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U. S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W. MS 2090  
Washington, DC 20529-2090



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

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **MAR 02 2011**

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,

*for*  
*Michael T. Kelly*  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The service center director 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.

On the Form I-129 visa petition, which was submitted on April 1, 2009, the petitioner stated that it is a textile import and wholesale firm established on September 4, 2007 and that it has four employees and gross annual income of \$700,000. To employ the beneficiary in what it designates as a Business Development and Budget Analyst position, the petitioner endeavors to classify her 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 substantive bases. The director found that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position and failed to provide requested evidence. On appeal, counsel asserted that the director's basis for denial was erroneous, and contended that the petitioner satisfied all evidentiary requirements.

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 and attached exhibits in support of the appeal.

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. The issue before the AAO is whether the petitioner has provided evidence sufficient to establish that it would be employing the beneficiary in a specialty occupation position.

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 a particular position 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 (5<sup>th</sup> 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), U.S. Citizenship and Immigration Services (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 occupations. These professions, for which petitioners have regularly been able to establish a minimum entry

requirement in the United States of a baccalaureate or higher degree in a specific specialty, or its equivalent, fairly represent the types of specialty occupations that Congress contemplated when it created the H-1B visa category.

In a letter submitted with the visa petition, the petitioner's corporate secretary stated, as to the duties of the proffered position:

Given the diversity of our client population, our Business Development and Budget Analyst will research and study potential new markets by contacting trade associations, state government agencies, and vendors to learn about state level trade, tax, and custom regulations, as well as target markets' consumer preferences, spending behavior, and sales patterns. Such information will also be utilized for market feasibility evaluations and marketing functions. For example, it is required that our Business Development and Budget Analyst will reflect to our parent company's product designers on customer preferences in various markets in America, and also to work in collaboration with production team on cost control taking into consideration each target market's spending ability.

It is also important for our Business Development and Budget Analyst to formulate research methodology to help management decide on feasibility of market development options while maintaining a viable financial position. Working directly under the President of the company, the Business Development and Budget Analyst will develop an in-depth analysis of the company's spending behavior in support of the [petitioner's] business development activities into new markets.

With the petition, the petitioner provided a photocopy of what purports to be the beneficiary's transcript of classes taken at the California State University at Long Beach.

Because the evidence did not demonstrate that the visa was approvable, the service center, on April 16, 2009, issued an RFE in this matter. The service center requested, *inter alia*, (1) evidence that businesses similar to the petitioner in size and income require a business development and budget analyst, (2) a description of the duties of the proffered position sufficient to demonstrate that it is a *bona fide* business development and budget analyst position, and (3) evidence pertinent to business development and budget analysts the petitioner has hired in the past.

The service center also requested that the petitioner:

Submit an original of the beneficiary's college/university transcripts from California State University, Long Beach. Include all courses taken toward the degree. The transcripts must be signed and dated by the person in charge of records. Additionally, both sides of the sealed flap on the outside of the college or university's envelope must be signed and dated by the person in charge of the records. Include the phone number and address for the office of the person in charge.

In response, counsel provided what purports to be a transcript of the beneficiary's classes at the California State University at Long Beach. Although that transcript is not a photocopy, it was not provided in a sealed envelope with the assurances of authenticity the service center requested in the RFE.

Counsel also provided what purport to be unsigned copies of the petitioner's 2007 Form 1120 U.S. Corporation Income Tax Return and 2008 Form 1120S, U.S. Income Tax Return for an S-Corporation. The 2007 return states that the petitioner incorporated on June 12, 2007, which conflicts with the statement on the visa petition that it was established on September 4, 2007.

The visa petition states that the petitioner has gross annual income of \$700,000 annually. Further, in her January 23, 2009 letter, the petitioner's corporate secretary stated that the petitioner generated gross sales of close to \$1 million during its first year of operation. However, the 2007 return, which purports to cover the fiscal year running from April 1, 2007 to March 31, 2008, states that the petitioner had no gross receipts or sales during that fiscal year, and the 2008 return, which purports to cover the fiscal year from April 1, 2008 to December 31, 2008 indicates that the petitioner had \$508,514 in gross receipts or sales.

Counsel provided what purports to be an unsigned, undated description of the proffered position. The body of that document states, in its entirety:

**Job Title:**

Business Development and Budget Analyst

**Job Duties:**

Performs professional analyses for business development projects while maintaining a viable company budget. Conducts market research, product needs analysis, and market feasibility studies by applying highly complex quantitative and qualitative models to project long-term and short-term effects of development projects on overall operations, profitability of various business opportunities, and effects on resource allocation.

