



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 20 2015** OFFICE: VERMONT SERVICE CENTER FILE: [REDACTED]

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director (hereinafter "director") denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed. The petition will be denied.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a 29-employee "Hotel" established in [REDACTED]. The petitioner seeks to continue the employment of the beneficiary as a full-time "Accountant" from November 25, 2013 to November 25, 2016. Accordingly, the petitioner endeavors to extend the beneficiary's classification as an H-1B 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 the grounds that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation in accordance with the applicable statutory and regulatory provisions.

The record of proceeding contains the following: (1) the petitioner's Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's notice of decision; and (5) the petitioner's Form I-290B, Notice of Appeal or Motion, and supporting documentation. We have reviewed the record in its entirety before issuing our decision.

Upon review of the entire record of proceeding, we find that the petitioner has failed to overcome the director's grounds for denying this petition. Accordingly, the appeal will be dismissed and the petition will be denied.

I. FACTUAL AND PROCEDURAL BACKGROUND

As noted above, the petitioner indicated on the Form I-129 that it is a "Hotel" with 29 employees.¹ The petitioner indicated that it seeks to continue the beneficiary's employment as an accountant to work on a full-time basis at an annual salary of \$36,754.

The Labor Condition Application (LCA) submitted to support the visa petition states that the proffered position is an Accountant, and that it corresponds to Standard Occupational Classification (SOC) code and title "13-2011, Accountants and Auditors," from the Occupational Information Network (O*NET). The LCA states that the proffered position is a Level I, entry-level, position.

In a letter dated August 22, 2013 and submitted with the petition, the petitioner stated that it is "affiliated with [REDACTED] offering comfortable and affordable hotel accommodations for business and leisure travelers." The petitioner stated that it has "about 29

¹ The petitioner provided a North American Industry Classification System (NAICS) Code of "721110, Hotels (except Casino Hotels) and Motels." U.S. Dep't of Commerce, U.S. Census Bureau, North American Industry Classification System, 2012 NAICS Definition, "721110 Hotels (except Casino Hotels) and Motels" <http://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last visited April 13, 2015).

employees and its gross income for the last fiscal year was approximately \$2.4 million." The petitioner asserted that, due to its "business structure," "the varied needs of their employees and customers," "the highly specialized and competitive nature of the services they provide in today's market," as well as its "goal of becoming a major participant in the hospitality industry," it is "imperative that [the petitioner] hire qualified employees in the specialty occupation of an Accountant." The petitioner then described the duties and requirements of the proffered position as follows:

Job Duties

In this position, [the beneficiary's] specific duties will include: (i) compiling and analyzing financial information and preparing financial reports by applying principles of generally accepted accounting standards; (ii) preparing entries and reconciling general ledger accounts, documenting transactions, and summarizing current and projected financial positions; (iii) maintain or examine the records of government agencies, and preparing detailed balance sheet, profit & loss, and cash flow statement; (iv) inspect account books and accounting systems for efficiency and use of accepted accounting procedures; (v) compute taxes owed and prepare tax returns, ensuring compliance with payment, reporting or other tax requirements; and (vi) analyzing operating statements, reviewing cost control programs, and making strategy recommendations to management.

Minimum Job Requirements

Due to the complex and demanding requirements of the position of an Accountant, only a person of exceptional ability and skills in business administration, accounting, and/or financial management is capable of qualifying as an Accountant for [the petitioner]. These minimum prerequisites for the offered position require a skilled professional with a Bachelor's degree in Business Administration, Accounting, Finance, or a related field.

In the same letter, the petitioner asserted that the beneficiary is "amply qualified" for the proffered position by virtue of her education and work experience, which includes her continuous employment with the petitioner as an Accountant since 2010.

The director found the initial evidence insufficient to establish eligibility for the benefit sought, and issued an RFE.

In response to the RFE, the petitioner reiterated the same job duties as previously provided and ascribed percentages of time spent to each duty. For instance, the petitioner stated that the beneficiary will spend 30% of his time on compiling and analyzing financial information and preparing financial reports, 10% on computing taxes owned and preparing tax documents, and 25% on analyzing operating statements, reviewing cost control programs, and making strategy recommendations to management. The petitioner also stated:

[The beneficiary's] time will be spent setting up financial goals for the Petitioner, planning strategies to reach these goals, keeping a high check on profits and losses, preparing financial reports, investing funds, monitoring cash flows, advising the rest of [sic] on mergers and acquisitions, accounting and auditing, developing certain kinds of procedures in order to minimize financial risk and establishing lending criteria. In short, [the beneficiary] handles all the financial dealings of the Petitioner.

