



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

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

In Re: 26556482

Date: JULY 31, 2023

Appeal of Vermont Service Center Decision

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

The Petitioner seeks to temporarily employ the Beneficiary 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 the record did not establish that the Petitioner's proffered position was specialty occupation under section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *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. 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) the 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) is a minimum for entry into the occupation in the United States.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) adds a non-exhaustive list of fields endeavor to the statutory definition. And the regulations require that the proffered position must also 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.

The statute and the regulations must be read together to make sure that the proffered position meets the definition of a specialty occupation. *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). Considering the statute and the regulations separately leads to scenarios where a petitioner satisfies a regulatory factor but not the definition of specialty occupation contained in the statute. *See Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000). The regulatory criteria read together with the statute gives effect to the statutory intent. *See Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act*, 56 Fed. Reg. 61111, 61112 (Dec. 2, 1991).

So we construe the term “degree” in 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 supporting the statutory definition of specialty occupation. *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”). USCIS’ application of this standard has resulted in the orderly approval of H-1B petitions for engineers, accountants, information technology professionals and other occupations, commensurate with what Congress intended when it created the H-1B category.

And job title or broad occupational category alone does not determine whether a particular job is a specialty occupation under the regulations and statute. The nature of the Petitioner’s business operations along with the specific duties of the proffered job are also considered. We must evaluate the employment of the individual and determine whether the position qualifies as a specialty occupation. *See Defensor*, 201 F.3d 384. So a petitioner’s self-imposed requirements are not as critical as whether the nature of the position a petitioner offers requires the application of a theoretical and practical body of knowledge gained after earning the required baccalaureate or higher degree in the specific specialty required to accomplish the duties of the job.

II. PROFFERED POSITION

The Petitioner seeks to employ the Beneficiary in H-1B classification to serve as a “supply chain planner.” The Petitioner initially provided documentation from the U.S. Department of Labor’s (DOL) *Occupational Outlook Handbook (Handbook)* and Occupational Information Network (O*NET) relating to the logistician job category, job postings, a letter from the Petitioner’s human resources generalist containing the proffered job’s description, and the Beneficiary’s educational

documentation with the petition. In response to the request for evidence (RFE), the Petitioner submitted a new letter from the Petitioner's supply planning lead, and an advisory opinion from [] [] emeritus professor systems and industrial engineering and emeritus dean of engineering at the University [] At appeal, the Petitioner resubmits the evidence and documentation it provided earlier in these proceedings as well as copies of case law as authority for its assertions. According to the Petitioner, the proffered job requires a minimum of a bachelor's degree in industrial engineering, mechanical engineering, operations research, supply chain or a related field.

III. ANALYSIS

For the reasons below, we have determined that the Petitioner's supply chain planner position does not qualify as a specialty occupation. The evidence the Petitioner has submitted into the record does not demonstrate that performance of the proffered job's duties requires an individual with a bachelor's degree in a specific related specialty.

A. First Criterion

The Petitioner's proffered job does not qualify as a specialty occupation under the first criterion of the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). The regulations require a bachelor's or higher degree in a specific specialty as a threshold for entry into the proffered position. In support, the Petitioner submitted copies of DOL's *Handbook* and O*NET entries related to the logistician job classification. And the Petitioner submitted an advisory opinion by [] who purportedly holds emeritus positions at the University []

The first criterion's scope encompasses the question of whether a bachelor's or higher degree in a specific specialty related to a proffered job's duties, or the equivalent, is normally required. The standard of whether an individual petitioner's proffered position is a specialty occupation because *it* normally requires a degree or its equivalent as a threshold requirement for entry to the position is in the third criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3). If we were to interpret the first criterion to relate to a specific petitioner's proffered position and its minimum requirements, it would render the third criterion of the regulations at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) redundant.

