



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

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

In Re: 8745589

Date: JULY 10, 2020

Appeal of Vermont Service Center Decision

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

The Petitioner, a company engaged in the development of flying cars, seeks to temporarily employ the Beneficiary as an international operations coordinator, 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 of the Vermont Service Center denied the petition, concluding that the evidence of record does not establish that the proffered position qualifies as a specialty occupation. On appeal, the Petitioner asserts that the Director erred in the decision.

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. LEGAL FRAMEWORK

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). We construe the term “degree” 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).

II. PROFFERED POSITION

The Petitioner states that the Beneficiary will perform the services of an international operations coordinator. The record’s labor condition application (LCA) was certified for a position falling within the Standard Occupation Classification (SOC) code and category 15-1199, “Computer Occupations – All Other.”¹

In the response to the request for evidence (RFE), the Petitioner described the Beneficiary’s duties as follows:

- Negotiate with project stakeholders and Chinese suppliers to secure resources or materials. 30%
- Confer with China Program Manager and the China engineering, manufacturing and purchasing teams to identify China’s open issues and risks and resolve them through collaborations with US team. 20%
- Schedule and facilitate in-person and virtual meetings with team members to ensure efficiency for U.S. – China project management conference calls. 20%
- Monitor project milestones and deliverables, ensuring adherence to budget, schedule, and scope. 15%

¹ A petitioner is required to submit an LCA to the Department of Labor 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).

- Collaborate with the US engineering and operations teams to record US prototyping, manufacturing, and operating risks, issues and mitigation plans and communicate them to the China team. 15%

According to the Petitioner, the proffered position requires a bachelor's degree in materials engineering, manufacturing or a related field.

III. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Specifically, the record does not include sufficient consistent, probative evidence establishing that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.

A. First Criterion

The criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), 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 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.² The Petitioner designated the proffered position on the LCA as a Standard Occupation Classification (SOC) code 15-1199 "Computer Occupations, All Other" occupation. In response to the Director's RFE the Petitioner asserted that the duties of the proffered position are consistent with the duties of the "Information Technology Project Managers" occupation, SOC code 15-1199.09.

The *Handbook* is a career resource offering information on hundreds of occupations. However, there are occupational categories which the *Handbook* does not cover in detail, and instead provides only summary data.³ The subchapter of the *Handbook* titled "Data for Occupations Not Covered in Detail" states, in relevant part, that the "[t]ypical entry-level education" for "Information Technology Project Managers" is a "Bachelor's degree," without indicating that the bachelor's degree must be in a specific specialty.⁴ Thus, the *Handbook* is not probative in establishing that these positions comprise an occupational group for which normally the minimum requirement for entry is at least a bachelor's degree in a specific specialty, or its equivalent.

We have also reviewed the DOL's O*NET summary report for "Information Technology Project Managers."⁵ The summary report provides general information regarding the occupation. For example, the Specialized Vocational Preparation (SVP) rating cited within O*NET's Job Zone Four rating designates this occupation as $7 < 8$. An SVP rating of 7 to less than (" $<$ ") 8 indicates that the occupation

² The *Handbook* may be accessed at <https://www.bls.gov/ooh>.

³ Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Data for Occupations Not Covered in Detail, <https://www.bls.gov/ooh/about/data-for-occupations-not-covered-in-detail.htm> (last visited Jul. 9, 2020).

⁴ The *Handbook* also indicates that this occupation does not require work experience in a related occupation or typical on-the-job training. *Id.*

⁵ See <https://www.onetonline.org/link/summary/15-1199.09> (last visited Jul. 9, 2020).

requires “over 2 years up to and including 4 years” of training.⁶ While the SVP rating indicates the total number of years of vocational preparation required for a particular position, it is important to note that it does not describe how those years are to be divided among training, formal education, and experience – and it does not specify the particular type of degree, if any, that a position would require.⁷ We have considered the Petitioner’s reference to the O*NET’s summary report of the educational requirements of “respondents” and its claim that 100 percent of respondents report a bachelor’s degree is required.⁸ However, the respondents’ positions within this occupation are not distinguished by career level (e.g., entry-level, mid-level, senior-level). Additionally, the graph in the summary report does not indicate that the “education level” for the respondents must be in a specific specialty. The O*NET summary report for this occupation does not establish the duties of the Petitioner’s particular position would normally require a baccalaureate or higher degree in a specific specialty, or its equivalent.