The petitioner further asserted that the beneficiary is more than just a bookkeeper, as she is "also a business consultant . . . [who] is able to interpret the financial and operational data of a business and offers valuable advice regarding operations and growth including providing advice on cash flow management, inventory management, price control, and business financing." The petitioner elaborated:

[The beneficiary's] responsibilities primarily include managing and directing the financial activities, rather than performing the day-to-day bookkeeping function. [The beneficiary] would be spending a majority of her time preparing, reviewing, and evaluating financial and tax records, implementing cost management techniques, and advising management in financial investment decisions to contribute to [the] financial success of [the petitioner]. In addition to supervising individuals who perform routine bookkeeping services, [the beneficiary] will spend a bulk of her time in establishing operational and financial security procedures and advising upper management with cost saving and investment strategies.

The petitioner also submitted, *inter alia*:

1. Excerpt from the U.S. Department of Labor's (DOL's) *Occupational Outlook Handbook (Handbook)* regarding "Accountants and Auditors";
2. Printout of the Occupational Information Network (O*NET) OnLine Summary Report for the occupation "Accountants";
3. Copies of several job postings;
4. The company's 2013 federal tax return, which was prepared by an outside accounting firm, [REDACTED] and
5. The petitioner's quarterly federal tax returns for 2012 and 2013, the latter of which were prepared by "[REDACTED]."

The director denied the petition, concluding that the evidence did not establish the proffered position as a specialty occupation.

The petitioner filed the instant appeal. On appeal, the petitioner provided another description of the proffered duties, along with percentages of time spent on each duty, as follows:

- Compiling and analyzing financial information and preparing financial reports by applying principles of generally accepted accounting standards (30%)

- Preparing entries and reconciling general ledger accounts, maintaining payable and receivable records, detailing assets, liabilities, capital, and preparing detailed balance sheet, profit and loss, and cash flow statement (20%)
- Auditing orders, contracts, individual transactions and preparing depreciation schedules to apply to capital assets (5%)
- Preparing compliance reports for taxing authorities (10%)
- Reconciling cash and sales reports, prepare cash flow statements and deposits (10%)
- Analyzing operating statements, reviewing cost control programs, and making strategy recommendations to management (25%)

The petitioner again emphasized that the beneficiary's primary responsibilities include "managing and directing the financial activities" of the petitioner, and that she will have "overall responsibility for developing, organizing, and managing the financial operations of [the petitioner]."

II. THE LAW

The principle issue in this matter is whether the director correctly determined that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation. To meet its burden of proof on this issue, the petitioner must establish that the employment it is offering to the beneficiary meets the following statutory and regulatory requirements.

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

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

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) states, in pertinent part, the following:

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, a proposed 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, supra*. To avoid this 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. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing "a degree requirement in a specific specialty" as "one that relates directly to the duties and responsibilities of a particular position"). Applying this standard, United States Citizenship and Immigration Services (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 directly related to the duties and responsibilities of the particular position fairly represent the types of specialty occupations that Congress contemplated when it created the H-1B visa category.

To determine whether a particular job qualifies as a specialty occupation, USCIS does not simply rely on a position's title. The specific duties of the proffered position, combined with the nature of

the petitioning entity's business operations, are factors to be considered. USCIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F. 3d 384. The critical element is not the title of the position nor an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation, as required by the Act.

III. DISCUSSION

Based upon a complete review of the record of proceeding, we will make some preliminary findings that are material to the determination of the merits of this appeal.

To ascertain the intent of a petitioner, USCIS must look to the Form I-129 and the documents filed in support of the petition. It is only in this manner that the agency can determine the exact position offered, the location of employment, the proffered wage, et cetera. Pursuant to 8 C.F.R. § 214.2(h)(9)(i), the director has the responsibility to consider all of the evidence submitted by a petitioner and such other evidence that he or she may independently require to assist his or her adjudication. Further, 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."