Whilst the *Handbook* is not an exclusive source of information, it is informative in that it contains the duties and educational requirements of a wide variety of occupations. So the occupational category chosen by the Petitioner is instructive in that it provides a framework within which to evaluate the general nature of the Petitioner's proffered job. Jobs within the logistician occupational category generally do not qualify as specialty occupations under the regulation's first criterion. Whilst the *Handbook* supports the contention that a bachelor's degree is "typically" required for a logistician, this alone is not sufficient to demonstrate eligibility for the H-1B classification because the statute and regulation mandate that requirement be for a bachelor's degree in a specific specialty, or the equivalent. The *Handbook* states that logisticians may have bachelor's degrees in a variety of different fields, such as "logistics," "supply chain management," "business," and "related fields." See Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Logisticians (Nov. 16, 2022), <https://www.bls.gov/ooh/management/logisticians.htm>. The *Handbook*, therefore, presents two problems for the Petitioner. First and foremost, its statement that the duties of these positions can be performed by an individual with a bachelor's degree in business, with no further specialization, is

strong evidence that the Petitioner's position is not, in fact, a specialty occupation. Further problematic is that the wide range of acceptable baccalaureate level fields of study for a logistician does not describe or comprise a single common specialty amongst the fields of study.

If a position is a "specialty occupation" under the statute and regulations, it is one which involves a "body of highly specialized knowledge" attained after completing a bachelor's degree or higher in a "specific specialty." A general degree requirement like a bachelor's degree in business, standing alone without any further specialization, is not a requirement for a bachelor's degree in a specific specialty, or the equivalent. And this generally excludes any proffered position accepting such a degree as a minimum requirement for entry into the position from consideration as a specialty occupation. A bachelor's degree in business without further specialization, or the equivalent, is so broad that it could apply to a position in finance as well as general business operations and management in a variety of endeavors. So it cannot provide an individual with the "body of highly specialized knowledge" required to perform the duties of a specialty occupation.

In accordance with the statutory and regulatory requirements, the agency has consistently disfavored general purpose bachelor's degree in business with no additional specialization. *See Matter of Ling*, 13 I&N Dec. 35 (Reg'l Comm'r 1968); *Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558 (Comm'r 1988); *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988). Even after Congress revamped the H-1B program as part of the Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978, the agency's concerns with a general-purpose bachelor's degree in business with no additional specialization continued. *See e.g. Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151 (D. Minn. 1999); 2233 *Paradise Road, LLC v. Cissna*, No. 17-cv-01018-APG-VCF, 2018 WL 3312967 (D. Nev., July 3, 2018); *XiaoTong Liu v. Baran*, No. 18-00376-JVS, 2018 WL 7348851 (C.D. Cal., Dec. 21, 2018); *Parzenn Partners v. Baran*, No. 19-cv-11515-ADB, 2019 WL 6130678 (D. Mass., Nov. 19, 2019); *Xpress Group v. Cuccinelli*, No. 3:20-CV-00568-DSC, 2022 WL 433482 (W.D.N.C. Feb. 10, 2022).

As the First Circuit Court of Appeals explained in *Royal Siam*, 484 F.3d at 147:

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 granting of a petition for an H-1B specialty 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.

The Petitioner encourages that we depart from the *Handbook* in this matter because it contends that "business" is a specific field of study and cites inapplicable or distinguishable cases in support. "Business" is not a specific specialty. It is a generalized degree title that without further specification does not establish a position as a specialty occupation. *See Royal Siam*, 484 F.3d at 147. Also, the Petitioner suggests that *InspectionXpert Corporation v. Cuccinelli*, 2020 WL 1062821 (M.D.N.C. Mar. 5, 2020) supports its proposition that a generalized business degree with no further specialization

can establish a position as a specialty occupation. But *InspectionXpert* is inapplicable here. In *InspectionXpert* the court considered whether the educational requirement of an engineering degree without further specialization was too broad for a quality engineer position. Whilst the court found that a generalized engineering requirement did comprise a specialty, it also distinguished engineering from other broad degrees, such as liberal arts or business administration degrees. *Id.* at *24.

A requirement for a bachelor's degree in business with no further specialization is not a requirement for a degree in a specific specialty. For this reason alone, the *Handbook* does not support the proffered position as a specialty occupation.