*Spends 70% of time on the following Business Development duties:*

- Researches and studies potential new markets; Contacts local trade associations, vendors, or individuals for potential referral or business relationship; Researches on state level trade, tax, and custom regulations;
- Formulates research methodology (quantitative and qualitative) and econometric methods, such as surveys, opinion polls, and questionnaire, and combine these methods with advances in internet technology to conduct simulations on factors contributing to consumer preferences, spending behavior, and sales patterns;

- Collects data on target group needs and preferences; Examines and analyzes statistical data to forecast future behavioral changes, market trends and patterns;
- Prepares reports and graphic illustrations of findings, and recommends to product design team on consumer preferences and marketing strategies;
- Compiles information from industry periodicals, catalogs, directories and other sources to keep informed on price trends and manufacturing processes;
- Recommends product mix and marketing strategies for various markets; Establishes marketing strategies (catalogs, vendor tours to manufacturing plants, exhibitions, event sponsorships) to meet Company objectives and expansion project needs; Evaluates and measures effectiveness of marketing mix;
- Develops and maintains centralized database of marketing, customer, and competitive information;

*Spends 30% of time on the following Budget Analysis duties:*

- Employs cost-benefit analysis to review financial resources allocation, and explores alternative funding methods for both ongoing and new business development projects;
- Examines past and current budgets and researches economic and financial developments that affect the company's spending;
- Be involved in long-range planning activities such as projecting future budget needs; Prepares and presents budget proposals to company president;
- Participates in reconciling of budgeted funds. Periodically monitors the budget by reviewing reports and accounting methods to determine if allocated funds have been spent as specified;
- Informs the management of status and availability of funds for various expansion projects; Recommends market withdrawal or reallocation of funds if necessary;

**Requirement:**

Bachelor's degree in Business Administration, Accounting, Statistics, Finance, Economics, or a related field.

The record contains a printout of a vacancy announcement the petitioner placed for the proffered position on a popular Internet job search website. That announcement contains the same description of the duties of the proffered position, and indicates that it was placed on the website on September 22, 2008. That announcement also states that the position requires “[a] Bachelor’s degree in Business Administration, Accounting, Statistics, Finance, Economics, or a related field.”

Counsel provided printouts of vacancy announcements placed by other companies on popular job search websites. One of those announcements is for a Financial Analyst/Business Analyst and was placed by an “Import/Export Fashion Warehouse Logistics Distribution Company.” It states that the position requires an “MBA Degree, Major Accounting/Finance/Business.” That company, which is located in Addisleigh Park, New York, is not identified by name. Further, that announcement contains no indication of the size or income of that company.

Another announcement was placed by a “Well-established name-brand apparel manufacturer” in Chatworth, California for a Senior Financial Analyst. It states that the position requires a “Bachelor’s degree in engineering, economics, business, or related fields.” That announcement does not identify the company that placed it, and contains no indication of the size or income of that company.

Another announcement is for a Financial Business Analyst, and was placed by a recruitment organization for an unidentified company in Los Angeles, California. It states that the position requires a college degree, but not that it must be at least a bachelor’s degree or that it should be in any specific field. The announcement does not identify the company by name or state its size or income.

Another announcement was placed by [REDACTED] of Ashland, Oregon, for an Accountant/Analyst. It states that the position requires a bachelor’s degree, but not that it should be in any particular subject. That announcement does not indicate [REDACTED] size or annual income.

An announcement for a Retail Business Analyst was placed by a recruitment company for an unidentified company in Irving, Texas. That announcement states that the position requires a bachelor’s degree, but not that it should be in any specific specialty. The size and income of the company seeking to fill that vacancy were not stated. That company’s industry is identified only as “retail.”

Another announcement is for a [REDACTED] of Los Angeles, California, which identified itself as the world’s largest apparel company. It states that the position requires a bachelor’s degree in business or a related field.

Another announcement was placed by [REDACTED] Ohio, for a Finance Manager, Sales & Marketing Analysis, and states that the position requires a bachelor’s degree in accounting or finance. Although the announcement does not explicitly state the size or income of [REDACTED] the AAO notes that it is a widely-recognized name in women’s clothing.

The AAO observes that none of those announcements has been demonstrated to be for a parallel position with a similar organization in the petitioner's industry. Further, even if all of those vacancy announcements had been for parallel vacancies in organizations similar to the petitioner and had required a minimum of a bachelor's degree or the equivalent in a specific specialty, the AAO observes that seven vacancy announcements are insufficient to establish an industry-wide practice.

