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U.S. Citizenship
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Services

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File: LIN 04 165 52360 Office: NEBRASKA SERVICE CENTER Date: OCT 11 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

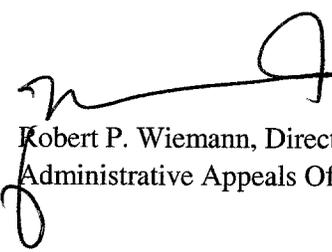
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1B nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner develops, implements and supports enterprise software solutions for clients in various service industries. The petitioner claims to be the parent company of the beneficiary's foreign employer, located in Bracknell, United Kingdom. The petitioner seeks to employ the beneficiary as a technical application consultant for a three-year period.

The director denied the petition concluding that the petitioner did not establish that the beneficiary possesses specialized knowledge or that the U.S. position offered to the beneficiary requires an individual with specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that the director misunderstood the nature of the position offered to the beneficiary, that the beneficiary possesses specialized knowledge of the petitioner's products, and that such knowledge is limited within the computer industry. The petitioner submits a detailed brief in support of the appeal.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior

education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct issues: (1) whether the beneficiary possesses specialized knowledge; and (2) whether the proposed employment is in a capacity involving specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the following:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes or procedures.

In a May 11, 2004 letter appended to the I-129 Petition, the petitioner described the beneficiary's position with the foreign entity as follows:

[The beneficiary] has been employed by [the foreign entity] since December 1, 2001 as an [sic] Technical Application Consultant. At all times during his employment with the UK company, [the beneficiary] has immersed himself in elements of the company's proprietary products, the advanced processes and procedures through which the company developed and brought its unique merchandising and retail applications to market. [The beneficiary] has analyzed customers' operational requirements, provided consulting expertise and developed best practices recommendations for customers to follow when implementing [the petitioner's] Financial application products – all of which demonstrate his broad understanding of the multinational capability of [the petitioner's] Financials application product.

The petitioner further described the beneficiary's proposed position as a technical application consultant, and the purpose of his transfer to the United States:

[The petitioner] desires to employ [the beneficiary] . . . in order to utilize his specialized knowledge of the multinational capabilities of [the petitioner's] Financials applications to retail customers that are based in the United States. Assisting with client implementation for multinational companies requires specialized experience with [sic] in order to properly address issues that arise from the use of financial application software in several countries. [The petitioner] has recently been engaged by several large multinational retail customers

who require the assistance of individuals with [the beneficiary's] expertise in order to develop and implement plans that will allow their financial software to work seamlessly across country borders. [The beneficiary] has developed an advanced knowledge of the company's corporate software products, processes and procedures during his employment with [the foreign entity] as well as application of these software products in international markets, especially the United Kingdom and the United States. Throughout his temporary assignment, [the beneficiary] will continue to use specialized knowledge of the strengths and weaknesses of [the petitioner's] financial applications (with an emphasis on our companies [sic] retail customers). Additionally, [the beneficiary] will have close interaction with our information technology professionals at [the petitioner] who work with the merchandising / retail product line. He will also direct the work of those having similar professional occupations within our and our customers' organizations

* * *

In this position, [the beneficiary] will continue to provide product line assistance to the retail services organization and [the petitioner's] clients. As he did with our subsidiary in the United Kingdom, [the beneficiary] will be responsible for understanding prospective client's critical business issues in order to present and demonstrate [the petitioner's] software capabilities for the best comparison to the competition in the marketplace. He will be responsible to effectively team with the Retail Services organization within [the petitioner] in order to provide multinational expertise to retail customers.

While [the beneficiary] will address principally our concerns in the United States, he will continue to bring his specialized knowledge of our proprietary products in international markets. He will, from time to time, continue to provide support for corporate clients in other parts of the world, especially the United Kingdom. . . .

The level of [the beneficiary's] knowledge and experience satisfies all of the criteria . . . for classification as an "individual with specialized knowledge." His understanding and knowledge of the multinational capabilities of [the petitioner's] Financial application product is advanced both within the industry and within our company. Through the use of this knowledge, our company will be able to enhance our competitiveness and image with our clients. A thorough understanding of our company's products and processes is essential in order to satisfactorily complete the project assigned to an individual in this level of position.