Thus, a crucial aspect of this matter is whether the petitioner has adequately described the duties of the proffered position, such that USCIS may discern the nature of the position and whether the position indeed requires the theoretical and practical application of a body of highly specialized knowledge attained through attainment of at least a baccalaureate degree in a specific discipline. We find that the petitioner has not done so here.

Here, the petitioner describes the duties of the proffered position in generalized terms. We note that the petitioner has described the duties of the beneficiary's employment in the same general terms as those used from various sources on the Internet; that is, we observe that the wording of the duties, as stated by the petitioner, is recited almost verbatim from other sources.² This type of generalized

² For example, the *Dictionary of Occupational Titles (DOT)* lists the following duties for accountants:

Applies principles of accounting to analyze financial information and prepare financial reports: Compiles and analyzes financial information to prepare entries to accounts, such as general ledger accounts, documenting business transactions. Analyzes financial information detailing assets, liabilities, and capital, and prepares balance sheet, profit and loss statement, and other reports to summarize current and projected company financial position, using calculator or computer. Audits contracts, orders, and vouchers, and prepares reports to substantiate individual transactions prior to settlement.

Id. at <http://www.occupationalinfo.org/16/160162018.html> (last visited April 13, 2015).

description may be appropriate when defining the range of duties that may be performed within an occupational category, but is insufficient to adequately convey the substantive work that the beneficiary will perform within the petitioner's business operations. Such general descriptions cannot be relied upon by a petitioner when discussing the duties attached to specific employment for H-1B approval. In establishing a position as a specialty occupation, a petitioner must describe the specific duties and responsibilities to be performed by a beneficiary, demonstrate a legitimate need for an employee exists, and substantiate that it has H-1B caliber work for the beneficiary for the period of employment requested in the petition.

The generalized functions described by the petitioner do not provide sufficient substantive information about the proffered position and its duties. For instance, in response to the RFE, the petitioner asserts that the beneficiary will be responsible for "compiling and analyzing financial information and preparing financial reports." The petitioner then proceeds to explain the "[c]ommon duties for accountants" in general, without specifying the actual duties of the proffered position within the scope of the petitioner's actual business operations. These generalized statements fail to provide any insight into the nature of proffered position. Notably, the petitioner fails to explain how the performance of the proffered duties, as described in the record, would require the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent. The petitioner merely states in conclusory terms that "accounting skills" and "thorough knowledge of all laws and regulations relating to accounting and practices" are necessary to perform the proffered duties, but does not provide any further explanation or documentary evidence to support these assertions.

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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Thus, it is not evident that the proposed duties, as described in this record of proceeding, and the position that they comprise, merit recognition of the proffered position as a specialty occupation. To the extent that they are described, the proposed duties do not provide a sufficient factual basis for conveying the substantive matters that would engage the beneficiary in the actual performance of the proffered position for the entire three-year period requested. The proposed duties as described do not persuasively support the claim that the position's actual work would require the theoretical and practical application of any particular educational level of highly specialized knowledge in a specific specialty directly related to the duties and responsibilities of the proffered position.

In addition, there are discrepancies and deficiencies within the record that raise doubt as to the credibility of the petitioner's statements and descriptions of the proffered position. For instance, in response to the RFE, the petitioner stated that the beneficiary's "responsibilities primarily include managing and directing the financial activities." Similarly, the petitioner stated that the beneficiary "will spend a bulk of her time in establishing operational and financial security procedures and advising upper management." However, in another section of the petitioner's RFE response in which the duties of the proffered position are listed with the approximate percentages of time spent

on each duty, the petitioner does not list any duties expressly involving managing and directing the petitioner's financial activities, or implementing operational and financial procedures. The petitioner stated that the beneficiary will spend 25% of her time "[a]nalyzing operating statements, reviewing cost control programs, and making strategy recommendations to management." While the petitioner did not clarify what portion of this 25% will be spent on the particular duty of "making strategy recommendations to management," even if the beneficiary were to spend the entire 25% on "making strategy recommendations to management," this would still fall significantly short of spending "a bulk" of her time managing and directing financial activities, as claimed by the petitioner.

Additionally, the petitioner claims that the beneficiary will be "supervising individuals who perform routine bookkeeping services" for the company. However, the petitioner has not submitted evidence to corroborate this claim. That is, the petitioner has not identified and documented which of its employees perform the routine bookkeeping services, as claimed. Further, the listed duties for the proffered position do not contain any express supervisory duties.

