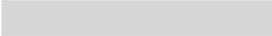


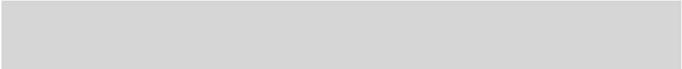
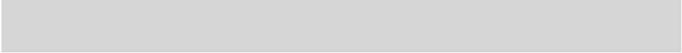


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **APR 28 2015** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

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 (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.

I. PROCEDURAL AND FACTUAL BACKGROUND

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a five-employee "Freight forwarding and logistics services" firm established in [REDACTED]. In order to employ the beneficiary in what it designates as a "Logistician" position, the petitioner seeks 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, finding that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position. On appeal, the petitioner asserted that the director's basis for denial was erroneous and contended that the petitioner satisfied all evidentiary requirements.

As will be discussed below, we have determined that the director did not err in her decision to deny the petition on the specialty occupation issue. Accordingly, the director's decision will not be disturbed. The appeal will be dismissed, and the petition will be denied.

We base our decision upon our review of the entire record of proceeding, 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 petitioner's response to the RFE; (4) the director's denial letter; and (5) the Form I-290B and the petitioner's submissions on appeal.

The Labor Condition Application (LCA) submitted to support the visa petition states that the proffered position is a Logistician position, and that it corresponds to Standard Occupational Classification (SOC) code and title 13-1081, Logisticians, from the Occupational Information Network (O*NET). The LCA further states that the proffered position is a wage Level I, entry-level, position.

With the visa petition, the petitioner submitted evidence that the beneficiary received a master's degree in business administration from [REDACTED]. The beneficiary's transcript from that institution states:

Degree Received: Master Business Administration on 05/2
Date Conferred: 5/17/2013
Majors General

The beneficiary's résumé states that the beneficiary also has a bachelor's degree in electronic commerce from the [REDACTED] in China. No corroborating evidence was provided pertinent to that claimed degree.

The petitioner also submitted a letter, dated March 17, 2014, from [REDACTED] signing as the petitioner's president. Ms. [REDACTED] stated the following description of the duties of the proffered position:

Manage and execute accounts with several of our important clients, manage the import and export processes, obtain certification and ensure compliance with US and foreign laws and regulations, coordinate with vendors on the completion of necessary paperwork associated with international trade and distribution. 40% of time.

Confirm and record the receipts of shipments, prepare shipping, documentation and implement shipping and delivery operations. Interact with sales, manufacturing and inventory management to develop and analyze logistics strategies. Interface with customers or potential customers and offer consultation in a professional manner on costs, lead time, budgeting and other business matters. 30% of time

Identify ways to minimize logistics expenses and to increase effectiveness of services. Resolve any logistics, supply chain and transportation issues, track and resolve shipping, warehouse, carrier shipping errors and make damaged goods claims. 20% of time.

Work the manager to establish and manage the implementation of domestic and global logistics strategies, participate in company policy formulation with the management, participate in rates and term negotiations with supply chains companies and national or regional distributors to obtain bulk rates for clients. 10% of time

[Verbatim.]

Ms. [REDACTED] also stated: "This job involves complex duties and tasks that require knowledge and skills that are normally associated with a minimum Bachelor's degree in Supply Chain Management or a related field."

On May 14, 2014, the service center issued an RFE in this matter. The service center requested, *inter alia*, evidence that the petitioner would employ the beneficiary in a specialty occupation. The service center provided a non-exhaustive list of items that might be used to satisfy the specialty occupation requirements.

In response, the petitioner submitted (1) a vacancy announcement posted by the petitioner for a logistician position; (2) a list, in table form, of people the petitioner claims to have previously employed as logisticians; (3) a portion of the U.S. Department of Labor's *Occupational Outlook*

Handbook (Handbook) chapter on Logisticians; and (4) a letter, dated August 4, 2014, from

The petitioner's logistician vacancy announcement contains a duty description consistent with the description Ms. provided in her March 17, 2014 letter. As to the educational requirement of position, it states, "Bachelor's degree is required."

The table with the list of people the petitioner previously employed as logisticians identifies ten such people and the years during which they worked. As to their education, it states, as to each person, "Bachelor."