The petitioner also submitted a copy of the beneficiary's resume which provides that the beneficiary specializes in the petitioner's "Financials Process Suite," including implementation, rollout and post-sales end-user support, and has routinely lectured in the support of the foreign entity's "public training" program.

The director requested additional evidence on May 26, 2004, observing that the evidence submitted did not establish that the beneficiary's duties involve knowledge or expertise beyond what is commonly held in his field. The director also noted that the beneficiary has been and will be performing duties similar to those he

has performed with other companies outside the petitioner's group. Accordingly, the director instructed the petitioner:

You must provide evidence that the beneficiary's knowledge is uncommon, noteworthy or distinguished by some unusual quality and not generally known by practitioners in the field. The evidence must also establish that the beneficiary's knowledge of the processes and procedures of your company is apart from the elementary or basic knowledge possessed by others in your company in this position, or others outside your company employed in a similar position.

The petitioner responded to the director's request on June 7, 2004. The petitioner asserted that the beneficiary's knowledge is different from that usually held in his field because he "holds specialized knowledge" of the petitioner's financial application. The petitioner explained that knowledge of the financial application's functionality and capabilities is "unique and limited within the computer industry" because the petitioner does not allow this information to be widely available. The petitioner continued:

1. First, it is important to note that the software products that are offered by [the petitioner] are ERP software . . . The other major software companies that sell ERP software similar (but not identical in functionality and capabilities) to that offered by [the petitioner] are Oracle, PeopleSoft, and SAP. The financial software that is sold by [the petitioner] is not simply a CD that is loaded onto a computer for individual use. Utilization of the software sold by [the petitioner] requires implementation by a team of skilled professionals who have a through understanding of the software application's capabilities, functionality, and technology.
2. Second, the complexity of [the petitioner's] financial software product requires a customer to retain the services of individuals who have been certified by [the petitioner] as being qualified to install its financial application. Only specifically trained [employees of the petitioner's group] and trained employees of a limited number of certified business partners are authorized to assist companies with the installation of the financial software products licensed from [the petitioner]. Information regarding the installation and modification of [the petitioner's] financial software programs is proprietary in nature and only individuals / companies that have entered into a non-disclosure agreement are provided with information sufficient to implement and or modify [the petitioner's] software products.

The petitioner stated that the beneficiary is "one of the individuals" certified to assist in the implementation of the company's financial applications, that his knowledge is considered proprietary in nature, and "is essential to the process of a customer successfully implementing and utilizing the software offered by our company."

The petitioner also clarified that while the beneficiary has extensive experience in the financial industry, both as a financial controller and as a financial application consultant with another company, the petitioner is seeking to employ him based on his expertise and understanding of the petitioner's financial software

application. The petitioner asserted that the expertise that qualifies the beneficiary as an individual with "specialized knowledge" was gained during his employment with the petitioner's subsidiary office in the United Kingdom. The petitioner indicated that in addition to being a certified Lawson Financial Consultant, the beneficiary is one of a limited number of individuals who has international expertise required by multinational corporations when implementing new financial systems.

The petitioner also quoted extensively from a December 20, 2002 Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) memorandum which provides guidelines for service center directors in interpreting specialized knowledge, including the following excerpt:

. . . The current definition of specialized knowledge contains two separate criteria and obviously, involves a lesser, but still high, standard. The statute states that the alien has specialized knowledge if he/she has special knowledge of the company product and its application in international markets or has an advanced level of knowledge of the processes and procedures of the company.

(Emphasis in original). See Memorandum from Fujie O. Ohata, Assoc. Commissioner, Service Center Operations, Immigration and Naturalization Service, to all Service Center Directors; *Interpretation of Specialized Knowledge*, HQSCOPS 70/6.1 (December 20, 2002)("Ohata memorandum"). The petitioner stated that it seeks to classify the beneficiary as an individual who possesses special knowledge of the company's product and its application in the international market. The petitioner also referred to several individual passages from a 1994 memorandum that provides guidance to CIS employees in the interpretation of specialized knowledge. The petitioner asserted that the examples contained therein strongly support a conclusion in favor of determining that the beneficiary possesses specialized knowledge. The petitioner cited several examples and attempted to equate them to the current situation of the beneficiary. See Memorandum from James A. Puleo, Acting Exec. Assoc. Commissioner, Office of Operations, Immigration and Naturalization Service, to all Dist. Directors, et al., *Interpretation of Special Knowledge*, CO214L-P (March 9, 1994)("Puleo memorandum"). The petitioner asserted that the beneficiary's general knowledge of corporate financial practices combined with his knowledge of the petitioner's financial application software "renders his experience essential" to our company, and stated that the petitioner "would suffer significant economic loss and inconvenience" if it is not able to utilize the beneficiary's specialized knowledge in the United States.

