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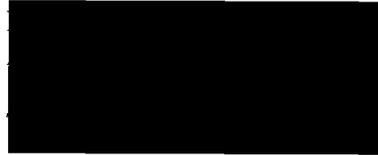
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date:

JUL 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:



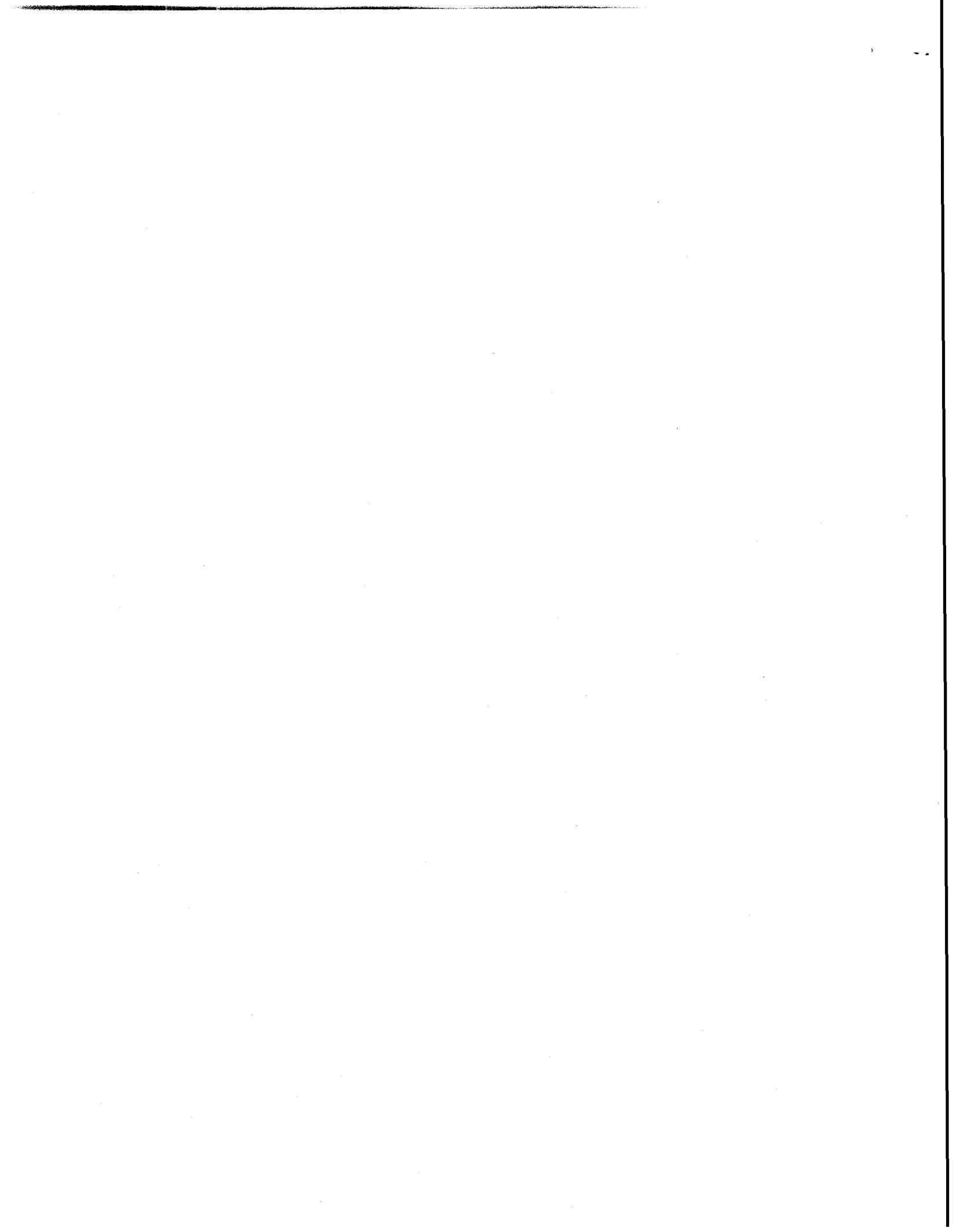
INSTRUCTIONS:

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 \$585. 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 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 petitioner is an insurance agency. In order to employ the beneficiary in what the petitioner designates as an accountant position, the petitioner seeks to classify him 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, namely, that the petitioner had failed to establish that (1) the proffered position qualifies as a specialty occupation, and (2) the beneficiary is qualified to serve in a specialty occupation in accordance with 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D). As will be discussed below, the AAO finds that the director was correct in determining that the petition should be denied on each of these grounds.

The AAO bases its decision upon its review of the entire record of proceedings, which includes: (1) the petitioner's Form I-129 and the supporting documentation filed with it; (2) the service center's request for additional evidence (RFE); (3) the response to the RFE; (4) the director's denial letter; and (5) the Form I-290B and counsel's brief in support of the appeal.