In her August 4, 2014 letter, provided the following more detailed description of the duties of the proffered position:

Manage daily accounts with several of our important clients, communicate with these customers and develop or maintain relationships with them for future businesses or referrals, manage the import and export processes including resolving issues all along and in goods transfer and customs clearance, obtain certification dealing with the autorites [sic] and ensure compliance with US and foreign laws and regulations, coordinate with vendors on the completion of necessary paperwork associated with international trade and distribution. 40% of time.

Confirm, review and file the receipts of shipments, prepare shipping documentation and implement shipping and delivery operations. Develop and analyze logistics strategies with customers, provide consultation utilizing knowledge of international freight, customs clearance requirement and compliance of other import procedures and regulations. Interface with customers or potential customers and offer consultation in a professional manner on costs, lead time, budgeting and other business matters. 30% of time

Identify ways through research on a daily basis to minimize logistics expenses and to increase effectiveness of services. Resolve any logistics, supply chain and transportation issues, track and resolve shipping, warehouse, carrier shipping errors and make damaged goods claims. 20% of time.

Work the manager to establish and manage the implementation of domestic and global logistics strategies, participate in company policy formulation through knowledge of the market and customers, participate in rates and term negotiations with supply chains companies distributors to obtain bulk or preferential rates for clients. 10% of time

also cited the *Handbook* for the proposition that the proffered position requires a bachelor's degree.

The director denied the petition on September 5, 2014, finding, as was noted above, that the petitioner had not demonstrated that the proffered position qualifies as a position in a specialty occupation by virtue of requiring a minimum of a bachelor's degree in a specific specialty or its equivalent. More specifically, the director found that the petitioner had satisfied none of the supplemental criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner submitted: (1) a list, in table form, of its five present employees, and (2) a brief.¹

The list of the petitioner's employees identifies each of the petitioner's employees by name, position, degree, and date of hire. Two of the petitioner's employees are identified, respectively, as its "Boss" and "Manager." The other three, including the beneficiary, are identified as logisticians. The list indicates that both of the petitioner's other two logisticians have bachelor's degrees.

In the brief, the petitioner asserts that the *Handbook* and the other evidence submitted demonstrate that the proffered position qualifies as a specialty occupation position.

II. SPECIALTY OCCUPATION

The issue is whether the petitioner has provided sufficient evidence to establish that it will employ the beneficiary in a specialty occupation position.

A. The Law

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.

¹ On January 29, 2015, subsequent to receiving the appeal in this matter, we sent the petitioner an RFE noting a discrepancy involving its name. The Form I-129 states that the petitioner in this matter is "[REDACTED]" A California corporation of that name, with the same address as the petitioner, was dissolved on May 9, 2007, prior to the filing of the visa petition in the instant case. In response to our RFE, the petitioner states that its name is [REDACTED] and that the wrong name was provided on the Forms I-129 and I-290B. The petitioner claims that [REDACTED] "has nothing to do with us." We will consider [REDACTED] the name provided in response to our RFE, to be the petitioner in this matter.

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*, 201 F.3d 384, 387 (5th Cir. 2000). To avoid this result, 8 C.F.R. § 214.2(h)(4)(iii)(A) must therefore be read as providing supplemental criteria that must be met in accordance with, and not as alternatives to, the statutory and regulatory definitions of specialty occupation.

As such and 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. 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, 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.

B. Analysis

To determine whether the proffered position qualifies as a specialty occupation position, we turn first to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree in a specific specialty or its equivalent is normally the minimum requirement for entry into the particular position; and a degree requirement in a specific specialty is common to the industry in parallel positions among similar organizations or a particular position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty. Factors we consider when determining these criteria include: whether the *Handbook*, on which we routinely rely for the educational requirements of particular occupations, reports the industry requires a degree in a specific specialty; whether the industry's professional association has made a degree in a specific specialty 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)).

We will first address the requirement under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1): A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position. We recognize the *Handbook*, cited by the petitioner, as an authoritative source on the

duties and educational requirements of the wide variety of occupations that it addresses.² The petitioner claims in the LCA that the proffered position corresponds to SOC code and title 13-1081, Logisticians from O*NET. The *Handbook* describes the occupation of "Logisticians" as follows:

What Logisticians Do

Logisticians analyze and coordinate an organization's supply chain—the system that moves a product from supplier to consumer. They manage the entire life cycle of a product, which includes how a product is acquired, distributed, allocated, and delivered.