In support of its response, the petitioner provided copies of the above-referenced memoranda and a chart which summarizes the beneficiary's training, consulting experience, training delivery and certifications received in various financial applications modules.

On June 17, 2004, the director denied the petition. The director cited a portion of the beneficiary's job description and observed: "In essence, the beneficiary will be selling the petitioner's software products." The director found that the beneficiary, while amply qualified to perform the duties of the offered position based on his experience, does not appear to have specialized knowledge:

Any individual who has worked with as many software applications, and had been trained and certified on the petitioner's own software (as the beneficiary has been), would be amply qualified to sell the petitioner's products. Such individual would be able to compare the petitioner's product with its competitors products. This would not require what could be considered specialized knowledge. His knowledge does not appear to be advanced knowledge, only broad knowledge of various software applications. Such knowledge would be common for individuals employed in such a position.

Further, while the petitioner claims that its "certification" of the beneficiary establishes his specialized knowledge, the petitioner has failed to explain how its process is different from using any other software.

The director concluded that the beneficiary does not qualify as a specialized knowledge intracompany transferee.

On appeal, the petitioner asserts that the director did not adequately review and consider the submitted evidence. The petitioner notes that the director wrongly concluded that the position offered to the beneficiary is a sales position, when in fact the U.S. position is that of a software applications consultant. The petitioner states that this incorrect position formed the basis of the director's decision. The petitioner also contends that the director's decision raises issues that were not raised in the request for evidence and that it therefore assumed that its evidence as it pertained to the duties of the U.S. position was sufficient. The petitioner claims that if the director had requested additional evidence regarding the U.S. position, he would not have mischaracterized the position as a sales position.

In support of the appeal, the petitioner submits a three-page description of the position offered to the beneficiary. The description includes the following position summary:

The Application Consultant (AC) position . . . has responsibility for meeting specific utilization/revenue targets, delivering a wide array of consulting services and specific recommendations surrounding [the petitioner's] (and related third party) applications, technologies and tools, performing product usage consulting/training activities, and conducting application and end user client training classes The [Application Consultant] provides clients with consulting expertise and "best practice" recommendations that are specific to their vertical. Since [the petitioner's] solutions leverage leading-edge technologies and interrelated third party products, the AC must maintain an up-to-date skill set of [the petitioner's] current releases in order to effectively service our customers and generate adequate revenue for the company.

The job description indicates that an applications consultant must have a "detailed level of knowledge of a minimum of 2 applications in accordance with [the petitioner's] certification standards, and three years of knowledge of the concepts and principles of an application in "vertical specific areas." The petitioner restates most of the arguments made in its response to the director's request for evidence and concludes that it has established that the beneficiary is qualified for classification as an individual with specialized knowledge.

As a preliminary matter, the AAO acknowledges that the director erroneously concluded that the offered position is essentially a sales position. While it appears the beneficiary is expected to "seek out new revenue generating opportunities," it is evident that his primary role is as a business applications software consultant. The director's analysis will be withdrawn in part, as it relates to the nature of the United States position. As the AAO's review is conducted on a *de novo* basis the AAO will herein address the petitioner's evidence and eligibility, including supplementary evidence submitted on appeal. See *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

On review, the petitioner has not established that the beneficiary possesses "specialized knowledge" as defined in section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), and the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D), or that the intended position requires an employee with specialized knowledge.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties. See 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.*