And the *Handbook's* indication that a wide range of degrees would adequately prepare an individual for a job located within this occupational category constitutes an additional reason why it does not support the proposition that a bachelor's degree in a specific specialty, or the equivalent, is normally required for these positions. We interpret the statutory "the" and regulatory "a" to mean a singular specialty. But we do not so narrowly interpret the statute and regulation such that multiple closely related fields of study would not constitute a specialty to perform the duties of a related specialty occupation. In general, 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 provided the specialties are closely related such that they constitute a common specialty required to perform the duties of the position. If they constitute a common specialty, then the required "body of highly specialized knowledge" would essentially be the same. If the required degree fields do not constitute a common specialty, a minimum entry requirement of a degree in disparate fields would not meet the statutory requirement that the degree be "in the specific specialty (or its equivalent)." A minimum entry requirement that *did* include disparate fields of study, such as philosophy and engineering for example, would require the Petitioner to establish how each field is directly related to all the duties and responsibilities of the particular position. Section 214(i)(1)(B) of the Act.

When the minimum requirement for entry into an occupation is any bachelor's degree from a wide variety of seemingly unconnected fields, that occupation cannot be a specialty occupation unless it is established that the fields constitute a single "specialty." So the *Handbook* does not support an assertion that at least a bachelor's degree in a specific specialty, or its equivalent, is normally the minimum requirement for these petitions and does not support the particular position proffered here as being a specialty occupation.

The courts in *Residential Finance Corp. v USCIS*, 839 F. Supp. 2d 985 (S.D. Ohio 2012), and *Relx v. Baran*, 397 F. Supp 3d 41 (D.D.C. 2019), do not stand for the proposition that a wide variety of degrees can constitute a specialty required to perform the duties of a specialty occupation as the Petitioner implies. Quite the opposite, the court in *Residential Finance* found for the plaintiff only after determining the plaintiff had established that their minimum requirements captured the necessity of a baccalaureate degree in a specialized course of study in a field related to the proffered job's duties as a minimum. *Residential Finance Corporation*, 839 F.Supp.2d at 996. In *Relx*, the court determined that a specialty occupation existed only after determining that the occupation required a specialized course of study leading to the degree the plaintiff had earned. *Relx*, 397 F.Supp.3d at 55. So where the *Handbook* permits a generalized degree with no specialization as an acceptable field of study, it

does not support a position located within that occupational classification as a specialty occupation under the first criterion of the regulations at 8 C.F.R. § 214.2(h)(4)(iii)(A).

And O*NET's summary report for "Logisticians" proceeds no further than to establish a minimum entry requirement of a four-year bachelor's degree for "most" positions within the occupation. The summary report is silent about the specific specialty for the bachelor's degree. *See* O*NET Summary Report for "Logisticians," <https://www.onetonline.org/link/summary/13-1081.00>. And as we state above, it is not enough that the position requires a bachelor's degree; the required degree must be in a field or fields comprising a specific specialty related to the theoretical and practical knowledge required to perform the duties of the proffered job. So the Petitioner's reliance on the summary report is misplaced.

The Petitioner also provided an advisory opinion in an effort to establish eligibility under the first criterion. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). But they are not presumptive evidence. *See also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA, 2008). And less weight is given to an advisory opinion where there is cause to question or doubt the opinion or if it is not in accord with other information in the record. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795. The advisory opinion is considerably doubtful. Its writer bases their opinion on two letters the Petitioner submitted in the petition's support: one from its human resources generalist and another from its supply planning lead. The advisory opinion's writer also mentions research into the issues presented, their own independent research, their asserted familiarity with the Petitioner and its competitors, and their self-expressed vast experience as sources for their opinions. But the advisory opinion appears to have been written in isolation from other applicable information or authority. It does not provide an individualized analysis of why the Petitioner's position is a specialty occupation when reliable sources such as the *Handbook* advise that such positions can be entered into with a bachelor's degree in business, with no further specialization, or the equivalent, or with a variety of bachelor's level degrees in seemingly disparate fields which do not comprise a singular supporting body of theoretical and practical knowledge required to perform the duties of the proffered job. The writer concludes that the supply chain planner position is a specialty occupation because performance of its duties requires reliance on a diverse and seemingly unconnected list of concepts such as "advanced concepts pertaining to logistics, supply chain management, statistics, data analytics, data science, computer science, management science, management information systems, databased management systems, quality assurance engineering, and technology management." The breadth of the range of the concepts listed by the writer raises questions about whether a single cognizable specialty, even if rooted in various disciplines, is required to perform the duties of the position. And the advisory opinion contains only unsupported conclusory statements. There is no direct citation to specific research, authority, or credible source to support the writer's assertions other than an invocation of the writer's resume as justification.¹