In the instant case, the petitioner claims that the beneficiary has served in the proffered position since 2010. However, the petitioner has not provided examples of the beneficiary's actual work product. Notably, the beneficiary's duties specifically include "prepar[ing] tax returns" and "preparing compliance reports for taxing authorities." However, the petitioner's 2013 federal tax return was prepared by an outside accounting firm, [REDACTED]. The petitioner's 2013 quarterly federal tax returns were prepared by "[REDACTED]"³ The petitioner has not explained why it utilizes outside accounting and payroll services to prepare the petitioner's taxes while the petitioner claims to employ the beneficiary as a full-time accountant to perform such duties.⁴

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

Furthermore, any claims about the high-level duties of the proffered position, such as "managing and directing the [company's] financial activities," supervising bookkeepers, and "establishing operational and financial security procedures and advising upper management with cost saving and investment strategies," are inherently contradictory to the level of responsibility conveyed by the

³ [REDACTED] website states that it provides payroll services for small businesses. See [REDACTED] (last visited April 13, 2015).

⁴ It is not clear who prepared the petitioner's 2012 quarterly federal tax returns. Although the submitted copies are stamped "Client Copy Do Not File," they do not contain any information regarding the preparer(s) of these forms.

Level I wage level indicated by the LCA submitted in support of petition. The LCA designated the wage level for the proffered position as a Level I (entry) position, which corresponds to "job offers for beginning level employees who have only a basic understanding of the occupation . . . [and who] perform routine tasks that require limited, if any, exercise of judgment."⁶ Considering that the LCA is certified for a Level I entry-level position, we must further question the veracity of the petitioner's descriptions of the proffered position.

We also observe that the evidence of record is unclear as to the exact nature and scope of the petitioner's business operations. On appeal, the petitioner asserts that its "expansion strategies" include "diversif[ying]" and "finding complementary products." The petitioner here operates a hotel/motel [REDACTED]. The petitioner has not clarified what "complementary products" it is referring to, nor has the petitioner submitted evidence to corroborate its claims of expansion.

Overall, the above deficiencies and discrepancies in the record preclude us from comprehending the substantive nature of the proffered position and its constituent duties. The failure to establish the substantive nature of the work to be performed by the beneficiary, therefore, precludes a finding that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), because it is the substantive nature of that work that determines (1) the normal minimum educational requirement for the particular position, which is the focus of criterion 1; (2) industry positions which are parallel to the proffered position and thus appropriate for review for a common degree requirement, under the first alternate prong of criterion 2; (3) the level of complexity or uniqueness of the proffered position, which is the focus of the second alternate prong of criterion 2; (4) the factual justification for a petitioner normally requiring a degree or its equivalent, when that is an issue under criterion 3; and (5) the degree of specialization and complexity of the specific duties, which is the focus of criterion 4. Accordingly, as the petitioner has not established that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies for classification as a specialty occupation.

Finally, even if the petitioner were able to establish the substantive nature of the work to be performed by the beneficiary, we still could not find that the proffered the proffered position qualifies as a specialty occupation. The academic requirement identified by the petitioner as the minimum education necessary to perform services in the proffered position does not qualify the position as a specialty occupation.

Specifically, the petitioner stated that the duties of the proffered position require an individual with "a Bachelor's degree in Business Administration, Accounting, Finance, or a related field." To qualify as a specialty occupation, a petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly to the duties and responsibilities of the position in question. Since there must be a close correlation between the required specialized studies and the position, the requirement of a general-purpose degree or a degree with a generalized

⁶ See U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.

title, such as Business Administration, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm'r 1988).

To demonstrate that a job requires the theoretical and practical application of a body of highly specialized knowledge as required by section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study or its equivalent. 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. Although a general-purpose 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 at 147.⁷ The petitioner's assertions that a general purpose degree is sufficient to perform the duties of the position indicate that the proffered position is not in fact a specialty occupation.

IV. CONCLUSION

As set forth above, we find that the evidence of record does not establish that the proffered position qualifies for classification as a specialty occupation. Accordingly, the petition will be denied.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

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

⁷ Specifically, the United States Court of Appeals for the First Circuit explained in *Royal Siam* that:

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