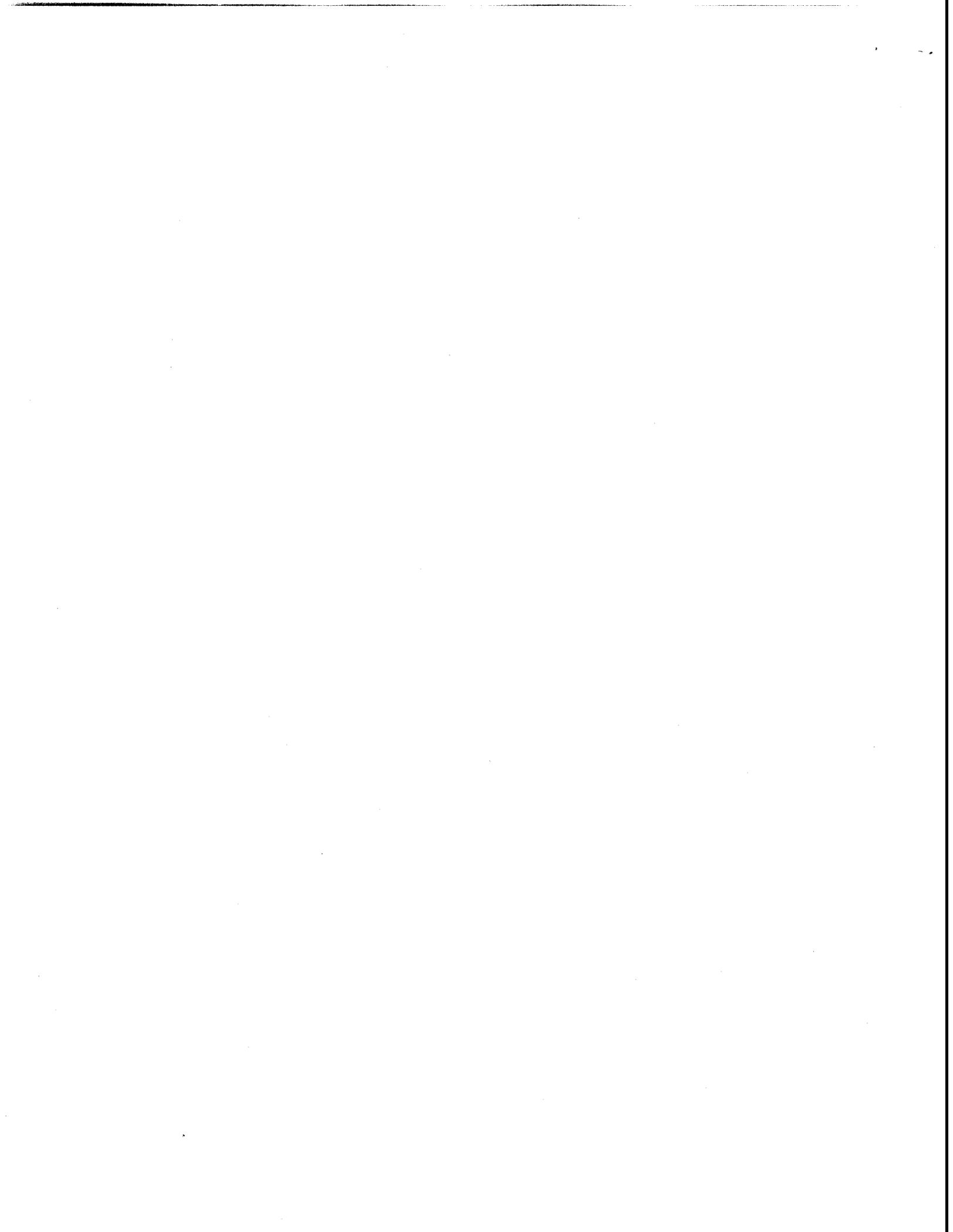
The AAO will address the beneficiary qualification issue first, to highlight the fact that the evidence of record indicates that the beneficiary on whose behalf this petition was filed is not qualified to serve in any specialty occupation position, because he does not have the degree or degree-equivalent credentials required by the relevant statute and implementing regulations.

The statutory and regulatory framework that the AAO must apply in its consideration of the evidence of the beneficiary's qualification to serve in a specialty occupation follows below.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and

(ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.



The degree referenced by section 214(i)(1)(B) of the Act, 8 U.S.C. § 1184(i)(1)(B), means one in a specific specialty that is characterized by a body of highly specialized knowledge that must be theoretically and practically applied in performing the duties of the proffered position.

