



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

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

MATTER OF C.G-H-, LLC

DATE: FEB. 8, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a hotel business, seeks to extend the temporary employment of the Beneficiary as a "hotel manager" under the H-1B nonimmigrant classification. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

## I. ISSUE

The issue before us is whether the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions.<sup>1</sup>

## II. SPECIALTY OCCUPATION

### A. Legal Framework

To meet its burden of proof, 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:

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<sup>1</sup> We reviewed the record in its entirety before issuing our decision. We conduct appellate review on a *de novo* basis. *Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542 (AAO 2015); *see also* 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *Dor v. INS*, 891 F.2d 997, 1002 n.9 (2d Cir. 1989).

*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 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. Fed. 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 individuals 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 individual, 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 or 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. The Proffered Position

The Petitioner identified the proffered position as a “Hotel Manager” on the Form I-129, and attested on the required Labor Condition Application (LCA) that the occupational classification for the position is “Lodging Managers,” Standard Occupational Classification (SOC) (ONET/OES) Code 11-9081, at a Level II wage.

In a letter dated May 19, 2014, the Petitioner stated that its hotel manager’s duties are as follows:

The Hotel Manager’s duties are to hire and train, organize, supervise and schedule personnel to work in each facility, to set room rates and standards of housekeeping and other customer services, and to assure that rates and standards are maintained. The Manager contracts for utilities and services, including telephone, internet, cable and satellite television and vending machines, and negotiate[s] terms to minimize our operational costs and maximize our total revenues. He is also responsible for arranging linen, pool maintenance, carting and gardening services, and monitoring the performance of the service providers. He makes arrangements for customers’ requests for special services to be provided by other staff members, and responds to customers’ complaints and/or other issues, by directing staff to correct them in a timely manner.

(b)(6)

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The Petitioner noted that it requires “a person with a degree in business or law or related field or the equivalent thereof, and some hospitality management experience” for the proffered position.

In response to the Director’s request for evidence (RFE), the Petitioner noted that it employed the Beneficiary but that the Beneficiary also assisted the Petitioner’s managing partner in managing other hotels in the area. The Petitioner listed five additional properties owned by entities other than the Petitioner as the other properties managed. The Petitioner also added further details regarding the nature of the Beneficiary’s work in managing the various properties.

### C. Analysis

We will now discuss the record of proceedings in relation to the four criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

*A baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position*

The criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), 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.

We recognize the U.S. Department of Labor’s *Occupational Outlook Handbook (Handbook)*, as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.<sup>2</sup> As noted above, the Petitioner claims on the LCA that the proffered position corresponds to a lodging manager position. The *Handbook* states the following about the educational requirements of lodging manager positions:

Many applicants can qualify as a lodging manager by having a high school diploma and several years of experience working in a hotel. However, most large, full-service hotels require applicants to have a bachelor’s degree. Hotels that provide fewer services generally accept applicants who have an associate’s degree or certificate in hotel management or operations.

#### **Education**

Currently, some states and the [REDACTED] offer high school academic training for prospective lodging managers.

Most full-service hotel chains hire candidates with a bachelor’s degree in hospitality or hotel management. Hotel management programs typically include instruction in

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<sup>2</sup> 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 2016 – 2017 edition available online.

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hotel administration, accounting, marketing and sales, housekeeping, food service management and catering, and hotel maintenance and engineering. System's training is also an integral part of many degree programs, because hotels use hospitality-specific software in reservations, billing, and housekeeping management. The Accreditation Commission for Programs in Hospitality Administration accredits about 60 hospitality management programs.

At hotels that provide fewer services, candidates with an associate's degree or certificate in hotel, restaurant, or hospitality management may qualify for a job as a lodging manager.

Also, many technical institutes and vocational and trade schools offer courses that are recognized by the hospitality industry that may help in getting a job.

