



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

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

In Re: 10375246

Date: SEPT. 28, 2020

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (H-1B)

The Petitioner, an international freight forwarding and logistics company, seeks to temporarily employ the Beneficiary as a “financial operations research analyst” under the H-1B nonimmigrant classification for specialty occupations. 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 of the California Service Center denied the petition, concluding that the record did not establish the position qualifies as a specialty occupation. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

## **I. SPECIALTY OCCUPATION**

When determining whether a position is a specialty occupation, we review the H-1B petition and the supporting documents to ascertain the salient aspects of the proposed employment. A crucial aspect of this matter is whether the Petitioner has submitted sufficient and consistent evidence describing the duties of the proffered position such that we may discern the nature of the position and whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline. See sections 101(a)(15)(H)(i)(b), 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). The substantive nature of the work determines (1) the normal minimum educational requirement for entry into the particular position, which is the focus of criterion 1; (2) industry positions which are parallel to the proffered position and thus appropriate for review for a common degree requirement, under the first alternate prong of criterion 2; (3) the level of complexity or uniqueness of the proffered position, which is the focus of the second alternate prong of criterion 2; (4) the factual justification for a petitioner normally requiring a degree or its equivalent, when that is an issue under criterion 3; and (5) the degree of specialization and complexity

of the specific duties, which is the focus of criterion 4. 8 C.F.R. § 214.2(h)(4)(iii)(A). Accordingly, U.S. Citizenship and Immigration Services must be able to determine the substantive nature of a proffered position's duties before it can determine whether such a position qualifies as a specialty occupation.

Upon review of the record in its entirety, we cannot determine the substantive nature of the proffered position, which precludes a determination of whether that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).<sup>1</sup>

The Petitioner described the proffered duties for the position of “financial operations research analyst”<sup>2</sup> as follows:

- Formulate and apply financial and operational modeling methods in order to develop and interpret data that assists management with financial policy formulation, streamlining financial processes, and creating efficiency and operational optimization.
- Perform financial forecasting, reporting, and operational metrics tracking.
- Analyze financial data and create financial models for decision support.
- Analyze past results, perform variance analysis, identify trends, and make recommendations for improvements.
- Evaluate financial performance by comparing and analyzing actual results with plans.
- Identify and drive process improvements, including the creation of standard reports, tools, and Excel dashboards.
- Advise management on the most effective processes to manage money, materials, equipment, people and time.
- Create analytical methods for measuring financial performance, managing supply chain costs, setting prices, and reducing costs involved with logistics and distribution.
- Identify and analyze financial operations optimizing options by using statistical analysis, data mining, simulation, forecasting, and financial analysis.
- Reduce the complexity of our financial operations by applying analytical methods.
- The mission of the financial operations research analyst is to assist with reducing the time spent on this laborious process and provide the management team a more effective working environment.<sup>3</sup>

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

<sup>2</sup> To determine whether a particular job qualifies as a specialty occupation, we do 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. We 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 (5th Cir. 2000). 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.

<sup>3</sup> The Petitioner submitted expanded duty descriptions in response to the Director's request for evidence. Although we omit the expanded descriptions for brevity, we have reviewed them in their entirety.

On the labor condition application (LCA)<sup>4</sup> submitted in support of the petition, the Petitioner designated the proffered position in the “Operations Research Analysts” occupational category, corresponding to the Standard Occupational Classification (SOC) code 15-2031.00 from the Occupational Information Network (O\*NET). According to the U.S. Department of Labor’s (DOL) *Occupational Outlook Handbook (Handbook)*, “Operations Research Analysts” typically “use advanced mathematical and analytical methods to help organizations solve problems and make better decisions. . . . For example, to help an airline schedule flights and decide what to charge for tickets, analysts may take into account the cities that have to be connected, the amount of fuel required to fly those routes, the expected number of passengers, pilots’ schedules, maintenance costs, and fuel prices.” Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Operations Research Analysts, <https://www.bls.gov/ooh/math/operations-research-analysts.htm#tab-2> (last visited Sep. 23, 2020).<sup>5</sup> In turn, the O\*NET summary report for “Operations Research Analysts” indicates that typical duties of positions in the occupational category include the following types of tasks:

- Observe the current system in operation and gather and analyze information about each of the parts of component problems, using a variety of sources;
- Formulate mathematical or simulation models of problems, relating constants and variables, restrictions, alternatives, conflicting objectives, and their numerical parameters;
- Perform validation and testing of models to ensure adequacy and reformulate models as necessary;
- Study and analyze information about alternative courses of action to determine which plan will offer the best outcomes; and
- Present the results of mathematical modeling and data analysis to management or other end users.

O\*NET OnLine Summary Report for “15-2031.00 – Operations Research Analysts,” <https://www.onetonline.org/link/summary/15-2031.00> (last visited Sep. 23, 2020).