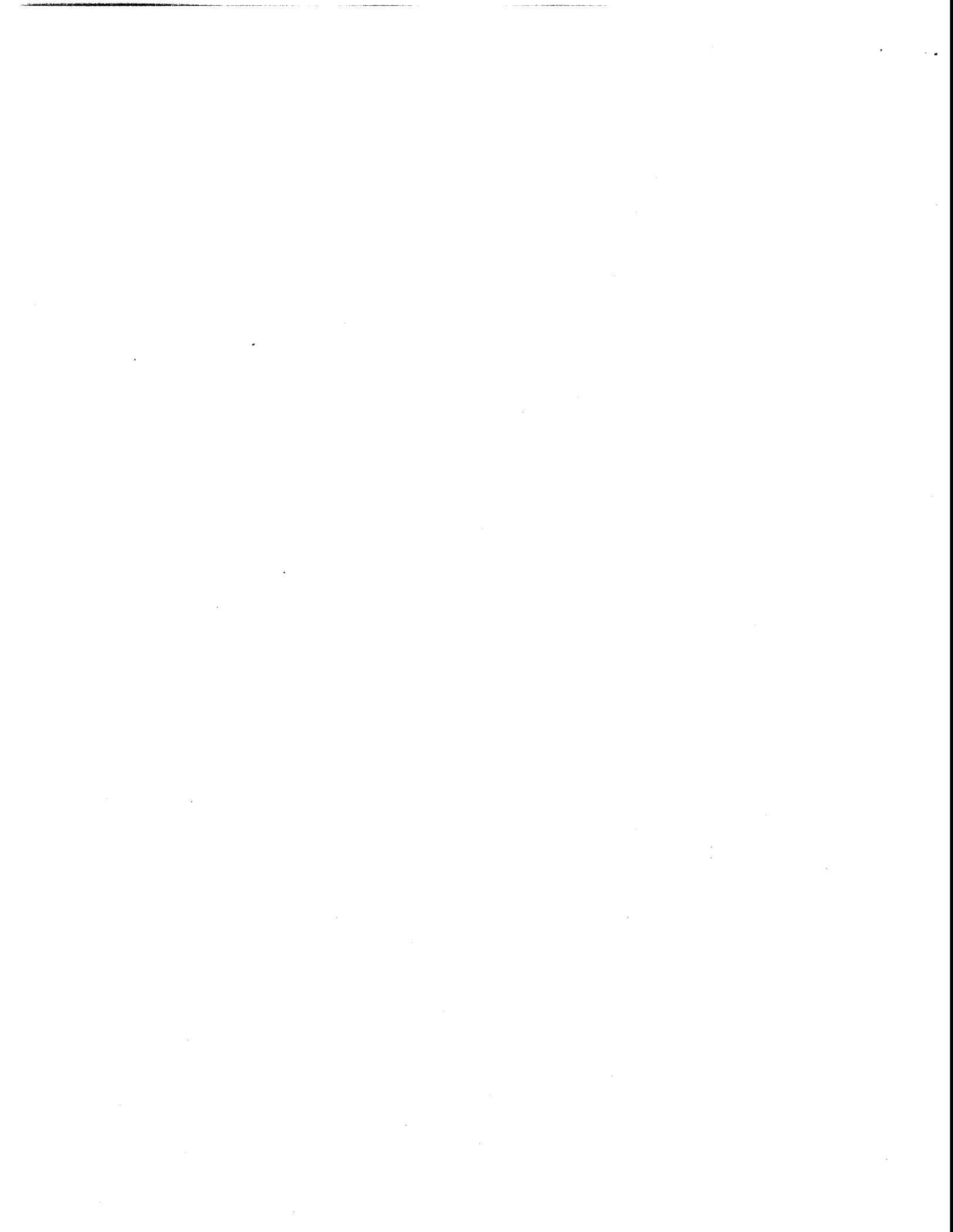
Therefore, to qualify an alien for classification as an H-1B nonimmigrant worker under the Act, the petitioner must establish that the beneficiary has completed a degree in the specialty that the occupation requires, and that, if he or she does not possess the required degree, the petitioner must demonstrate that the alien has [1] experience in the specialty equivalent to the completion of such degree, and [2] recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

In implementing section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C) states that an alien must meet one of the following criteria in order to qualify to perform services in a specialty occupation:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The evidence of record indicates that all of the beneficiary's education was obtained in Iran and that the beneficiary's formal schooling does not extend beyond secondary school. In its letter filed with the Form I-129, the petitioner asserts that the beneficiary has attained the equivalent of a bachelor's degree in accounting by "work[ing] as an accountant for Alborz Production Company [APC] for 14 years," that "[t]hese credentials qualify [him] for the position being offered."

The record's documentary evidence of the beneficiary's work at APC is limited to copies of the beneficiary's resume and a translation of a one-paragraph letter from APC about the beneficiary's employment with that firm. In pertinent part, the resume only states:



Work experience [09/16/1986 to 01/22/2001]
ALBORZ PRODUCTION COMPANY
ACCOUNTANT

The full body of the letter from APC reads as follows:

This is to certify that [the beneficiary] was working in this company as a full[-]time accountant from September 16, 1986 to January 22, 2001. The management of the company would like to express their utmost satisfaction of her [sic] professional performance.

The record also contains sketchy documentary evidence of the beneficiary's work experience with Pars Fara Sahel Shipping Company (PFSSC). The beneficiary's resume's information about his experience with the shipping company is limited to this entry in the Work Experience section:

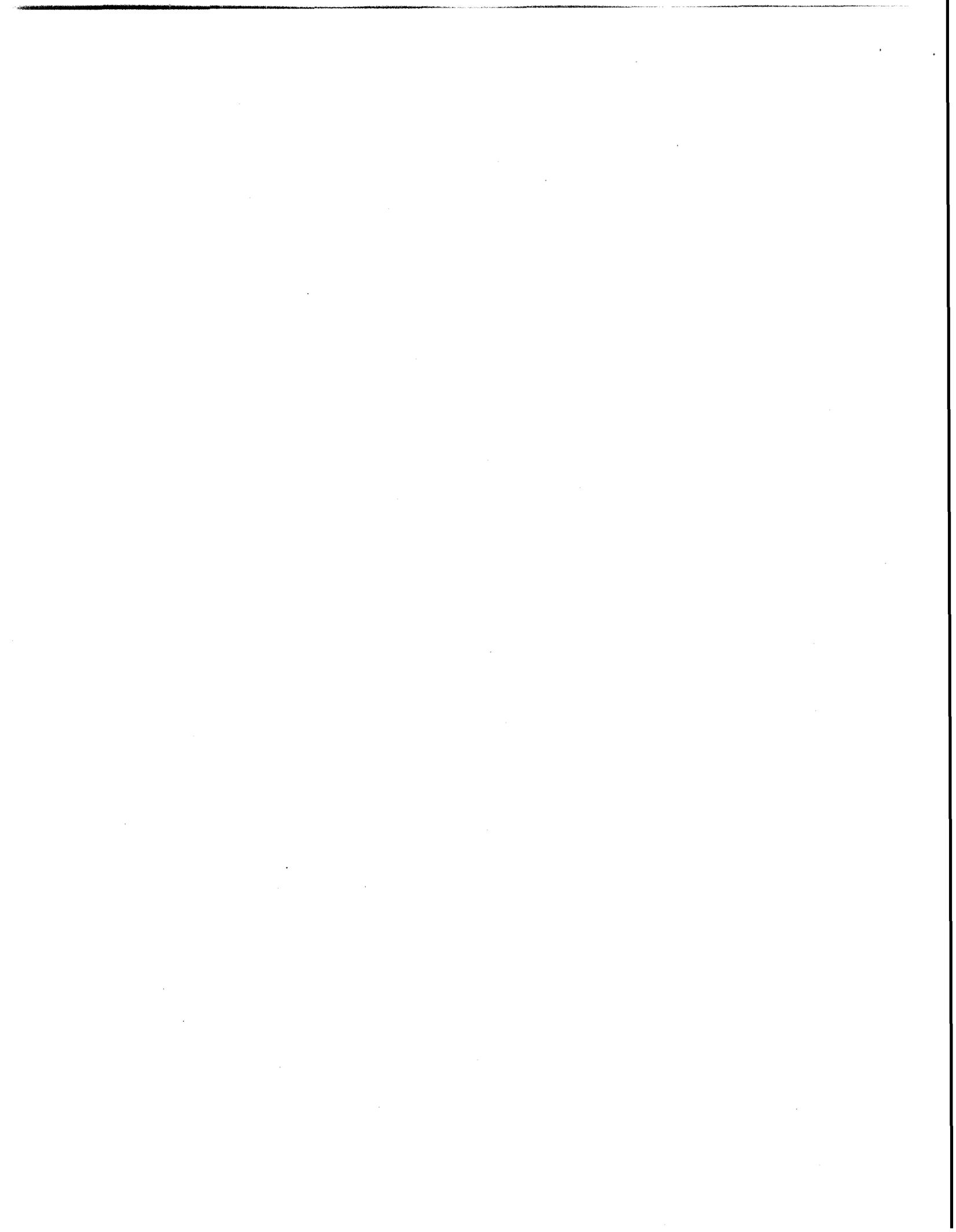
[05/23/2002 to 05/22/2006]
PARS FARA SAHEL SHIPPING COMPANY – LTD
MANAGING DIRECTOR