### **Work Experience in a Related Occupation**

Hotel employees who do not have hospitality management training, but who show leadership potential and have several years of related work experience, may qualify for assistant manager positions.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., "Lodging Managers," <http://www.bls.gov/ooh/management/lodging-managers.htm#tab-4> (last visited Jan. 31, 2016).

The *Handbook* reports that there are a number of paths available to gain employment as a lodging manager. The *Handbook* does not indicate that lodging manager positions require a minimum of a bachelor's degree in a specific specialty or the equivalent. Rather, it indicates that experience alone or vocational training of an undetermined length of time, or an associate's degree will suffice for most lodging manager positions. Although the *Handbook* also indicates that "[m]ost full-service hotel chains hire candidates with a bachelor's degree in hospitality or hotel management," the Petitioner here has not submitted evidence that it is a full-service hotel. In fact, the record of proceedings does not demonstrate the type of hotel the Petitioner operates and the services that the hotel provides.<sup>3</sup> The *Handbook* does not support the assertion that lodging manager positions are specialty occupation positions.

Moreover, the Petitioner indicates in its letter dated May 19, 2014, that a degree in business and some hospitality management experience is sufficient to perform the duties of the proffered position.<sup>4</sup> 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 or business administration, without further specification, does not establish the position as a specialty

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<sup>3</sup> The Petitioner stated in response to the Director's RFE that it operates under the name [REDACTED] and that it is "soon to be [REDACTED]."

<sup>4</sup> The Petitioner does not quantify the exact amount of hospitality experience it would find acceptable and does not define the type of hospitality experience it would deem sufficient.

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 or 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 139, 147 (1st Cir. 2007).

Accordingly, in certain instances, the *Handbook* is not determinative. 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 case, 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. Whenever more than one authoritative source exists, an adjudicator will consider and weigh all of the evidence presented to determine whether the particular position qualifies as a specialty occupation. The Petitioner in this matter did not submit sufficient documentary evidence supporting a finding that the particular position qualifies as a specialty occupation.

The *Handbook* does not support the claim that the occupational category of lodging managers is one for which normally the minimum requirement for entry is a baccalaureate degree (or higher) in a specific specialty, or its equivalent. Even if it did, the record lacks sufficient evidence to support a finding that the particular position proffered here would normally have such a minimum, specialty degree requirement or its equivalent. The duties and requirements of the position as described in the record of proceedings do not indicate that this particular position proffered by the Petitioner is one for which a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry. Thus, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

*The requirement of a baccalaureate or higher degree in a specific specialty,  
or its equivalent, is common to the industry in parallel  
positions among similar organizations*

Next, we will review the record regarding 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.

As stated earlier, 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 sources) 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. Furthermore, the Petitioner did not 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."

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 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 particular position is so complex or unique that it can be performed only by an individual with a baccalaureate or higher degree in a specific specialty, or its equivalent*

The 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." To begin with and as discussed previously, the Petitioner itself does not require at least a baccalaureate degree in a specific specialty, or its equivalent. In addition, the record does not credibly demonstrate exactly what the Beneficiary will do on a day-to-day basis such that complexity or uniqueness can even be determined. Furthermore, the record does not sufficiently develop relative complexity or uniqueness as an aspect of the proffered position.

Specifically, even though the Petitioner claims that the proffered position's duties are so complex and unique that a bachelor's degree is required, the Petitioner does not demonstrate how the described duties 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 it claims are so complex and unique. While a few related courses may be beneficial 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.

This is further evidenced by the LCA submitted by the Petitioner in support of the instant petition. The Petitioner attested on the submitted LCA that the wage level for the proffered position is a Level II (qualified) wage. Such a wage level is for an employee who has a good understanding of the occupation but who will only perform moderately complex tasks that require limited judgment. 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](http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf). Therefore, it does not appear that the position is one with complex duties, as such a higher-level position would be classified as a Level III or Level IV position, requiring a significantly higher prevailing wage.