The Petitioner cites to *RELX, Inc. v. Baran* to support its argument that a position may be specialized even when the position permits more than one specific specialty for entry into the position.⁹ As the foregoing discussion demonstrates, while we agree that the bachelor’s degree does not have to be a degree in a *single* specific specialty, we do not agree with the analytical framework set forth by the *RELX* court.

In *RELX*, the court did not address the statutory and regulatory provisions as they pertain to the requirement that the bachelor’s degree, or its equivalent, be in a *specific specialty*. To avoid restricting the qualifying occupations to those for which a single, specific specialty exists, the court did not consider the requirement for specialization and overlooked that neither the *Handbook* nor O*NET stated that the referenced bachelor’s degree must be in a specific specialty. In overlooking this relevant detail, the court disposed of the precedential authority created by *Royal Siam Corp. v. Chertoff* and continued to do so when it examined the evidence presented for the other criteria.¹⁰

We also disagree with the court’s statement that “[the Petitioner] did not just make a general reference to O*NET. Rather, [the Petitioner] stated that the Data Analyst position is aligned with the DOL’s “Business Intelligence Analyst” position for which there is a detailed description that is directly relevant to the inquiry of whether the position is specialized.”¹¹ While we agree that O*NET is relevant, the court’s treatment of O*NET as dispositive simply because the proffered position aligned with the occupational category disregards the *specific specialty* analysis that underpins *Royal Siam Corp.* The *RELX* court further stated that “[s]ince the [*Handbook*] indeed does provide specific detailed information regarding educational requirements for the computer operations category, and the detailed information states most of the occupations require a four-year bachelor’s degree, the agency’s rationale was both factually inaccurate and not supported by the record.”¹² Here, again the court did

⁶ *See id.*

⁷ For additional information, see the O*NET Online Help webpage available at <http://www.onetonline.org/help/online/svp>.

⁸ The O*NET summary report indicates that 38 percent of the respondents had a bachelor’s degree, 24 percent an associate’s degree, and 19 percent a post-baccalaureate certificate. The wide variance in the type of degree, within the same year, undermines any reliance on these types of surveys to establish a normal minimum requirement of even a general bachelor’s degree. *See* <https://www.onetonline.org/link/summary/15-1199.09> (last visited Jul. 9, 2020).

⁹ *RELX, Inc. v. Baran*, 397 F.Supp.3d 41 (D.D.C. Aug. 5, 2020).

¹⁰ *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”).

¹¹ *RELX, Inc.*, 397 F.Supp.3d at 54.

¹² *Id.*

not undertake the proper inquiry regarding the specific educational requirements of the position and instead regards a general requirement for a bachelor's degree as sufficient to discharge the petitioner's burden.

Because the *Handbook* and O*NET do not describe the normal minimum educational requirements with sufficient specificity to establish that the positions falling within the occupational category are specialized, we disagree with the court's reliance on these sources as establishing the requisite eligibility. Instead, we believe that absent support from the *Handbook* and O*NET, the court should have analyzed whether the petitioner had sufficiently demonstrated that its particular position was one for which a bachelor's degree would normally be required and whether the stated field(s) of study directly related to the performance of the duties.¹³ In other words, though we agree with the *RELX* court that the bachelor's degree does not have to be a degree in a single specific specialty, this agreement is predicated upon the fields of study being closely related to the duties of the position and the record reflecting evidence sufficient to establish such relation.