The record also includes certified translations of extracts of documents from the Official Gazette of the Islamic Republic of Iran that indicate (1) the establishment of PFSSC in 2002 with the beneficiary as its Managing Director for two years, and (2) the election of the beneficiary to continue as Managing Director for the period June 22, 2006 to June 22, 2010.

The AAO observes that the resume, the APC letter, and the PFSSC documents yield no information about the substantive work that the beneficiary actually performed; the extent, if any, that his work included the theoretical and practical application of highly specialized knowledge required by a specialty occupation; and the educational credentials in accounting or a closely related discipline that were held by peers, supervisors, or subordinates with whom the beneficiary worked. As such, those documents are not probative of the beneficiary's satisfying any of the beneficiary qualification criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C).

The petitioner and its counsel [hereinafter, counsel] rely, mistakenly, on the evaluation of the beneficiary's accounting credentials that [redacted] of General Documentation Resources (GDR), provided the petitioner. That evaluation, which bears the subject line "Evaluation of the Academic and Professional Achievements of [the Beneficiary] for Immigration Purpose[s]" will hereinafter be referred to as the GDR submission.

The GDR submission states that it is based upon the following aspects of the beneficiary's "educational and professional background": receipt of a high school diploma from the Ministry of Education of Iran in June, 1979; employment "as a full[-]time accountant for [APC], in Tehran, Iran from September 16, 1986 through January 22, 2001"; expression by APC's management of "their [up]most satisfaction and appreciation of [the beneficiary's] professional performance as well as

