



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF H-H- LLC

DATE: AUG. 30, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a 12-employee hotel management company, seeks to temporarily employ the Beneficiary as a part-time “financial manager” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not demonstrate: (1) that the proffered position qualifies as a specialty occupation position; (2) that the Beneficiary is qualified to perform the duties of a specialty occupation position; or (3) that the H-1B petition was supported by a corresponding labor condition application (LCA).

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the evidence in the record satisfies all of the evidentiary requirements.

Upon *de novo* review, we will dismiss the appeal.

I. SPECIALTY OCCUPATION

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.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor. In addition, the regulations provide that the proffered position must meet one of the following criteria to qualify as a specialty occupation:

- (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.

8 C.F.R. § 214.2(h)(4)(iii)(A). U.S. Citizenship and Immigration Services (USCIS) has consistently interpreted 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 proposed 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”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

B. Proffered Position

In a letter submitted with the H-1B petition, the Petitioner stated that the Beneficiary will serve as a “financial manager,” and provided the following duty descriptions:

- Supervise and direct the flow of cash receipts and disbursements to meet the business needs of the company
- Prepare financial reports[,] summarize and forecast company’s financial position, such as income statements, balance sheets, and analysis of future earnings or expenses
- Compile and analyze financial information to prepare entries to accounts, such as general ledger accounts, documenting business transactions
- Analyze financial information detailing assets, liabilities, and capital, and summarize current and projected company financial position, using computers
- Establish, modify, document and coordinate implementation of accounting control procedures

As to the educational requirement of the proffered position, the Petitioner stated that it requires a bachelor's degree in accounting and two years of experience.

C. Analysis

Upon review of the record in its totality and for the reasons set out below, we determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.¹ Specifically, the record (1) does not describe the position's duties with sufficient detail; and (2) does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.²

1. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.³

On the LCA submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Financial Managers" corresponding to the Standard Occupational Classification code 11-3031.

For reasons explained in her decision denying the petition, the Director concluded that the proposed duties actually constitute a bookkeeping position rather than a financial manager position. On that basis, she found that the proffered position is not a specialty occupation position.

We agree with the Director. The Petitioner has not demonstrated that the duties proposed for the Beneficiary collectively constitute a financial manager position. To the contrary, they appear to constitute a bookkeeping position as such positions are discussed in the *Handbook* chapter entitled "Bookkeeping, Accounting, and Auditing Clerks." We agree that such positions are not generally specialty occupation positions and find little evidence in the current record of proceedings to elevate the particular position proffered here above the general bookkeeping positions described in the

¹ Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

² The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

³ All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. That is, the occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and USCIS regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

Handbook in terms of complexity of duties. We therefore incorporate by reference the Director's discussion to this effect, and find that on this basis alone the petition cannot be approved.⁴

However, we will analyze the proffered position based on the assumption, made *arguendo*, that it is a financial manager position, so that we may reach the Petitioner's contentions pertinent to the educational requirements of such positions. The *Handbook* states the following about the educational requirements of financial manager positions:

A bachelor's degree in finance, accounting, economics, or business administration is often the minimum education needed for financial managers. However, many employers now seek candidates with a master's degree, preferably in business administration, finance, or economics. These academic programs help students develop analytical skills and learn financial analysis methods and software.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., "Financial Managers," <http://www.bls.gov/ooh/management/financial-managers.htm#tab-4> (last visited Aug. 25, 2016).

The *Handbook* states that a bachelor's degree in business administration, without further specialization, would provide sufficient educational preparation for a financial manager position. However, 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. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988).

To prove 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. As discussed *supra*, 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 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. *Royal Siam Corp. v. Chertoff*, 484 F.3d at 147 (1st Cir. 2007).⁵

⁴ To the extent that the Director's decision may be read as asserting that financial manager positions necessarily qualify as specialty occupation positions, though, we differ, as will be explained in detail below.

⁵ Specifically, the judge explained in *Royal Siam*, 484 F.3d at 147, that:

The 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

When the *Handbook* does not support the proposition that a proffered position is one that meets the statutory and regulatory provisions of a specialty occupation, it is incumbent upon the Petitioner to provide persuasive evidence that the proffered position more likely than not satisfies this or one of the other three criteria, notwithstanding the absence of the *Handbook*'s support on the issue. In such cases, it is the Petitioner's responsibility to provide probative evidence (e.g., documentation from other objective, authoritative sources) that supports a finding that the particular position in question qualifies as a specialty occupation. Here, the Petitioner did not reference any other authoritative source pertinent to the educational requirements of financial manager positions.

