programmer analyst qualifies as a specialty occupation under one of the alternative criteria available under 8 C.F.R. § 214.2(h)(4)(iii)(A), the instant petition could not be approved for this additional reason.

In addition, the AAO notes that the *O*Net* Summary Reports, referenced by counsel, are insufficient to establish that the proffered position qualifies as a specialty occupation normally requiring at least a bachelor's degree or its equivalent in a specific specialty. On November 30, 2010, the AAO accessed the pertinent sections of the *O*Net Online* Internet site, which address 15-1051.00 – Computer Systems Analysts, 15-1032.00 – Computer Software Engineers, Systems Software, and 15-1021.00 – Computer Programmers. Contrary to the assertions of counsel, *O*Net Online* does not state a requirement for a bachelor's degree. Rather, it assigns all three occupations as a Job Zone "Four" rating, which groups them among occupations of which "most," but not all, "require a four-year bachelor's degree." Further, the *O*Net Online* does not indicate that four-year bachelor's degrees required by Job Zone Four occupations must be in a specific specialty closely related to the requirements of that occupation. Therefore, the *O*Net Online* information is not probative of the proffered position's being a specialty occupation.

Moreover, the petitioner stated that its minimum educational requirement for the proffered position is a bachelor's degree in "computer science, engineering, or an equivalent field." The AAO notes that such an assertion, i.e., the duties of the proffered position can be performed by a person with a degree in any one of those disciplines, implies that the proffered position is not, in fact, a specialty occupation.

More specifically, the field of engineering is a very broad category that covers numerous and various disciplines, some of which are only related through the basic principles of science and mathematics, e.g., petroleum engineering and aerospace engineering. 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 or engineering, without further specification, does not establish the position as a specialty occupation. See *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988).

Again, 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. As explained above, USCIS interprets the

For the reasons set forth above, even if the other stated ground of ineligibility was overcome on appeal, the petitioner has failed to supplement the record with sufficient evidence to establish that the beneficiary would be performing the duties of a specialty occupation, and the petition cannot be approved for this reason.

Finally, beyond the decision of the director, the AAO will enter an additional basis for denial, i.e., the petitioner's failure to comply with the itinerary requirement at 8 C.F.R. § 214.2(h)(2)(i)(B).

The regulation at 8 C.F.R. § 214.2(h)(2)(i)(B) states, in pertinent part:

Service or training in more than one location. A petition which requires services to be performed or training to be received in more than one location must include an itinerary with the dates and locations of the services or training and must be filed with the Service office which has jurisdiction over I-129H petitions in the area where the petitioner is located. The address which the petitioner specifies as its location on the I-129H petition shall be where the petitioner is located for purposes of this paragraph.

The itinerary language at 8 C.F.R. § 214.2(h)(2)(i)(B), with its use of the mandatory "must" and its inclusion in the subsection "Filing of petitions," establishes that the itinerary as there defined is a material and necessary document for an H-1B petition involving employment at multiple locations, and that such a petition may not be approved for any employment period for which there is not submitted at least the employment dates and locations. Here, given the indications in the record that the beneficiary would work at multiple locations at some point during the requested period of employment and as the petitioner failed to provide this initial required evidence when it filed the Form I-129 in this matter, the petition must also be denied on this additional basis.

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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. USCIS has consistently stated that, 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. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007).

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