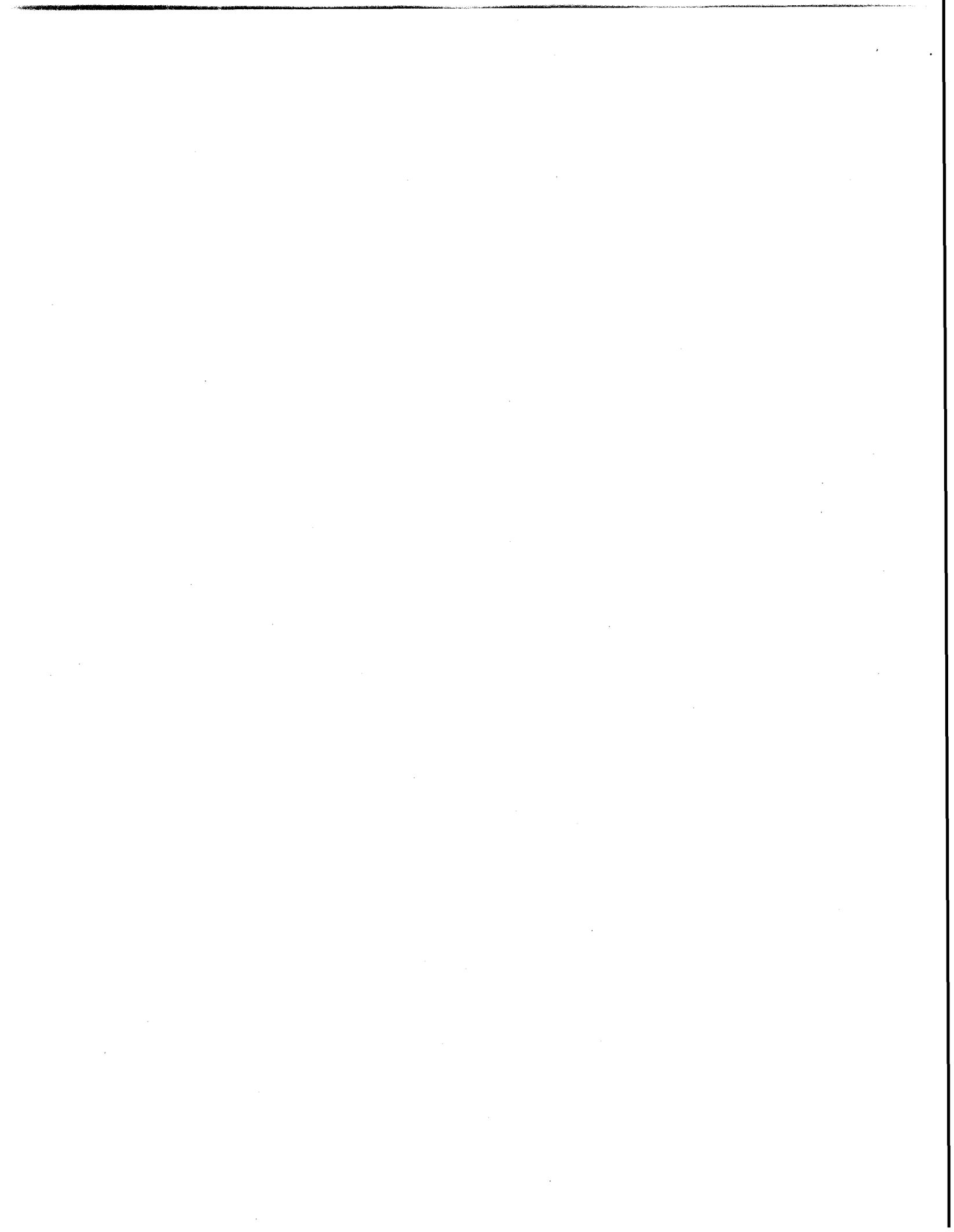


high standards of ethic[s] and human relations manners”; the beneficiary’s establishing, with a few other shareholders, “a company called [PFSSC]” with its central office in Tehran and branch offices in Busher, Iran; the beneficiary’s election as PFSSC’s Managing Director for four years; and, after PFSSC’s growing “considerably,” the beneficiary’s reelection for four more years as PFSSC’s Managing Director “for four more years from June 22, 2006 through June 22, 2010.” The GDR submission opines on the beneficiary’s credentials in the following paragraph:

Conclusion: With over twenty years experience in Accounting and Financial Management, we are very comfortable to evaluate [the beneficiary’s] professional work experience [as] at least equivalent to [a] **Bachelor Degree Certificate**.

The AAO finds that the GDR submission has no probative value. At the outset, the AAO notes that this document nowhere opines that the Bachelor’s Degree Certificate equivalence that it attributes to the beneficiary’s work experience is in any specific specialty, and nowhere opines that the Bachelor’s Degree Certificate to which it refers is one issued by an accredited U.S. college or university. These material omissions eviscerate the GDR submission of any evidentiary value with regard to the fundamental requirement of section 214(i)(2) of the Act and its implementing regulations at 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D) that a beneficiary’s degree equivalence must be to a degree in a specific specialty and issued by an accredited U.S. college or university. Also, the GDR submission contains no exposition of whatever analysis its author may have employed to reach his opinion, and it does not indicate that the author has any more knowledge of the beneficiary’s work experience than the superficial information related in the beneficiary’s resume, the APC letter, and the PFSSC documents. Even more fundamentally, the GDR submission’s author did not establish his competency to evaluate the U.S. educational equivalence of Iranian work experience. *See* 8 C.F.R. §§ 214.2(h)(4)(iii)(D)(1) (limiting USCIS recognition of such competency to “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”). Further, the AAO discounts the GDR submission’s remark that PFSSC grew “considerably” under the beneficiary’s first term as General Manager, for the record contains no documentation to support that assertion. 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)). Because of the deficiencies noted above, the AAO accords no evidentiary weight to the GDR submission. U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988).

The evidence submitted clearly does not establish that the beneficiary possesses a U.S. baccalaureate degree or its equivalent in any specific specialty.



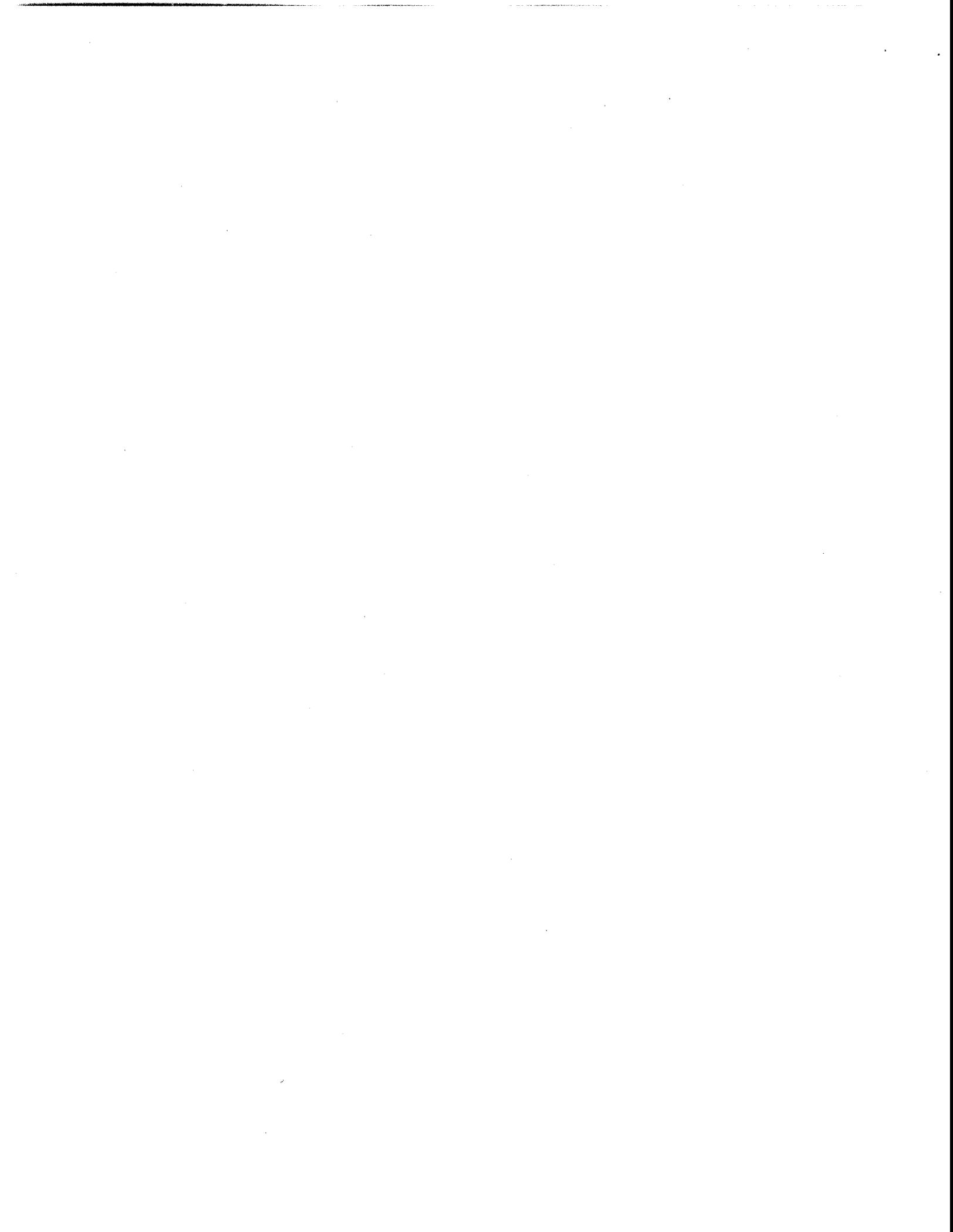
The beneficiary does not meet either of the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(C)(1) and (3), as there is no evidence of a U.S. accredited college or university baccalaureate or higher degree, or of an unrestricted state license, registration or certification which authorizes him to fully practice and be immediately engaged in a specialty occupation in the state of intended employment.