The Petitioner has not provided sufficient documentation from a probative source to conclude that a baccalaureate or higher degree in a specific specialty related to the duties of the job or its equivalent

¹ We will also evaluate the advisory opinion the Petitioner has submitted in the applicable sections of this decision to the extent that it asserts the Petitioner's proffered position qualifies as a specialty occupation under other applicable criteria contained at 8 C.F.R. § 214.2(h)(4)(iii)(A).

is required as a minimum qualification for entry to this particular position. So, the Petitioner has not satisfied the first criteria contained at 8 C.F.R. § 214.2(h)(4)(iii)(A).

B. First Prong of Second Criterion

The second criterion presents two, alternative prongs: (A) the degree requirement is common to the industry in parallel positions among similar organizations; or (B) the employer's particular position is so complex or unique that it can be performed only by an individual with a degree. The first prong, concerned with common industry practice is satisfied when the Petitioner establishes that their degree requirement is common to the industry in parallel positions among similar organizations. The alternative prong of the second criterion 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 a bachelor's degree in a specific specialty related to the duties of the proffered position or its equivalent.

To satisfy the first prong, a petitioner must establish eligibility by demonstrating that the degree requirement is common to the industry in parallel positions amongst similar organizations. The Petitioner states that its degree requirement for its supply chain planner position is common to the industry in parallel positions among similar organizations. In support, the Petitioner provided three job vacancy announcements and information about the companies placing the announcements.

We regularly consider the following sources of evidence to determine if there is such a common degree requirement: 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 establish that such firms "routinely employ and recruit only degreed individuals."

As noted, the *Handbook* does not indicate that a bachelor's degree in a specific specialty is a common requirement within the industry for parallel positions among similar organizations. Nor did the Petitioner submit evidence from an industry professional association, or from firms or individuals in its industry indicating such a degree is a minimum requirement for entry into the position.

As stated earlier, the Petitioner submitted three job vacancy announcements in support of its assertion that the claimed degree requirement is common to the industry. However, to be relevant for consideration under this prong, 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. The three job vacancy announcements the Petitioner submitted do not satisfy this threshold.

We will first consider whether the advertised job opportunities could be considered "parallel positions." One of the job postings is for an associate business analyst. Examination of the duties of this position reflects a need for nothing more than "develop[ing] an understanding of...supply chain growth." The remaining job postings advertise supply chain professionals, but they do not also appear to parallel the offered position. The supply chain business operations specialist posting submitted contained duties which do not correspond with the duties of the Petitioner's supply chain planner. Whilst the Petitioner's supply chain planner's duties appear to heavily emphasize the logistical and planning components of the function, the supply chain business operations specialist description

reflects a heavy emphasis on purchasing and sourcing, raising the question as to whether the position in the posting is in a different job classification than the Petitioner's. And the associate director, supply chain systems operations cannot be considered a parallel position as the duties described are those of a top executive in business operations who is "responsible for growth and advancement of the Supply Chains Systems Operations Group" and "defines and delivers a cohesive customer service model/approach" and not of a logistician as contemplated by the duties of the Petitioner's supply chain planner.

The Petitioner assigns error in the Director's evaluation of whether the other employers posting the job vacancy announcements (1) conduct business in the Petitioner's industry and (2) are also "similar" to the Petitioner. The Petitioner states that it is the entity best placed to determine and identify companies like itself in its industry. 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 and levels of revenue and staffing.