Duties

Logisticians typically do the following:

- Direct the allocation of materials, supplies, and finished products
- Develop business relationships with suppliers and customers
- Work to understand customers' needs and how to meet them
- Design strategies to minimize the cost or time required to move goods
- Review the success of logistical functions and identify areas for improvement
- Propose improvements to management and customers

Logisticians oversee activities that include purchasing, transportation, inventory, and warehousing. They may direct the movement of a range of goods, people, or supplies, from common consumer goods to military supplies and personnel.

Logisticians use sophisticated software systems to plan and track the movement of goods. They operate software programs tailored specifically to manage logistical functions, such as procurement, inventory management, and other supply chain planning and management systems.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2014-15 ed., "Logisticians," <http://www.bls.gov/ooh/business-and-financial/logisticians.htm#tab-2> (last visited Apr. 22, 2015).

The duties the petitioner attributes to the proffered position are consistent with a logistician position. We find that the proffered position is a logistician position. The *Handbook* states the following about the educational requirements of logistician positions:

² The *Handbook*, which is available in printed form, may also be accessed on the Internet, at <http://www.bls.gov/oco/>. Our references to the *Handbook* are to the 2014 – 2015 edition available online.

How to Become a Logistician

Although an associate's degree may be sufficient for some logistician jobs, a bachelor's degree is typically required for most positions. Work experience in a related field is helpful for jobseekers.

Education

Logisticians may qualify for positions with an associate's degree. However, as logistics becomes increasingly complex, more companies prefer to hire workers who have at least a bachelor's degree. Many logisticians have a bachelor's degree in business, industrial engineering, process engineering, or supply chain management.

Bachelor's degree programs often include coursework in operations and database management, decisionmaking, and system dynamics. In addition, most programs offer courses that train students on software and technologies commonly used by logisticians, such as radio-frequency identification (RFID).

Licenses, Certifications, and Registrations

Logisticians can obtain certification through the American Society of Transportation and Logistics (ASTL) or the International Society of Logistics (SOLE). The certification offered by each of these organizations typically requires a combination of education, experience, and passing an exam. Although not required, certification can demonstrate professional competence and a broad knowledge of logistics.

Other Experience

Prospective logisticians can benefit from previous work experience in a field related to logistics or business. Because military operations require a large amount of logistics, some logisticians gain work experience while serving in the military. Some firms allow applicants to substitute several years of work experience for a degree.

Important Qualities

Communication skills. Logisticians need strong communication skills in order to collaborate with colleagues and do business with suppliers and customers.

Critical-thinking skills. Logisticians must develop, adjust, and successfully carry out logistical plans, and they often must find ways to cut costs and improve efficiency.

Organizational skills. Logisticians must be able to perform several tasks at one time, keep detailed records, and simultaneously manage several projects in a fast-paced environment.

Problem-solving skills. Logisticians must handle unforeseen issues, such as delivery problems, and adjust plans as needed to resolve the issues.

Id. at <http://www.bls.gov/ooh/business-and-financial/logisticians.htm#tab-4> (last visited Apr. 22, 2015).

The *Handbook* makes clear that logistician positions do not, as a category, require a minimum of a bachelor's degree in a specific specialty or its equivalent. First, it states that some logistician positions are available to people with only an associate's degree. Second, it states that, even among those logistician positions that may require a bachelor's degree, an otherwise undifferentiated degree in business may suffice.

A degree with a generalized title, such as business administration, without further specification, is not a degree in a specific specialty. *Cf. Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm'r 1988). As such, an educational requirement that may be satisfied by an otherwise undifferentiated bachelor's degree in business administration is not a requirement of a minimum of a bachelor's degree in a specific specialty or its equivalent. For both reasons, the *Handbook* does not state a requirement of a minimum of a bachelor's degree in a specific specialty or its equivalent for logistician positions.