In general, provided the specialties are closely related, e.g., chemistry and biochemistry, a minimum of a bachelor's or higher degree in more than one specialty is recognized as satisfying the "degree in the specific specialty (or its equivalent)" requirement of section 214(i)(1)(B) of the Act. In such a case, the required "body of highly specialized knowledge" would essentially be the same. Since there must be a close correlation between the required "body of highly specialized knowledge" and the position, however, a minimum entry requirement of a degree in disparate fields, such as philosophy and engineering, would not meet the statutory requirement that the degree be "in *the* specific specialty (or its equivalent)," unless the Petitioner establishes how each field is directly related to the duties and responsibilities of the particular position.¹⁴ For the foregoing reasons, we cannot agree with the reasoning contained in the *RELX* decision and therefore conclude that the Petitioner's reliance upon the case does not support its eligibility.¹⁵

On appeal the Petitioner cites to *Raj and Co. v. USCIS*, 85 F. Supp. 3d 1241 (W.D. Wash. 2015) and *Residential Finance Corp. v. USCIS*, 839 F. Supp. 2d 985 (S.D. Ohio 2012), among other cases, to support its claim that the first regulatory criterion does not preclude the finding of a specialty occupation position when multiple disciplines may be permitted. We are not persuaded. Rather, the court in *Raj* specifically stated that a specialty occupation requires the attainment of a bachelor's degree or higher *in a specific specialty*, or its equivalent. *Raj*, 85 F. Supp.3d at 1246. The court confirmed that this issue is well-settled in case law and within the agency's reasonable interpretation of the legal framework. *Id.* The court also observed that "permitting an occupation to qualify simply by requiring a generalized bachelor degree would run contrary to congressional intent to provide a visa program for specialized, as opposed to merely educated, workers." *Id.*

¹³ Though the *RELX* court briefly discusses the duties of the position, it did not engage in analysis of whether the duties actually required 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. Rather, after disposing of the authority set forth in *Royal Siam Corp.*, the court accepted the petitioner's stated standards concerning its position. See generally *Defensor v. Meissner*, 201 F.3d 384, 387.

¹⁴ Section 214(i)(1)(B) of the Act (emphasis added).

¹⁵ We further note that the Director's decision in *RELX* was not appealed to us. Based on the district court's findings and description of the record, if that matter had first been appealed through the available administrative process, we may very well have remanded the matter to the service center for a new decision to address many of the concerns articulated by the district court if they could not have been remedied by us in our *de novo* review of the matter.

We agree with the general proposition that “[t]he knowledge and not the title of the degree is what is important.” *Residential Finance*, 839 F. Supp. 2d at 997 (citing *Tapis*, 94 F. Supp. 2d at 175-76). Moreover, we generally agree that, if the requirements to perform the duties and job responsibilities of a proffered position are a combination of a general bachelor’s degree and specialized experience such that the standards at both section 214(i)(1)(A) and (B) of the Act have been satisfied, then the proffered position may qualify as a specialty occupation. However, these general propositions are not applicable here.

Instead, they are applicable in circumstances where (1) a specific degree is not available in a particular field, and (2) the beneficiary has obtained the equivalence to that specific degree through a combination of general education and specialized experience. The Petitioner does not demonstrate that the same circumstances existed here, e.g., that a degree in finance does not exist or is not typically available, or that a liberal arts degree is acceptable only under certain circumstances.

In any event, the Petitioner has furnished no evidence to establish that the facts of the instant petition are sufficiently analogous to those in *Raj* and *Residential Finance*, all of which concerned marketing-related, not finance-related, occupations.¹⁶ And in contrast to the broad precedential authority of the case law of a United States circuit court, we are not bound to follow the published decision of a United States district court in matters arising even within the same district. *See K-S-*, 20 I&N Dec. at 719-20. Although the reasoning underlying a district judge’s decision will be given due consideration when it is properly before us, the analysis does not have to be followed as a matter of law. *Id.*

The Petitioner submitted an opinion letter authored by [REDACTED] a Professor and Associate Dean of Research at [REDACTED] University. In his letter, the professor (1) described the credentials that he asserts qualify him to opine upon the nature of the proffered position; (2) described aspects of the previously discussed job duties proposed for the Beneficiary; and (3) stated that these duties require at least a bachelor’s degree in materials engineering, manufacturing or a related technical field. We carefully evaluated the professor’s assertions in support of the instant petition but find them insufficient.