Counsel provided no evidence that the petitioner ever previously employed anyone in the proffered position.

The director denied the visa petition on June 5, 2009 finding, as was noted above, that the petitioner had not demonstrated that it would employ the beneficiary in a specialty occupation. The director also found that the petitioner had failed to provide the transcript as requested by the service center on April 16, 2009.

Finally, the director noted the discrepancy between the annual income the petitioner stated on the visa petition and the petitioner's gross receipts or sales stated on its 2007 and 2008 tax returns. The director cited *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988), for the proposition that this discrepancy correctly subjects all of the submissions in this case to additional scrutiny.

On appeal, counsel stated that the petitioner began full-scale operation in the fall of 2008, and generated over \$500,000, as shown on its 2008 tax return, during only four months. Counsel stated that amount, annualized, would equal over \$2 million. Counsel asserted that, therefore, the petitioner's assertion that its annual income is \$700,000 is conservative.

The AAO does not follow the mathematics that computes an annualized income of over \$2 million from gross receipts or sales of just over \$500,000 in four months. The AAO appreciates, however, the substance of counsel's argument, that if that \$500,000 were earned in less than one year, it could be extrapolated to a greater annual amount.

As to the specialty occupation issue, counsel again cited the *Handbook*, and, more specifically, the section pertinent to Budget Analysts, as authority for the proposition that the proffered position requires a minimum of a bachelor's degree or the equivalent in a specific specialty.

As to the failure to provide a transcript in the form requested by the service center, counsel stated:

It is important to know that it is college/universities' routine to issue *Official Transcripts* in sealed envelopes. However, in response to request for only an *Original Transcript*, a transcript which is not sealed in an envelope with signature on the outer flap was issued. Since it is not unusual for college/universities to issue original transcripts without a sealed envelope; the director should not discriminate the submitted document as unoriginal.

The service center did not merely request an original transcript. The RFE explicitly specified that the transcript must be provided in an envelope sealed by the university and with signatures placed on the points where it was sealed, apparently to guard against alteration. Counsel's assertion that universities refer to transcripts provided in that form as official transcripts, rather than original transcripts is immaterial. The request was clear. The requirement of an original transcript safeguarded against alteration was a request for evidence relevant to a material fact, to wit: the beneficiary's qualifications for the proffered position. The submission of a transcript that did not conform to the requirements stated was not responsive to that request.

Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). The appeal will be dismissed and the visa petition will be denied on this basis.

The remaining issue is whether the proffered position requires a minimum of a bachelor's degree or the equivalent in a specific specialty, and therefore qualifies as a specialty occupation.

As to the education required by Budget Analyst positions, the *Handbook* states:

Employers generally require budget analysts to have at least a bachelor's degree, but some prefer or require a master's degree. Within the Federal Government, a bachelor's degree in any field is sufficient for an entry-level budget analyst position. State and local governments have varying requirements, but usually require a bachelor's degree in one of many areas, including accounting, finance, business, public administration, economics, statistics, political science, or sociology. Because developing a budget requires strong numerical and analytical skills, courses in statistics or accounting are helpful, regardless of the prospective budget analyst's major field of study. Some States may require a master's degree. Occasionally, budget-related or finance-related work experience can be substituted for formal education.

That passage makes clear that budget analyst positions do not categorically require a minimum of a bachelor's degree, or the equivalent, in a specific specialty. Rather, a degree in any of a number of major courses of study, from accounting to sociology, may be acceptable. Accordingly, the fact that the proffered position belongs to the budget analyst occupation does not establish the position as one that normally requires a baccalaureate or higher degree, or its equivalent, in a specific specialty. The AAO further finds that no evidence in this record of proceeding satisfies this criterion.

Because the record of proceeding has not established that a baccalaureate or higher degree, or its equivalent, in a specific specialty is normally the minimum requirement for entry into the particular position that is the subject of this petition, the petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

Next, the AAO finds that the petitioner has not satisfied the first of the two alternative prongs of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). This prong alternatively requires a petitioner to establish that a

bachelor's degree, in a specific specialty, is common to the petitioner's industry in positions that are both: (1) parallel to the proffered position; and (2) located in organizations that are similar to the petitioner.