The Petitioner is a 3-D printer manufacturer. The job postings the Petitioner submitted were placed by a pharmaceutical company, a defense contractor, and an energy company. None conduct business in the Petitioner's industry. The Petitioner attested to its familiarity with its business and industry to persuade us to conclude that its subjective determination and self-identification of its industry is sufficient. But the Petitioner submits no convincing information, material, or explanation to explain how these vastly different entities are in the same industry as one another let alone with the Petitioner.

For all these reasons, the Petitioner has not established that these job vacancy announcements are relevant. But even if that threshold had been met, we would still conclude that the Petitioner did not satisfy this prong of the second criterion, as these ads also did not indicate that a bachelor's degree in a specific specialty, or the equivalent, is common to the Petitioner's industry in parallel positions among similar organizations. The announcements the Petitioner submitted reflect that the advertising employers would accept a variety of degrees including a general-purpose degree in business administration,² as well as degrees in engineering, marine operations, public policy, sustainability, information systems, operations management, and supply chain management. The Petitioner concludes that this establishes a common bachelor's degree requirement for the role in line with the different needs for different companies. But again, the Petitioner elevates a requirement for *any* bachelor's degree to mean that a position requires a bachelor's degree in a specific specialty or fields comprising a specialty to perform the duties of the position. This is incorrect. The various bachelor's degrees which employers would have accepted for entry into the proffered position undermine the Petitioner's assertion that a bachelor's degree in a specific specialty is a common requirement for the proffered job because various unconnected degree requirements cannot compose a specialty which provides a basis for a body of theoretical and practical knowledge required to perform the duties of a position. Furthermore, the posting for the associate director, supply chain systems operations did not even specify educational fields other than to describe a generic "relevant discipline" and "familiarity in supply chain process." And the employer who sought a supply chain business operations specialist

² Again, a requirement for a bachelor's degree in business administration is not a requirement for a bachelor's degree in a specific specialty. *Royal Siam*, 484 F.3d at 147. To the contrary, that requirement generally means a position is not a specialty occupation.

posting reflects that it would accept work experience in lieu of education without quantifying the amount of work experience.

And the Petitioner's reliance on [] advisory opinion, to the extent it asserts the Petitioner's proffered position's educational requirement is common requirement within the industry for parallel positions among similar organizations, appears misplaced. Whilst [] identifies themselves as an emeritus professor, academic counselor, and academic evaluator, the record does not develop their expertise regarding industry recruiting and hiring standards, which is especially important given the Petitioner's submission of evidence for consideration under this prong wherein it indicated that a standard may not exist.

So we conclude that the advertisements provided do not support the Petitioner's argument concerning eligibility under the first alternative prong of the second criteria 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Second Prong of Second Criterion and Fourth Criterion

The Petitioner claims that its proffered job is a specialty occupation under the alternate prong of the second criterion. As mentioned above, the alternative prong of the second criterion 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 a bachelor's degree in a specific specialty related to the duties of the proffered position or its equivalent and the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4) 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 stated that its supply chain planner must have a bachelor's or higher degree in industrial engineering, mechanical engineering, operations research, supply chain or a related field because its proffered job is complex or unique and requires the performance of specialized duties. We said earlier that the Petitioner submitted two letters into the record describing the supply chain planners job duties. The Petitioner assigns error to the Director and admonishes them for a lack of "analysis" explaining why the Petitioner's proffered position is not unique or complex as required by the regulations. But the Petitioner's assignment of error fundamentally misunderstands the nature of these proceedings. It is not the Director's burden to prove the Petitioner's ineligibility. It is always a petitioner's burden to establish eligibility by a preponderance of the evidence for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The letter from the Petitioner's human resources generalist submitted initially with the petition provided a description of the supply chain planner duties with percentages of time and under a generalized heading to demonstrate the proffered job's complexity or uniqueness. However, the Petitioner provided no additional context, information, or explanation. With the response to the RFE, the Petitioner submitted another letter by the Petitioner's supply planning lead attempting to demonstrate complexity or uniqueness by providing expanded duties. The Petitioner's expansion of the supply chain planner's duties breaks the main duties into component parts. The component parts put together make up the sum of the specific duty in the job description which corresponds with the job description in the *Handbook*. So it is unclear what the complexity or uniqueness of the Petitioner's proffered job is to demonstrate eligibility under the alternate second part of the second prong contained at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2)