The professor stated that he reviewed documentation provided by the Petitioner and had a phone conversation with the Petitioner’s vice president and general manager. He quoted the duties provided in the Petitioner’s RFE response but did not provide sufficient analysis of the requirements of the proffered position within the context of the Petitioner’s on-going projects. For example, the professor asserted that “it is clear that the duties related to technical communications with regards to manufacturing and assemble processes of carbon fiber and light weight materials such as titanium; all of which are required in this position, are complex so that they require specialized knowledge of engineering fundamentals, materials science, vehicle dynamics and aerodynamics.” However, the professor’s analysis falls short of providing a meaningful discussion of what the Beneficiary will do in the proffered position and how those duties require the theoretical and practical application of a body of highly specialized knowledge. While we appreciate the professor’s discussion of the proffered position, his conclusory statements do not sufficiently articulate how he was able to adequately assess

¹⁶ It is important to note that the district judge’s decision in *Residential Finance* appears to have been based largely on the many factual errors made by the service center in its decision denying the petition. *See, e.g.*, 839 F. Supp. 2d at 996-97.

the nature of the position and appropriately determine the educational requirements of the position based upon the general duties provided by the Petitioner.

The professor also stated that the duties of the proffered position is “contained within the duties and requirements as outline in O*NET Outline for the IT Project Manager (15-1199.09) occupation.”¹⁷ [redacted] also stated that the O*NET survey found that 84% of these positions require a Bachelor’s degree but as noted above, the O*NET survey for the position of IT Project Manager indicated that 38% of respondents have a bachelor’s degree. Thus, it is not clear the source and information the author utilized in this letter. Further, [redacted] did not provide a meaningful discussion and analysis of the position to appropriately determine the educational requirements of the position. The professor’s conclusory statements are insufficient to demonstrate that proffered position qualifies as a specialty occupation. [redacted] asserts a general industry educational standard for international operations coordinator positions without referencing any supporting authority or any empirical basis for the pronouncement. Likewise, he does not provide a substantive, analytical basis for his opinion and ultimate conclusion. Accordingly, the very fact that he attributes a degree requirement to such a generalized treatment of the proffered position undermines the credibility of his opinion.

In summary, and for each and all the reasons discussed above, we conclude that the opinion letter rendered by [redacted] is not sufficient to establish the proffered position as a specialty occupation. The conclusion reached by [redacted] lacks the requisite specificity and detail and is not supported by independent, objective evidence demonstrating the manner in which he reached such conclusion. There is an inadequate factual foundation established to support the opinion and the opinion is not in accord with other information in the record. Therefore, the letter from [redacted] does not establish that the proffered position is a specialty occupation.

We may, in our discretion, use advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm’r 1988). As a reasonable exercise of our discretion we discount the advisory opinion letter as not probative of any criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

The record does not include sufficient documentation from a probative source to establish the normal minimum requirement for entry into this particular occupation. The Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

B. 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 concentrates on the common industry practice, while the alternative prong narrows its focus to the Petitioner’s specific position.

¹⁷ The Department of Labor’s Occupational Information Network (O*NET) can be accessed at <http://www.onetonline.org>.

1. First Prong

To satisfy the 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.

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.

The Petitioner submitted job vacancy announcements for our consideration under this prong. To be relevant for consideration, the job vacancy announcements must advertise “parallel positions,” and the announcements must have been placed by organizations that (1) conduct business in the Petitioner’s industry and (2) are also “similar” to the Petitioner. These job vacancy announcements do not satisfy that threshold. Upon review of the documents, we conclude that the Petitioner’s reliance on the job announcements is misplaced.

On appeal, the Petitioner submitted two job postings to demonstrate that a degree in a specific specialty is a common requirement of the industry for parallel positions among similar organizations. We will first consider whether the advertised job opportunities could be considered “parallel positions.” The job advertisements do not describe the duties with sufficient detail so that we might make a meaningful comparison of them to the duties of the proffered position. A few general bullet points, such as those found in the Tesla and Lucid ads, do not sufficiently establish that the primary duties and responsibilities of the advertised positions are the same or similar to the proffered position.