Nor is the O*NET OnLine Summary Report regarding certain financial manager positions persuasive. It does not state that such positions require a minimum of a bachelor's degree in a specific specialty, or the equivalent. Rather, it assigns this occupation a Job Zone "Four" rating, which groups it among occupations for which "most . . . require a four-year bachelor's degree, but some do not." O*NET OnLine Summary Report for "11-3031.02 – Financial Managers, Branch or Department," <http://www.onetonline.org/link/summary/11-3031.02> (last visited Aug. 25, 2016). Further, O*NET does not indicate that when a four-year bachelor's degree is required, it must be in a specific specialty directly related to the occupation, or the equivalent. Therefore, the information from O*NET is not persuasive of the proffered position being a specialty occupation.

Further, we find that, to the extent that they are described in the record of proceedings, the duties that the Petitioner ascribes to the proffered position indicate a need for a range of knowledge of keeping and analyzing financial records and presenting financial data, but do not establish any particular level of formal, postsecondary education leading to a bachelor's or higher degree in a specific specialty as minimally necessary to attain such knowledge.

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.

A general degree requirement does not necessarily preclude a proffered position from qualifying as a specialty occupation. For example, an entry requirement of a bachelor's or higher degree in business administration with a concentration in a specific field, or a bachelor's or higher degree in business administration combined with relevant education, training, and/or experience may, in certain instances, qualify the proffered position as a specialty occupation. In either case, it must be demonstrated that the entry requirement is equivalent to a bachelor's or higher degree in a specific specialty that is directly related to the proffered position. *See id.*

It is also important to note that a position may not qualify as a specialty occupation based solely on either a preference for certain qualifications for the position or the claimed requirements of a petitioner. *See Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000). Instead, the record must establish that the performance of the duties of the proffered position requires both the theoretical and practical application of a body of highly specialized knowledge and the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent, as the minimum for entry into the occupation. *See* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

(b)(6)

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For all of these reasons, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

2. Second Criterion

The second criterion presents two, alternative prongs: “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[.]” 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong contemplates common industry practice, while the alternative prong narrows its focus to the Petitioner’s specific position.

a. First Prong

To satisfy this first prong of the second criterion, the Petitioner must establish that the “degree requirement” (i.e., a requirement of a bachelor’s or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations.

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)).

Here and as already discussed, the Petitioner has not established that its proffered position is one for which the *Handbook* (or other independent, authoritative source) reports an industry-wide requirement for at least a bachelor’s degree in a specific specialty or its equivalent. Thus, we incorporate by reference the previous discussion on the matter. Also, there are no submissions from the industry’s professional association indicating that it has made a degree a minimum entry requirement. Nor did the Petitioner submit any letters or affidavits from similar firms or individuals in the Petitioner’s industry attesting that such firms “routinely employ and recruit only degreed individuals.”

The Petitioner provided job vacancy announcements placed by other companies in an attempt to satisfy this criterion. They were placed for positions entitled: Manager of Financial Systems/Budget & Forecast, Assistant Manager – Global Finance – Corporate and Statutory Accounting, and Finance Manager.

Some of the vacancy announcements do not appear to have been placed by organizations conducting business in the Petitioner’s industry. For example, one vacancy announcement was placed by [REDACTED] which describes itself as a global provider of news and business information. Another was

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placed by [REDACTED] which describes itself as the world's largest equity derivatives clearing organization. These vacancy announcements appear to be outside the scope of the first prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which only pertains to organizations which conduct business within the Petitioner's industry.

Further, 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) only pertains to organizations that are otherwise similar to the Petitioner. In this regard, we note that one of the job vacancy announcements was placed by [REDACTED] and another was placed by [REDACTED]. The Petitioner did not submit information pertinent to the size of those organizations. Nor has the Petitioner provided any other persuasive evidence to demonstrate that either organization is similar to the Petitioner, which employs 12 individuals, in terms of size, scope, and scale of operations, or in any other fundamental regard. Even if we were to assume that the Petitioner conducts business within the same industry as these two organizations, the Petitioner has not demonstrated that they are also "similar" to it. As such, these two vacancy announcements have not been shown to be within the scope of the first prong's consideration, either.