Where, as here, the *Handbook* does not support the proposition that the proffered position satisfies this first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A), it is incumbent upon the petitioner to provide persuasive evidence that the proffered position otherwise satisfies this criterion by a preponderance of the evidence standard, notwithstanding the absence of the *Handbook's* support on the issue. In such a case, it is the petitioner's responsibility to provide probative evidence (e.g., documentation from other authoritative sources) that supports a favorable finding with regard to this criterion. 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." Again, 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. at 165. In this case, the *Handbook* does not support the proposition that the proffered position satisfies 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), and the record of proceeding does not contain sufficient persuasive documentary evidence from any other relevant authoritative source establishing that the proffered position's inclusion in this occupational category establishes that a bachelor's or higher degree in a specific specialty or its equivalent "is normally the minimum requirement for entry into this particular position."

As the evidence of record does not establish that the particular position here proffered is one for which the normal minimum entry requirement is a baccalaureate or higher degree, or the equivalent,

in a specific specialty, the petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

Next, we find 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 calls for a petitioner to establish that a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent, is common for positions that are identifiable as being (1) in the petitioner's industry, (2) parallel to the proffered position, and also (3) located in organizations that are similar to the petitioner.

In determining whether there is 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 at 1165 (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. at 1102).

In the instant case, the petitioner has not established that the proffered position falls under an occupational category for which the *Handbook*, or other reliable and authoritative source, indicates that there is a standard, minimum entry requirement of at least a bachelor's degree in a specific specialty or its equivalent.

Also, there are no submissions from professional associations, individuals, or similar firms in the petitioner's industry attesting that individuals employed in positions parallel to the proffered position are routinely required to have a minimum of a bachelor's degree in a specific specialty or its equivalent for entry into those positions.

Thus, the evidence of record does not establish that a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent, is common to positions parallel positions with organizations that are in the petitioner's industry and otherwise similar to the petitioner. The petitioner has not, therefore, satisfied the criterion of the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The evidence of record also does not 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." A review of the record indicates that the petitioner has failed to credibly demonstrate that the duties that comprise the proffered position entail such complexity or uniqueness as to constitute a position so complex or unique that it can be performed only by a person with at least a bachelor's degree in a specific specialty.

Specifically, the petitioner failed to demonstrate how the duties that collectively constitute the proffered position require the theoretical and practical application of a body of highly specialized knowledge such that a bachelor's or higher degree in a specific specialty, or its equivalent, is required to perform them. For instance, the petitioner did not submit information relevant to a

detailed course of study leading to a specialty degree and did not establish how such a curriculum is necessary to perform the duties of the proffered position. While a few related courses may be beneficial, or even required, in performing certain duties of the proffered position, the petitioner has failed to demonstrate how an established curriculum of such courses leading to a baccalaureate or higher degree in a specific specialty, or its equivalent, is required to perform the duties of the particular position here.

Further, as was also noted above, the LCA submitted in support of the visa petition is approved for a wage Level I logistician, an indication that the proffered position is an entry-level position for an employee who has only a basic understanding of a logistician's duties.³ This does not support the proposition that the proffered position is so complex or unique that it can only be performed by a person with a specific bachelor's degree, especially as the *Handbook* suggests that some logistician positions do not require such a degree.

Therefore, the evidence of record does not establish that this position is significantly different from other positions in the occupation such that it refutes the *Handbook's* information to the effect that there is a spectrum of degrees acceptable for such positions, including degrees less than a bachelor's degree and degrees not in a specific specialty. In other words, the record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent. As the petitioner fails to demonstrate how the proffered position is so complex or unique relative to other positions within the same occupational category that do not require at least a baccalaureate degree in a specific specialty or its equivalent for entry into the occupation in the United States, it cannot be concluded that the petitioner has satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

We will next address the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), which may be satisfied if the petitioner demonstrates that it normally requires a minimum of a bachelor's degree in a specific specialty or its equivalent for the proffered position.

The petitioner provided the two tables of its employees, past and present. Both tables list people whom the petitioner claims work for it, or previously worked for it, in logistician positions. The petitioner stated, in those tables, that all of those employees and former employees had bachelor's degrees. The petitioner did not reveal the subjects in which they received those degrees. The petitioner has not demonstrated, or even alleged, that all of its logisticians, or most of them, or any of them, have a minimum of a bachelor's degree or its equivalent *in a specific specialty* closely and directly related to a logistician position.

³ 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.

In her March 17, 2014 letter, ██████ asserted that the duties of the proffered position require a bachelor's degree in supply chain management or a related field. However, the evidence does not demonstrate that the petitioner's present and past logisticians have degrees in any field related to supply chain management.