The petitioner submits on appeal a lengthy job description for the proposed position in the United States entity which confirms that knowledge of the petitioner's software applications is required for the position. However, the petitioner has not documented that the job duties to be performed require specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D). Although the petitioner repeatedly asserts that the beneficiary possesses specialized knowledge of the petitioner's financial application software, the record is devoid of any meaningful description of the training received by the beneficiary or information regarding the software itself which would allow the AAO to determine whether the beneficiary's training and experience with the software rises to the level of "specialized knowledge" contemplated by the statutory and regulatory definitions. The petitioner merely states that the software it develops and implements is ERP software similar to that developed by several other companies, but with different functionalities and capabilities. This description does little to differentiate the knowledge held by the beneficiary from knowledge generally held by consultants in the beneficiary's field. Absent documentation describing the software and the technical environment in which it is built, the AAO cannot evaluate whether the petitioner's products are so different or uncommon that knowledge of the petitioner's products alone constitutes "specialized knowledge." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

In addition, it is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).¹ As stated by the

¹ Although the cited precedents pre-date the current statutory definition of "specialized knowledge," the AAO finds them instructive. Other than deleting the former requirement that specialized knowledge had to be "proprietary," the 1990 Act did not significantly alter the definition of "specialized knowledge" from the prior INS regulation or precedent decision interpreting the term. The Committee Report simply states that the

Commissioner in *Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business' operation.

Id. at 53. The evidence of record demonstrates that the beneficiary is more akin to an employee whose skills and experience enable him to provide a service, rather than an employee who has unusual duties, skills, or knowledge beyond that of a skilled worker.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." *See generally*, H.R. Rep. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." *Webster's II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

Here, the petitioner states that the training and certification completed by the beneficiary is sufficient to establish that he possesses specialized knowledge as defined by the statute and regulations. The petitioner has indicated that all of its application consultants are trained and certified in the applications in which they specialize. However, the petitioner has not provided information regarding the type and length of training its employees typically receive or specified the type and length of training received by the beneficiary. Accordingly, the AAO cannot conclude that the knowledge held by the beneficiary could not easily be transferred to another employee with a similar educational and professional background. Regardless, if all

Committee was recommending a statutory definition because of "[v]arying [*i.e.*, not specifically incorrect] interpretations by INS," H.R. Rep. No. 101-723(I), at 69, 1990 U.S.C.C.A.N. at 6749. Beyond that, the Committee Report simply restates the tautology that became section 214(c)(2)(B) of the Act. *Id.* The AAO concludes, therefore, that the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

similarly employed workers within the petitioner's organization receive the same training, then mere possession of knowledge of the petitioner's products does not rise to the level of specialized knowledge. The petitioner did not distinguish the beneficiary's knowledge, work experience, or training from those of the other employees. The lack of evidence in the record makes it impossible to classify the beneficiary's knowledge of the petitioner's financial applications software as advanced, and precludes a finding that the beneficiary's role is "of crucial importance" to the organization. Although knowledge need not be narrowly held within an organization in order to be specialized knowledge, the L-1B visa category was not created in order to allow the transfer of employees with any degree of knowledge of a company's products. It may be correct to say that the beneficiary is a highly skilled employee, but this is not enough to bring the beneficiary to the level of "key personnel."

As noted above, since the petitioner did not adequately describe the petitioner's products or specify the amount or type of training its technical staff members receive in order to implement and support the products, it is impossible for the AAO to assess whether the products implemented by the petitioner's consultants are particularly complex or different compared to those utilized by other companies in the industry, or whether it would take a significant amount of time to train an experienced information technology consultant who had no prior experience with the petitioner's family of companies. Even if the petitioner had distinguished its products as different or uncommon compared to similar products in the industry, it still would not establish that knowledge of its products constitutes "specialized knowledge." The petitioner claims that knowledge of the petitioner's software is limited within the computer industry because the petitioner "doesn't allow it to become widely available." However, the petitioner states that its "certified business partners" also provide consulting services for the petitioner's products, and therefore train their employees to perform the same type of software implementation and support duties to be performed by the beneficiary. The training received by the beneficiary is therefore available outside the petitioner's organization; one need not have worked for the petitioner to become a certified consultant in the petitioner's software. Therefore, the petitioner's argument that the beneficiary possesses knowledge that can only be gained with its company is not persuasive.