And the components parts do not demonstrate any additional complexity or uniqueness in this particular position. The duties contained in the human resources generalist's letter and the expanded duties in the supply planning lead's letter do not describe by themselves a position so specialized and complex that it would require the application of a theoretical and practical body of highly specialized knowledge gained after earning a bachelor's degree in a specific specialty to perform them so as to demonstrate eligibility under the fourth prong at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The advisory opinion the Petitioner submitted is also unconvincing. Again, it is not presumptive evidence of eligibility; we are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795; *see also Matter of V-K-*, 24 I&N Dec. at 502 n.2. The advisory opinion submitted by the Petitioner is unhelpful to demonstrate eligibility under the alternate prong of the second criterion and the fourth criterion. The writer concluded that the supply chain planner position is a specialty occupation because performance of its duties requires reliance on a diverse and seemingly unconnected list of concepts such as "advanced concepts pertaining to logistics, supply chain management, statistics, data analytics, data science, computer science, management science, management information systems, databased management systems, quality assurance engineering, and technology management." The writer did not articulate why these concepts are relied upon to perform the duties of the proffered position. They did not cite, refer to, or provide in the record any of the writer's research into the issues they are considering or other research into the issues. The writer did not compare and contrast the Petitioner's supply chain planner position to other logistics positions to distinguish it as unique or complex and specialized. The advisory opinion the Petitioner has submitted simply regurgitated the duties the Beneficiary would perform as supply chain planner in an expanded narrative format. They did not appear so specialized and complex such that a bachelor's degrees in a range of related disciplines comprising a single specialty related to the duties of the proffered position is the minimum requirement for entry. So whilst the writer concluded the duties that will be performed require a bachelor's degree in a specific specialty related to those duties, it did not explain why the position is more specialized and complex or the particular position complex or unique.

The record lacks sufficient unambiguous information to set the Petitioner's supply chain planner position as more "complex or unique" or its duties "specialized and complex" from positions that do not require at least a bachelor's degree in a specific specialty or its equivalent to perform the duties of the Petitioner's officer job. So the Petitioner has not satisfied the second alternative prong of the second criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) or the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

D. Third Criterion

The Petitioner's proffered job does not qualify as a specialty occupation under the third criterion of the regulations at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3). The third criterion requires an employer to demonstrate that it normally requires a bachelor's degree in a specific specialty, or its equivalent, related to the performance of the position's job duties.

The Petitioner's RFE response expressed its preference for its supply chain planner to possess a bachelor's degree in industrial engineering, mechanical engineering, operations research, supply chain or a related field. The Petitioner asserts that its preference is in fact its normal requirement for its

supply chain planner position. In support of this preference the Petitioner submitted letters from its human resources generalist and supply planning lead.

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 so long as the petitioning entity created a token degree requirement. *Id.*

The letters are insufficient to support the Petitioner's eligibility under the third criterion because they mainly express a preference, and then set forth job duties and responsibilities. The Petitioner does not provide any additional evidence or documentation which could have helped evaluate its eligibility under this criterion, such as current or prior job announcements, a list of current or former employees with position titles like the proffered position's title and degree titles, or copies of current or former employee's paystubs, degree, and resumes.

The absence of any additional evidence or documentation other than two conclusory letters from the Petitioner cannot establish that the Petitioner's requirements compose anything more than a self-imposed preference. So the Petitioner has not satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

III. CONCLUSION

It is the Petitioner's burden to provide competent and credible evidence of the nature of its proffered specialty occupation and the Beneficiary's qualification for the proffered position. The Petitioner has not met its burden for the reasons set forth above.

ORDER: The appeal is dismissed.