Moreover, the job vacancy announcements provided do not all state a requirement of a minimum of a bachelor's degree in a specific specialty or its equivalent. For example, while one states that the advertised position requires a bachelor's degree, it does not state that the degree must be in any specific specialty, or even in any identified range of subjects. Another job vacancy announcement states no educational requirement. Those vacancy announcements therefore hold little persuasive value for the proposition that the proffered position, by virtue of its similarity to the positions in those vacancy announcements, requires a minimum of a bachelor's degree in a specific specialty or its equivalent.

Finally, even if all of the vacancy announcements involved parallel positions at organizations similar to the Petitioner and in the Petitioner's industry, and required a minimum of a bachelor's degree in a specific specialty or its equivalent, we would still find that the Petitioner had not demonstrated what statistically valid inferences, if any, could be drawn from a few announcements with regard to the common educational requirements for entry into parallel positions in similar organizations.⁶

For all of the reasons explained, neither the job vacancy announcements nor any other evidence in the record establishes that a requirement of a minimum of a bachelor's degree in a specific specialty or its equivalent is common to the Petitioner's industry among organizations similar to the Petitioner seeking to fill positions parallel to the proffered position. Thus, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

⁶ USCIS "must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). As just discussed, the Petitioner has not established the relevance of the job advertisements submitted to the position proffered in this case. Even if their relevance had been established, however, the Petitioner still would not have demonstrated what inferences, if any, can be drawn from these few job postings with regard to determining the common educational requirements for entry into parallel positions in similar organizations in the same industry. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995).

b. Second Prong

We will next consider the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which is satisfied if the Petitioner shows that its particular position is so complex or unique that it can be performed only by an individual with at least a bachelor's degree in a specific specialty, or its equivalent.

In the appeal brief, the Petitioner claims that the Beneficiary is well-qualified for the position, and references his qualifications. However, the test to establish a position as a specialty occupation is not the education or experience of a proposed beneficiary, but whether the position itself requires at least a bachelor's degree in a specific specialty, or its equivalent.

A review of the record of proceedings finds that the Petitioner has not credibly demonstrated that the duties the Beneficiary will be responsible for or perform on a day-to-day basis constitute a position so complex or unique that it can only be performed by a person with at least a bachelor's degree in a specific specialty, or its equivalent. Even when considering the Petitioner's descriptions of the proffered position's duties, the evidence of record does not establish why a few related courses, industry experience alone, or a non-specific bachelor's degree would provide insufficient preparation for the proffered position. While a few related courses may be beneficial, or even required, in performing certain duties of the position, the Petitioner has not demonstrated 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 proffered position. The description of the duties does not specifically identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. The record lacks sufficiently detailed information to distinguish the proffered position as more complex or unique from other positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

The evidence of record does not establish that this position is significantly different from other positions within the "Financial Managers" occupational category such that it refutes the *Handbook's* information that there is a spectrum of degrees acceptable for such positions, including 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 did not 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).

3. Third Criterion

The third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) entails an employer demonstrating that it normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position. In this determination, we usually review a petitioner's past recruiting and hiring practices, as well as information regarding employees who previously held the position.

The Petitioner has not expressly asserted eligibility under this criterion. Although the Petitioner stated that it was established in 2007, the record contains no indication that it has ever employed a financial manager before or, if it has, the educational qualifications of those it employed in the position.

While a first-time hiring for a position is not a basis for precluding a position from recognition as a specialty occupation, it is unclear how an employer that has never recruited and hired for the position would be able to satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), which requires a demonstration that it normally requires at least a bachelor's degree in a specific specialty or its equivalent for the position. We cannot conclude that the Petitioner has satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).⁷

4. Fourth Criterion

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires a petitioner to establish that the nature of the specific duties of the proffered position is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

In the instant case, relative specialization and complexity have not been sufficiently developed by the Petitioner as an aspect of the proffered position. Upon review of the totality of the record, we find the Petitioner has not established that the nature of the specific duties is 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.