As the beneficiary has no degree beyond high school, the evidence of record does not qualify the him to serve in a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(2) for an alien holding a foreign degree determined to be equivalent to a U.S. accredited college or university baccalaureate or higher degree required by the pertinent specialty occupation.

This leads the AAO to evaluate the evidence of record under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) for a determination as to whether the beneficiary has “[1] 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 . . . [2] recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.” In order to equate a beneficiary’s credentials to a U.S. baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), the provisions at 8 C.F.R. § 214.2(h)(4)(iii)(D) require 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;¹
- (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

¹ The petitioner should note that, in accordance with this provision, the AAO will accept a credentials evaluation service’s evaluation of *education only*, not experience.



that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience. . . .

The record of proceeding contains no documentation within any of the categories specified in 8 C.F.R. §§ 214.2(h)(4)(iii)(D)(1) to (4).

According to 8 C.F.R. § 214.2(h)(4)(iii)(D)(5), to merit a USCIS determination that training or work experience is equivalent to U.S. baccalaureate coursework in a specific specialty, for each year of college-level training the alien lacks:

[I]t must be clearly demonstrated [1] that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; [2] 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 [3] 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 occupation²;
- (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.

Due to their skeletal nature, the letter from the management of APC and the excerpts from the Official Gazette of the Islamic Republic of Iran about PFSSC and the beneficiary's position in that

² *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).



company do not merit weight under any criterion of 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D). None of these documents provides details about specific work that the beneficiary performed; the extent, if any, that he applied theoretical and practical application of highly specialized knowledge required by a specialty occupation; the educational qualifications of his peers, subordinates, and supervisors; or recognition of expertise as outlined in the regulation.

The evidentiary weight of the beneficiary's resume is insignificant. The resume represents a claim by the beneficiary, rather than evidence to support that claim. As such, its evidentiary weight does not exceed the cumulative corroborative information other documents of record provide about the beneficiary's work experience. As already discussed, the other documents of record about the beneficiary's work experience contain only generalized descriptions of the beneficiary's work or job title. Therefore, they do not establish or corroborate the substantive nature of the beneficiary's work experience. Furthermore, the record of proceeding does not contain any evidence of professional recognition as is required by 8 C.F.R. § 214.2(h)(4)(iii)(D)(5) for a USCIS determination that a beneficiary's work experience has equipped a beneficiary with the equivalent of a U.S. baccalaureate or higher degree in a specific specialty. As the petitioner has not established that the beneficiary is qualified to serve in the alleged specialty occupation of accountant in accordance with the requirements at 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D), the director's decision will not be disturbed.

Next, the AAO finds that the evidence of record supports the director's conclusion that the proffered position is not a specialty occupation.

The AAO analyzes this issue according to the statutory and regulatory framework below.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides a nonimmigrant classification for aliens who are coming temporarily to the United States to perform services in a specialty occupation.

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

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

Thus, it is clear that Congress intended this visa classification only for aliens who are to be employed in an occupation that requires the theoretical and practical application of a body of highly specialized knowledge that is conveyed by at least a baccalaureate or higher degree in a specific specialty.