Therefore, the evidence of record does not establish that this position is significantly different from other lodging manager positions such that it refutes the *Handbook's* information to the effect that there is a spectrum of preferred degrees acceptable for lodging manager 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 other closely related positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

The Petitioner claims on appeal that the proffered position is complex by virtue of the Beneficiary's duties which involve "overseeing five different properties." The Petitioner's assertion that the Beneficiary will manage other properties, however, has not been shown to be relevant to the matter at hand, as the other properties do not appear to be assets of the Petitioner in this proceeding. A corporation is a separate and distinct legal entity from its owners or stockholders. See *Matter of M-*, 8 I&N Dec. 24, 50-51 (A.G., BIA 1958); *Matter of Aphrodite Invs. Ltd.*, 17 I&N Dec. 530 (Comm'r 1980); and *Matter of Tessel, Inc.*, 17 I&N Dec. 631 (Act. Assoc. Comm'r 1980). The Petitioner concedes that the Petitioner "is the entity which employs [the Beneficiary] directly . . ." Although the Petitioner's managing member may operate multiple hotels and retail shops, the issue in this matter is whether this particular Petitioner has specialty occupation work for this Beneficiary. In any event, other than tax records, the record of proceedings is devoid of documentary evidence regarding the operations of the Petitioner as well as the other entities the Petitioner claims the Beneficiary will also manage. Without sufficient evidence regarding the Petitioner's operations and the nature of the work to be performed by the Beneficiary, the complexity or uniqueness of the proffered position cannot be ascertained.

The Petitioner does not demonstrate how the proffered position is so complex or unique relative to other lodging manager positions 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).

*The employer normally requires a baccalaureate or higher degree in a specific specialty, or its equivalent, for the position*

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. To this end, 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 nor submitted evidence under this criterion. It appears that the only previous employee in the proffered position is the Beneficiary. However, 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).

We also note that 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").

Upon review of the record, we cannot conclude that the Petitioner has satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

*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 in a specific specialty, or its equivalent*

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. In the instant case, relative specialization and complexity have not been sufficiently developed by the Petitioner as an aspect of the proffered position. As noted above, the Petitioner has not submitted sufficient documentary evidence demonstrating the complexity of the duties of the proffered position. We also refer to our earlier comments and findings with regard to the implication of the Petitioner's designation of the proffered position on the LCA as warranting only a Level II wage. Such a designation is for a position that is not likely distinguishable by relatively specialized and complex duties. Upon review of the totality of the record, 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.

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

The evidence of record does not satisfy 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 for classification as a specialty occupation. The appeal will be dismissed and the petition denied for this reason.<sup>5</sup>

### III. CONCLUSION

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) (citing *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966)). Here, that burden has not been met.

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<sup>5</sup> As a final matter, we note that the Petitioner contends that the Beneficiary's education combined with his hotel management experience is needed in operating these businesses. However, USCIS cannot determine if a particular job is a specialty occupation based on the qualifications of a beneficiary. A beneficiary's credentials to perform a particular job are relevant only when the job is first found to qualify as a specialty occupation. USCIS is required instead to follow long-standing legal standards and determine first, whether the proffered position qualifies as a specialty occupation, and second, whether the beneficiary was qualified for the position at the time the nonimmigrant visa petition was filed. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988) ("The facts of a beneficiary's background only come at issue after it is found that the position in which the petitioner intends to employ him falls within [a specialty occupation]."). While the Petitioner in this matter may desire to employ an individual with a specific background to perform the duties it describes, in order to demonstrate that the proffered position is a specialty occupation, the Petitioner must establish that the duties listed require the theoretical and practical application of a body of highly specialized knowledge and the 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. As discussed in this decision, the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.

*Matter of C.G-H-, LLC*

**ORDER:** The appeal is dismissed.

Cite as *Matter of C.G-H-, LLC*, ID# 16041 (AAO Feb. 8, 2016)