⁷ While a petitioner may believe or otherwise assert that a proffered position requires a degree in a specific specialty, 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 employer 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 387. In other words, if a petitioner's degree requirement is only symbolic and 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 section 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 in the record that its proffered position is one with duties sufficiently specialized and complex to satisfy 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

Because the Petitioner has not satisfied one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it has not demonstrated that the proffered position qualifies as a specialty occupation.

II. BENEFICIARY'S QUALIFICATIONS

Another basis of denial was the Director's finding that the Petitioner did not demonstrate that the Beneficiary is qualified perform the duties of a specialty occupation position. A beneficiary's credentials to perform a particular job are relevant only when the job is found to be a specialty occupation. As discussed, the Petitioner has not established that the proffered position requires a baccalaureate or higher degree in a specific specialty or its equivalent. However, in the instant case, the Petitioner has not demonstrated that, pursuant to the salient regulations, the Beneficiary is qualified to work in *any* specialty occupation position.

The Petitioner provided an evaluation to demonstrate that the Beneficiary has the equivalent of a U.S. bachelor's degree. That evaluation concluded that the Beneficiary's education is equivalent to three years of U.S. college education, and that his education and other training, when considered together, are equivalent to a U.S. bachelor's degree in Accounting and Hotel Management.

If the Petitioner will rely on an evaluation that is based, even in part, on training other than education at a college or university, it must be performed by an evaluator with authority to grant college-level credit for training in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience. *See* 8 C.F.R. § 214.2(h)(4)(iii)(D)(1). An evaluator without such authority would only be competent to evaluate foreign educational credentials alone, without consideration of either other training or employment experience. *See generally* 8 C.F.R. § 214.2(h)(4)(iii)(D).

The record contains no evidence that the evaluator who evaluated the Beneficiary's education and experience possessed the type of authority contemplated at 8 C.F.R. § 214.2(h)(4)(iii)(D)(1). The therefore record does not demonstrate that the evaluator was qualified to perform the evaluation. As the Beneficiary's qualifications to work in a specialty occupation position are premised on that evaluation, the Beneficiary has not been shown to be qualified to work in any specialty occupation. For this additional reason, the petition cannot be approved.

III. CORRESPONDING LCA

The Petitioner is required to submit a certified LCA that corresponds to and supports the H-1B petition. *See* 8 C.F.R. § 214.2(h)(4)(i)(B)(1). It is the province of USCIS to determine whether the LCA provided corresponds to the visa petition. *See* 20 C.F.R. § 655.705(b).

The LCA submitted in this case was certified for a position located within the “Financial Managers” occupational category. As we agree with the Director that the proffered duties actually constitute a bookkeeping position, the LCA does not correspond to and support the H-1B petition. For this additional reason, the petition cannot be approved.

IV. PRIOR H-1B APPROVALS

Finally, we acknowledge that this is an extension petition.

The Director’s decision does not indicate whether the prior approval of the other nonimmigrant petition was reviewed. If the previous nonimmigrant petition was approved based on the same assertions contained in the current record, it constituted material and gross error on the part of the Director. We are not required to approve petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int’l*, 19 I&N Dec. 593, 597 (Comm’r 1988). It would be “absurd to suggest that [USCIS] or any agency must treat acknowledged errors as binding precedent.” *Sussex Eng’g, Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987).

A prior approval does not compel the approval of a subsequent petition or relieve the Petitioner of its burden to provide sufficient documentation to establish current eligibility for the benefit sought. Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act, 55 Fed. Reg. 2,606, 2,612 (Jan. 26, 1990) (to be codified at 8 C.F.R. pt. 214). A prior approval also does not preclude USCIS from denying an extension of an original visa petition based on a reassessment of eligibility for the benefit sought. *See Tex. A&M Univ. v. Upchurch*, 99 F. App’x 556 (5th Cir. 2004). Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of a beneficiary, we would not be bound to follow the contradictory decision of a service center. *See La. Philharmonic Orchestra v. INS*, 44 F. Supp. 2d 800, 803 (E.D. La. 1999).

V. CONCLUSION

The burden is on the Petitioner to show 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.

Cite as *Matter of H-H- LLC*, ID# 17685 (AAO Aug. 30, 2016)