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). The decision noted that the 1970 House Report, H.R. No. 91-851, stated that the number of admissions under the L-1 classification "will not be large" and that "[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service." *Id.* at 51. The decision further noted that the House Report was silent on the subject of specialized knowledge, but that during the course of the sub-committee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed "L" category. In response to the Chairman's questions, various witnesses responded that they understood the legislation would allow "high-level people," "experts," individuals with "unique" skills, and that it would not include "lower categories" of workers or "skilled craft workers." *Matter of Penner, id.* at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., Immigration Act of 1970: Hearings on H.R. 445, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that that the specialized knowledge worker classification was

not intended for "all employees with any level of specialized knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, "[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees." 18 I&N Dec. 117, 119 (Comm. 1981). According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than the "key personnel" that Congress specifically intended. 18 I&N Dec. at 53; see also, *1756, Inc.*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to "key personnel" and "executives.")

The only attempt the petitioner makes to distinguish the beneficiary from other application consultants within its organization pertains to his "international" experience. However, the petitioner did not indicate that it requires special procedures or training for international software implementations, or that the beneficiary had actually worked on multinational projects, nor did it explain why international experience is required for the U.S. assignment, other than stating that it had recently signed contracts with multinational companies. The petitioner has provided no independent evidence that sets the beneficiary apart from all other similarly-employed workers employed by its foreign subsidiaries for the same period of time. The fact that the beneficiary works in the United Kingdom is not sufficient to establish that he has special expertise with the application of the petitioner's products in "international markets." Rather, it is evident that he has the same knowledge possessed by any other application consultant working at the petitioner's British subsidiary, and cannot be considered to be employed in a position involving specialized knowledge with the foreign entity. The petitioner's assertions are not supported by evidence in the record. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

Instead of providing relevant documentation in response to the director's request for evidence, the petitioner placed great emphasis on the Puleo memorandum as a means for justifying the beneficiary's specialized knowledge qualifications. In reference to the Puleo memorandum, the petitioner claims that the beneficiary's knowledge is valuable to its competitiveness, that the beneficiary is qualified to contribute to the United States employer's knowledge of foreign operating conditions, that he has been utilized abroad in a capacity involving significant assignments, that he possesses knowledge which can be gained only through prior experience with the petitioner's group and that the knowledge cannot be easily transferred or taught to another individual. While the beneficiary's skills and knowledge may contribute to the success of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge. While the beneficiary's contribution to the economic success of the corporation may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the organization's process and procedures or a "special knowledge" of the petitioner's product, service, research, equipment, techniques, or management. 8 C.F.R. § 214.2(l)(1)(ii)(D). As determined above, the petitioner has not established that the knowledge possessed by the beneficiary cannot be gained outside the petitioner's group, or adequately described his knowledge of foreign operating conditions and its relevance to the U.S. position. Finally, the petitioner has provided no indication as to the length of the training received by the beneficiary, which would allow the AAO to make a determination as to whether the knowledge could be easily transferred to a professional in the beneficiary's field.

As the petitioner relies heavily on the Puleo memorandum to support its arguments that the beneficiary possesses specialized knowledge, it is important to note that the memorandum emphasizes that the petitioner must substantiate its claims with supporting evidence:

[T]he mere fact that a petitioner alleges that an alien's knowledge is somehow different does not, in and of itself, establish that the alien possesses specialized knowledge. *The petitioner bears the burden of establishing through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in the alien's field of endeavor. Likewise, a petitioner's assertion that the alien possesses an advanced level of knowledge of the processes and procedures of the company must be supported by evidence describing and setting apart that knowledge from the elementary or basic knowledge possessed by others.* It is the weight and type of evidence which establishes whether or not the beneficiary possesses specialized knowledge.

(Emphasis added.) Memorandum from James A. Puleo, Acting Exec. Assoc. Commissioner, Office of Operations, Immigration and Naturalization Service, to all Dist. Directors, et al., *Interpretation of Special Knowledge*, CO214L-P (March 9, 1994).

In sum, the petitioner has failed to demonstrate that the beneficiary's training, work experience or knowledge of the petitioner's financial application software is more advanced than the knowledge possessed by others employed by the petitioner, or by other companies who implement the petitioner's software. It is clear that the petitioner considers the beneficiary to be an important employee of the organization. The AAO, likewise, does not dispute the fact that the beneficiary's knowledge has allowed him to competently perform his job in the foreign entity. However, the successful completion of one's job duties does not distinguish the beneficiary as "key personnel;" nor does it establish employment in a specialized knowledge capacity.

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc. v. Attorney General, supra* at 16. The record does not establish that the beneficiary has specialized knowledge or that the position offered with the United States entity involves specialized knowledge.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.