Unlike the information in the *Handbook* and the O\*NET summary report, the position’s duty description, including the expanded description, does not address observing the Petitioner’s current system, gathering information about the system, and analyzing that information; formulating mathematical or simulation models of problems; performing validation and testing of the mathematical or simulation models to ensure adequacy; studying and analyzing information about alternative courses of action; presenting the results of mathematical modeling and data analysis to management; and other typical tasks associated with “Operations Research Analysts.” Instead, the Petitioner’s description identifies tasks such as “analyz[ing] financial and accounting reports in order to calculate abnormal return and estimate future cash flow,” “input variance values to calculate future income and ROE,” “make recommendations with competitive advantage to evaluate future finance and operation plans and to predict trend and future income,” “us[ing] applied financial models such as CAPM, Growth rate G, ROE, NPV to estimate future revenue and potential profit,” and “help[ing] to analyze

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<sup>4</sup> A petitioner submits the LCA to DOL to demonstrate that it will pay an H-1B worker the higher of either the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to other employees with similar duties, experience, and qualifications. Section 212(n)(1) of the Act; 20 C.F.R. § 655.731(a).

<sup>5</sup> The *Handbook* is a source of information on the duties and educational requirements of the wide variety of occupations that it addresses. However, we do not maintain that the *Handbook* is the exclusive source of relevant information.

the depreciation of inventory on financial and accounting entry.”<sup>6</sup> In particular, we note that the Beneficiary appears to devoted the majority of his time to financial analysis and accounting duties. The dissimilarities between the Petitioner’s duty description and typical duties summarized in the *Handbook* and the O\*NET summary report for the designated occupational category, and the similarities between the duty description and typical duties of other, distinct occupational categories, present inconsistent information regarding the substantive nature of the proffered position designated in the “Operations Research Analyst” occupational category.

In summation, we conclude that the record does not establish the actual substantive nature of the proffered position, which therefore precludes a determination of whether the position qualifies as a specialty occupation.<sup>7</sup>

## II. BENEFICIARY’S 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. Nevertheless, we note that the record does not demonstrate that the Beneficiary would meet the Petitioner’s own requirements to perform the duties of the proffered position in the event that it was found to be a specialty occupation.

The Petitioner states that it requires at least a bachelor’s degree in finance. The record, however, demonstrates that the Beneficiary holds a U.S master’s degree in business administration, a general-purpose degree that does not meet the Petitioner’s own stated requirements. The record also demonstrates that the Beneficiary possesses a “Bachelor of Business” degree from [REDACTED] University, another general-purpose degree that does not appear to satisfy the Petitioner’s minimum requirements.<sup>8</sup> Moreover, the Petitioner did not submit an evaluation of the Beneficiary’s foreign

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<sup>6</sup> The description bears some similarities to typical duties of other occupational categories, such as “Financial Analysts,” “Financial Quantitative Analysts,” “Logistics Analysts,” and “Supply Chain Managers.” See O\*NET OnLine Summary Report for “15-1199.00 – Information Technology Project Managers,” <https://www.onetonline.org/link/summary/15-1199.00> (last visited Sep. 3, 2020); see also O\*NET OnLine Summary Report for “13-2051 – Financial Analysts,” <https://www.onetonline.org/link/summary/13-2051.00> (last visited Sept. 23, 2020); O\*NET OnLine Summary Report for “13-2099.01 – Financial Quantitative Analysts,” <https://www.onetonline.org/link/summary/13-2099.01> (last visited Sept. 23, 2020); O\*NET OnLine Summary Report for “13-1081.02 – Logistics Analysts,” <https://www.onetonline.org/link/summary/13-1081.02> (last visited Sept. 23, 2020); and O\*NET OnLine Summary Report for “11-9199.04, Supply Chain Managers,” <https://www.onetonline.org/link/summary/11-9199.04> (last visited Sept. 23, 2020). The similarities between the position’s duties and those of other occupational categories raise questions regarding whether the LCA corresponds to the petition. See 20 C.F.R. § 655.705(b).

<sup>7</sup> As the lack of probative and consistent evidence in the record precludes a conclusion that the proffered position is a specialty occupation and is dispositive of the appeal, we will not further discuss the Petitioner’s assertions on appeal regarding the criteria under 8 C.F.R. § 214.2(h)(4)(iii)(A).

<sup>8</sup> 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. Here, the Petitioner states that it requires a bachelor’s degree in finance, but appears to accept the Beneficiary’s general-purpose business degrees in lieu of this stated requirement. We have consistently stated that, although a general-purpose bachelor’s degree, such as a degree in business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a conclusion that a particular position qualifies for classification as a specialty occupation. *Royal Siam Corp.*, 484 F.3d at 147.

degree or sufficient evidence to establish that his foreign degree is equivalent to a U.S. bachelor's degree in finance, as required by the Petitioner.

As such, even if the Petitioner had established its position as a specialty occupation, the petition could not be approved for this additional reason.

### 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. The Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.