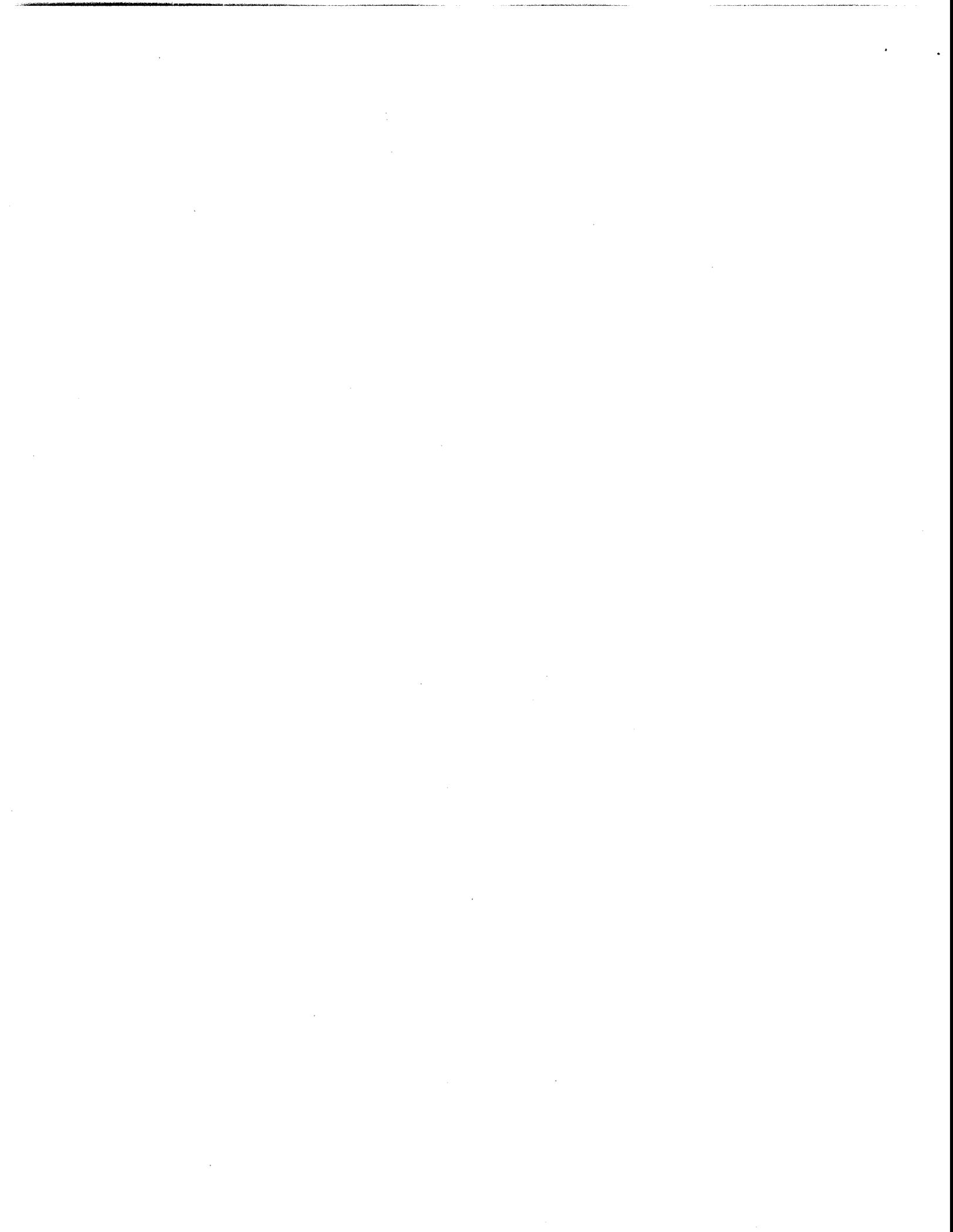
Consistent with section 214(i)(1) of the Act, the regulation at 8 C.F.R. § 214.2(h)(4)(ii) states that a specialty occupation means an occupation “which [1] requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which [2] 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, 8 U.S.C. § 1184(i)(1), 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, 387 (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.

In her letter of reply to the service center's request for additional information (RFE), counsel described the duties comprising the proffered position in the following paragraphs:

Please note [that] the job description of the position requires a skill set greater than a bookkeeper. The duties include:

1. Prepare and analyze monthly expense and Profit/Loss reports.
2. Prepare quarterly financial statements complete with management analysis.
3. Manage receivables and payables.
4. Prepare payroll twice monthly.
5. Manage annual operating plans and budgets.
6. Ensure compliance with all federal, state, and municipal tax filing requirements.
7. Manage and keep up-to-date all company[-]related insurance policies and vendor subscriptions.

Analyzing financial statements and ensuring compliance with all federal, state, and municipal tax filing requirements need a skill set more than a bookkeeper. I am a Certified Public Accountant (CPA) and I know for a fact that any type of analysis of financial statements cannot be done by a bookkeeper. The position being offered is a specialty occupation and at least an equivalent Bachelor degree is necessary. . . .

The AAO first notes that it accords no weight to counsel's assertions as a CPA, in that he is the petitioner's counsel and provides no documentary evidence in support of his assertions. 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). Accordingly, counsel's assertions in the paragraph last quoted above have no evidentiary value.

The AAO finds that the need for a specialty degree is not inherently evident in counsel's descriptions of the duties comprising the proffered position. They comprise a skeletal outline of broad functions stated in exclusively generalized and generic terms. There is no attempt to provide a meaningful description of the scope and complexity of matters upon which the beneficiary would work or to explain how specific aspects of the work would require a person with at least a bachelor's degree in