Further, the petitioner's logistician vacancy announcement states that the proffered position requires a bachelor's degree, but not that it requires a bachelor's degree in any specific specialty related to supply chain management.

While a petitioner may believe or otherwise assert that a proffered position requires a specific degree, that opinion alone without corroborating evidence cannot establish the position as a specialty occupation. Were USCIS limited solely to reviewing a petitioner's claimed self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the petitioner artificially created a token degree requirement, whereby all individuals employed in a particular position possessed a baccalaureate or higher degree in the specific specialty or its equivalent. *See Defensor v. Meissner*, 201 F.3d at 388. In other words, if a petitioner's stated degree requirement is only designed to artificially meet the standards for an H-1B visa and/or to underemploy an individual in a position for which he or she is overqualified and if the proffered position does not in fact require such a specialty degree or its equivalent to perform its duties, the occupation would not meet the statutory or regulatory definition of a specialty occupation. *See* § 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

The petitioner has not demonstrated that it normally requires a minimum of a bachelor's degree in a specific specialty or its equivalent for the proffered position, and has not, therefore, satisfied the criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Finally, we will address the alternative criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), which is satisfied if the petitioner establishes that the nature of the specific duties is so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty or its equivalent.

Again, relative specialization and complexity have not been sufficiently developed by the petitioner as an aspect of the proffered position. The duties of the proffered position, such as managing import and export processes, ensuring compliance with laws and regulations, completing necessary paperwork associated with international trade and distribution, confirming receipt and tracking of shipments, developing and analyzing logistics strategies, minimizing logistics expenses and increasing effectiveness of services, resolving problems, etc., contain insufficient indication of a nature so specialized and complex they require knowledge usually associated attainment of a minimum of a bachelor's degree in a specific specialty or its equivalent.

Overall, the evidence of record is inadequate to establish that the duties of the position are so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

In other words, the proposed duties have not been described with sufficient specificity to show that they are more specialized and complex than the duties of positions that are not usually associated with at least a bachelor's degree in a specific specialty or its equivalent.

Further, as was noted above, the petitioner filed the instant visa petition for a wage Level I logistician position, a position for a beginning level employee with only a basic understanding of the duties of a logistician position. This does not support the proposition that the nature of the specific duties of the proffered position is so specialized and complex that their performance is usually associated with the attainment of a minimum of a bachelor's degree in a specific specialty or its equivalent, directly related to logistician positions, especially as the *Handbook* indicates that some logistician positions require no such specialized bachelor's degree, nor even any bachelor's degree at all.

For the reasons discussed above, the evidence of record does not satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The petitioner has failed to establish that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) and, therefore, it cannot be found that the proffered position qualifies as a specialty occupation. The appeal will be dismissed and the petition denied for this reason.

III. BENEFICIARY QUALIFICATIONS

We do not need to examine the issue of the beneficiary's qualifications, because the petitioner has not provided sufficient evidence to demonstrate that the proffered position is a specialty occupation. In other words, the beneficiary's credentials to perform a particular job are relevant only when the job is found to be a specialty occupation.

As discussed in this decision, the petitioner did not submit sufficient evidence regarding the proffered position to determine whether it will require a baccalaureate or higher degree in a specific specialty or its equivalent. Absent this determination that a baccalaureate or higher degree in a specific specialty or its equivalent is required to perform the duties of the proffered position, it also cannot be determined whether the beneficiary possesses that degree or its equivalent. Therefore, we need not and will not address the beneficiary's qualifications further, except to note that, in any event, the petitioner did not submit an evaluation and evidence of her foreign degree or sufficient evidence to establish that her master's degree which appears to be a general degree in business administration, is the equivalent of a U.S. bachelor's or higher degree *in a specific specialty*. As was noted above, a degree with a generalized title, such as business administration, without further specification, is not a degree in a specific specialty. *Cf. Matter of Michael Hertz Associates, supra*. As such, since evidence was not presented that the beneficiary has at least a U.S. bachelor's degree

in a specific specialty, or its equivalent, the petition could not be approved even if eligibility for the benefit sought had been otherwise established.

IV. CONCLUSION

The director's decision will be affirmed and 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.