In determining whether there is such a common degree requirement, factors often considered by USCIS include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

The AAO here reiterates that the minimum educational requirement set by the statutory and regulatory framework of the H-1B program is not just a bachelor's or higher degree, or the equivalent. Rather, as required by the overarching definition of a specialty occupation at Section 214(i)(1) of the Act, the bachelor's or higher degree, or equivalent, must be in a specific specialty that is directly related to the performance of the specialty-occupation position claimed in the petition, and its possession must signify attainment of a body of highly specialized knowledge in the specific specialty that must be theoretically and practically applied to perform the proffered position. As already discussed, the petitioner has not established that its proffered position is one for which the *Handbook* reports an industry-wide requirement for a bachelor's degree in a specific specialty.

As reflected in this decision's earlier comments, the relevant chapter of the *Handbook* does not indicate that the proffered position as described in this petition would require at least a bachelor's degree in a specific specialty. Thus, the *Handbook* does not support a favorable finding under this criterion. The AAO also notes that the record does not include submissions from a professional association or from individuals or other firms in the petitioner's industry attesting to routine employment and recruiting practices.

The AAO acknowledges the Internet job placement announcements submitted by the petitioner, which are the only evidence submitted pertinent to the recruitment and hiring practices of other companies. However, they are not probative.

As indicated in this decision's earlier discussion of those announcements, none of those announcements has been demonstrated to be for a parallel position with a similar organization in the petitioner's industry. Further, the announcements are not supported by any documentation establishing how representative they are of the industry's recruiting and hiring practices, or, for that matter, of the recruiting and hiring practices of the firms that advertised the job openings. Moreover, some of the announcements submitted by the petitioner do not specify a requirement for a degree in a specific specialty.

For the reasons discussed above, the petitioner has not satisfied the first alternative prong of the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The petitioner also failed to satisfy the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which provides that “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.” In this regard, the AAO notes the multiplicity of duties that the petitioner ascribes to the position and also all of the comments by the petitioner and its counsel regarding the purpose of the proffered position and the position’s importance to the petitioner’s growth and success. However, the AAO finds that the petitioner has not provided evidence showing that the proffered position is more complex or unique than budget analysts positions that can be performed by persons without at least a bachelor’s degree.

The record contains no evidence that the petitioner has ever previously hired anyone to fill the proffered position, and the petitioner has not, therefore, demonstrated that the proffered position qualifies as a position in a specialty occupation pursuant to the criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Finally, the petitioner has not satisfied the fourth criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A), which is reserved for positions with specific duties so specialized and complex that their performance requires knowledge that is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

The petitioner has listed multiple duties for the proffered position, which, the AAO finds, are expressed in terms of generalized and generic functions, such as “[r]esearching and stud[ying] potential new markets”; “[f]ormulat[ing] research methodology (quantitative and qualitative) and econometric methods, such as surveys, opinion polls, and questionnaire”; and “collecting data on target group needs and preferences.” These descriptions do not establish that the duties comprising the proffered position are both more complex and more specialized than budget analyst positions not requiring the application of knowledge usually associated with the attainment of at least a bachelor’s degree, or the equivalent, in a specific specialty; and the petitioner has not supplemented these descriptions with evidence establishing the requisite association between proffered position’s duties and knowledge usually associated with at least a bachelor’s degree, or the equivalent, in a specific specialty.

Further, as was noted above, counsel provided a document in response to the RFE that described the duties of the proffered position. That document states that the proffered position requires a “Bachelor’s degree in Business Administration, Accounting, Statistics, Finance, Economics, or a related field.” Counsel also provided a printout of an Internet listing of the proffered position that contains the same statement about the educational requirement of the proffered position.

The requirement of a degree in business administration, accounting, statistics, finance, economics, or a related field is not a requirement of a degree in a specific specialty, as those fields are so disparate. Further, even if the requirement were stated as a degree in business, without those alternative degree options, that would still not constitute a requirement of a degree in a specific specialty.

The requirement of a bachelor’s degree in business administration is inadequate to establish that a position qualifies as a specialty occupation. A petitioner must demonstrate that the proffered

position requires a precise and specific course of study that relates directly and closely to the position in question. Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business administration, without further specification, does not establish the position as a specialty occupation. *See Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988). To prove that a job requires the theoretical and practical application of a body of specialized knowledge as required by Section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study. As explained above, USCIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty that is directly related to the proposed position. 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).

The AAO finds that the director was correct in her determination that the record before her failed to establish that the beneficiary would be employed in a specialty occupation position, and it also finds that the argument submitted on appeal has not remedied that failure. Accordingly, the appeal will be dismissed and the petition denied on this basis.

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. The appeal will be dismissed and the petition denied.

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