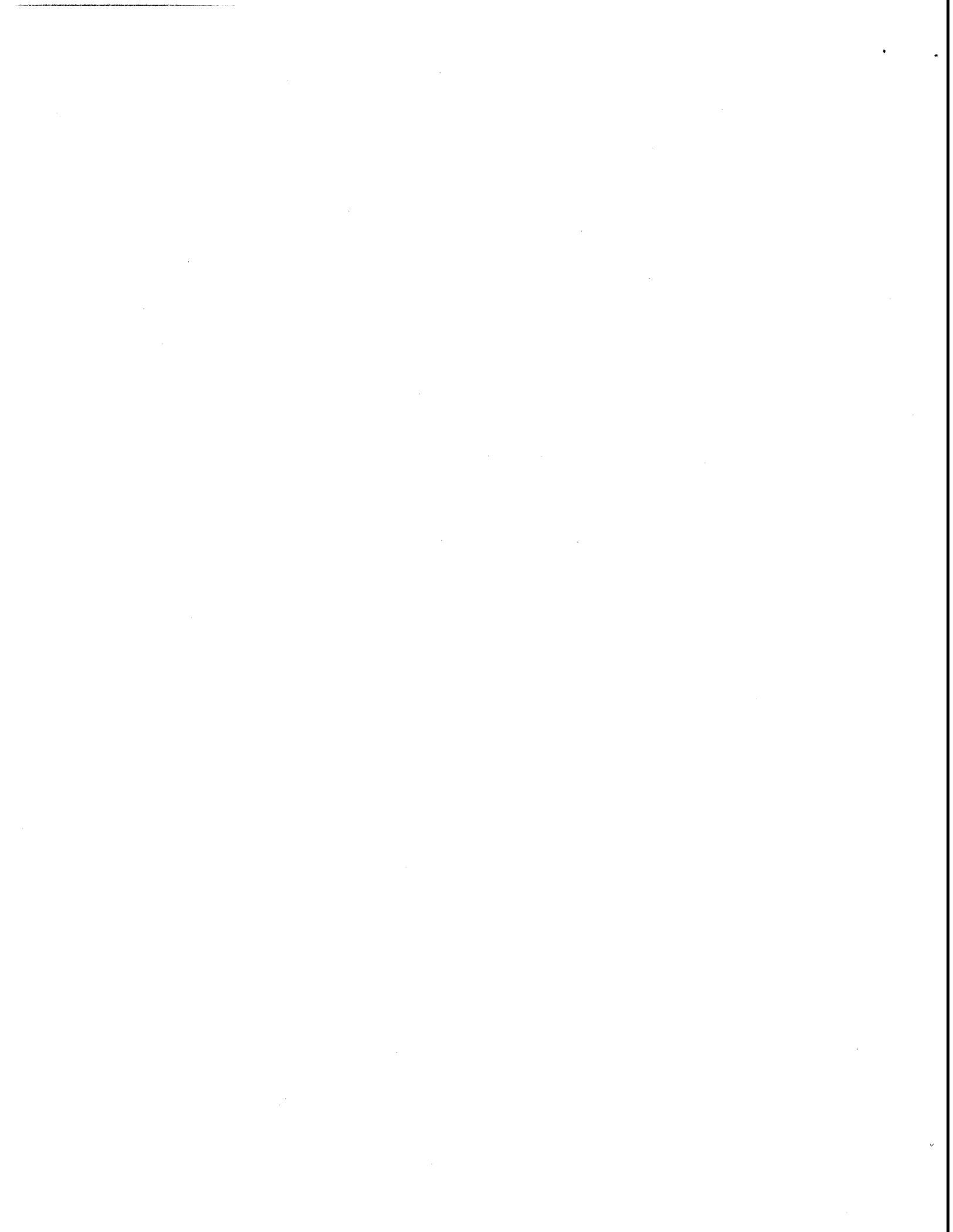
a specific specialty closely related to that type of work. Qualification as a specialty occupation is not achieved by a position's title or how closely a petitioner's description of the position approximates a description of an occupational category provided in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*), which the AAO regards as an authoritative source on the duties and educational requirements of the wide variety of occupations which it addresses. Neither the Act nor the implementing regulations support a formulistic approach that would allow specialty occupation status without substantive evidence of specific work into which a position's duty descriptions would translate when actually executed in the context of the petitioner's business. To determine whether a particular job qualifies as a specialty occupation, USCIS focuses on the record's evidence of specific work involved in actual performance of the job. *See generally Defensor v. Meissner*, 201 F.3d 384 (5th Cir. 2000). If the evidence of record fails to develop the performance aspects of the proffered position in terms sufficiently concrete to manifest that they involve or will involve the application of at least a bachelor's degree level of knowledge in a specific specialty, the petition will fail to establish a specialty occupation. Such is the case here.

Further, the AAO notes that counsel appears to rely upon an erroneous proposition, namely, that if a position with an Accountant title involves accounting at a level above that applied by a bookkeeper it must qualify as a specialty occupation. To the contrary, the 2008-2009 edition of the *Handbook* indicates that not every accountant position requires or is usually associated with at least a bachelor's degree level of knowledge in accounting or a related specialty. As the generalized duties provided in the present record accord most closely with generalized duties that the *Handbook* ascribes to the Management Accountant occupational category, this excerpt about certification is most instructive, as it indicates that a degree in a specific specialty is not normally a requirement for certification as a management accountant by the Institute of Management Accountants:

The Institute of Management Accountants confers the Certified Management Accountant (CMA) designation upon applicants who complete a bachelor's degree or who attain a minimum score or higher on specified graduate school entrance exams. Applicants must have worked at least 2 years in management accounting, pass a four-part examination, agree to meet continuing education requirements, and comply with standards of professional conduct. The exam covers areas such as financial statement analysis, working-capital policy, capital structure, valuation issues, and risk management.

Further, the AAO finds that the application process described at Internet site of the Institute of Management Accountants, www.imanet.org, does not specify a degree in a specific specialty as a requirement for CMA certification.

Aside from the *Handbook's* information, this record's lack of substantive evidence about the particular matters upon which the beneficiary would work and the educational level of both theoretical and practical knowledge that would be required to apply them precludes the AAO from reasonably determining that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).



The appeal will be dismissed and the petition denied on the two separate and independent grounds discussed above, namely, the petitioner's failures to establish that the proffered position is a specialty occupation and that the beneficiary is qualified to serve in a specialty occupation. 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.

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