The positions are for Technical program managers and we do not know if they perform similar duties. For example, the Lucid posting requires “at least 5+ years of experience in engineering and/or manufacturing.” Thus, it appears that this position is more senior than the proffered position. The Petitioner has not sufficiently established that the primary duties and responsibilities of the advertised positions parallel those of the proffered position.

Nor does the record contain documentary evidence sufficient to establish that these job vacancy announcements were placed by companies that (1) conduct business in the Petitioner’s industry and (2) are also “similar” to the Petitioner. When determining whether the employer posting a job listing and the Petitioner share the same general characteristics, factors to be considered may include information regarding the nature or type of organization and, when pertinent, the particular scope of operations, as well as the level of revenue and staffing. On appeal, the Petitioner states that similar “should be defined reasonably broadly to include other aerospace and aviation engineering companies and not only a particular type of flying car, since the underlying concepts for aerospace and aviation manufacturing and engineering at these companies is the same.” Though the Petitioner contends that these employers are similar to it, the brief overviews in the announcements themselves do not sufficiently establish this claim.

For all of these reasons, the Petitioner has not established that these job vacancy announcements are relevant.¹⁸ As the documentation does not establish that the Petitioner has met this prong of the regulations, further analysis regarding the specific information contained in each of the job postings, articles, and reports is not necessary. That is, not every deficit of every piece of evidence has been addressed.

The Petitioner has not provided sufficient probative evidence to establish that a bachelor's degree in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations. Thus, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. 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 support of its assertion that the proffered position qualifies as a specialty occupation, the Petitioner described the proffered position and its business operations. Although the Petitioner described the duties of the position in detail, it has not demonstrated how the duties of 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.

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. The Petitioner did not submit information relevant to a detailed course of study leading to a specialty degree and establish how such a curriculum would be necessary to perform the duties it believes are so complex and unique. While some 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 proffered position's duties.

The Petitioner did not sufficiently develop relative complexity or uniqueness as an aspect of the duties of the position. Accordingly, the Petitioner has not satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. 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. Evidence provided

¹⁸ The Petitioner did not provide any independent evidence of how representative the job postings are of the particular advertising employers' recruiting history for the type of job advertised. As the advertisements are only solicitations for hire, they are not evidence of the actual hiring practices of these employers.

in support of this criterion may include, but is not limited to, documentation regarding the Petitioner's past recruitment and hiring practices, as well as information regarding employees who previously held the position.

The record must establish that a petitioner's stated degree requirement is not a matter of preference for high-caliber candidates but is necessitated instead by performance requirements of the position. *See Defensor*, 201 F.3d at 387-88. Were we limited solely to reviewing a petitioner's claimed self-imposed requirements, an organization could bring any individual with a bachelor's degree to the United States to perform any occupation as long as the petitioning entity created a token degree requirement. *Id.* Evidence provided in support of this criterion may include, but is not limited to, documentation regarding the Petitioner's past recruitment and hiring practices, as well as information regarding employees who previously held the position.

The Petitioner provided a list of employees in similar positions. The list of employees are all engineer positions such as software engineer, senior electric power systems engineer, engineering manager, and senior system engineer, to name a few. The Petitioner stated that "all of the engineers have earned at least a bachelor's degree in a related engineering field." However, it is not clear if these engineering positions are similar to the proffered position. The engineering positions include creating, building, and manufacturing systems. However, the proffered position does not appear to include duties of writing and developing systems. Instead, it is a coordinator position where the position requires scheduling and meetings, monitor project milestones, negotiate, and, manage projects. It is not clear that the positions are similar.

The Petitioner has not persuasively established that it normally requires at least a bachelor's degree in a specific specialty, or its equivalent, for the proffered position. Thus, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

D. 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 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. The Petitioner did not provide evidence to establish this criterion.

IV. 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.