

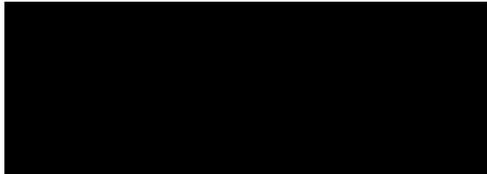
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File: LIN 05 105 51719 Office: NEBRASKA SERVICE CENTER Date: OCT 02 2007

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

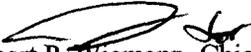
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN BEHALF OF PETITIONER:



**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, Chief  
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, a corporation organized in the State of Ohio, claims to be engaged in the manufacture of metal machining products. The petitioner claims that it is an affiliate of the beneficiary's overseas employer, Tyrolit Schleifmittelwerke Swarovski KG, located in Schwaz, Austria. The petitioner now seeks to employ the beneficiary for three years in the position of Manager – Integration IT Systems Manufacturing.

The director denied the petition, concluding that the petitioner did not establish that the beneficiary possesses specialized knowledge or that the beneficiary would be employed in a capacity that requires specialized knowledge. The director noted that the record does not establish that the beneficiary completed any company-specific training program directly related to the proposed duties. The director further observed that the mere fact that the beneficiary has been employed with the foreign entity since 1985 is insufficient to establish "specialized knowledge," absent further evidence distinguishing the beneficiary from other employees with similar experience who have worked for the company for a similar length of time. The director further noted that the petitioner's assertion that the beneficiary qualifies for L-1B status based on his prior L-1 status is unfounded given that the previous approval was for L-1A status.

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, counsel for the petitioner claims the evidence establishes that the beneficiary possesses substantial specialized knowledge based upon his past employment with the foreign entity and its affiliates. Counsel asserts that it is inconceivable that the beneficiary's proposed employment could be performed by someone lacking substantial special knowledge and experience with the foreign company's products, machinery, production planning and management/manufacturing information technology systems. Counsel further claims that the beneficiary possesses the characteristics of an employee with "specialized knowledge" as described in an INS memorandum dated 1988. Finally, counsel contends that the fact that the beneficiary previously held L-1A status for an affiliate of the petitioner demonstrates that the beneficiary is a "key employee."

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 (I)(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.

At issue in this matter is whether the petitioner has established that the beneficiary possesses specialized knowledge, and that his proposed employment in the United States is in a capacity that requires 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(I)(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 letter dated February 14, 2005 accompanying the Form I-129, Petition for a Non-Immigrant Worker, the petitioner stated that the beneficiary "would be responsible for the design, development implementation and integration of the Tyrolit's worldwide management/manufacturing information systems at [the petitioner] and other newly acquired manufacturing facilities in North America." The petitioner indicated that the beneficiary's anticipated job duties with the U.S. company would include the following:

- Design, develop and implement SAP-based product management systems for finished goods and trade goods as a base for sales, material management, product planning and project management, as well as, integrate these systems with Tyrolit's worldwide management/manufacturing information systems.

- Develop and implement production planning management/manufacturing information systems and integrate these with the Tyrolit's worldwide systems.
- Develop and implement Material Resource Planning (MRP) systems to effectively manage requirements in the manufacturing process consistent with Tyrolit's worldwide MRP systems – MRP is a set of techniques which uses bill of material data, inventory data and the master production schedule to calculate requirements for materials and purchasing.
- Manage implementation of [REDACTED] information technology management/manufacturing systems including conducting training programs.
- Plan and prepare technical reports, memorandum, and instructional manuals as documentation of program development.
- Coordinate North America information technology project activities with Tyrolit Global SAP implementation.
- Prepare time and cost estimates for completing projects, as well as, coordinate this with the Tyrolit master plan.
- Direct and coordinate the work of others to develop, test, install and modify programs.

The petitioner claimed that the proposed position is in a specialized knowledge capacity since it requires that the beneficiary "possess special and detailed knowledge of [REDACTED] products, manufacturing operations and customized management/manufacturing information systems." The petitioner further indicated that the beneficiary has been continuously employed by the foreign entity since 1985, except for the period from May 2002 to January 2003 when he was transferred to [REDACTED] North America in L-1 status.

On March 1, 2005, the director issued a request for further evidence (RFE). Specifically, the director requested a detailed description of the duties the beneficiary would perform in the United States and the percentage of time to be spent performing each duty. The director also requests a detailed description of the beneficiary's current job duties with the foreign entity identifying the routine, day-to-day tasks performed by the beneficiary as well as the percentage of weekly hours spent in the performance of each task.

The director noted that the record does not sufficiently establish that the beneficiary's knowledge is advanced, noteworthy, or distinguished by some unusual quality that is not generally known by practitioners in the beneficiary's field of endeavor. Therefore, the director also advised that evidence must be submitted to describe and distinguish the beneficiary's knowledge from the elementary or basic knowledge possessed by others who are similarly employed within the same occupation/industry and who regularly utilize similar systems, programs, products, processes or procedures. Further, the director requested evidence to show that the beneficiary's duties abroad and his proposed duties in the United States require a person with specialized knowledge; documentation of any company specific vocational, technical, or professional development

courses the beneficiary may have attended; and, if the beneficiary acquired his knowledge only through practical employment experience, a detailed description of how the beneficiary's training and/or work experience differs from the training and experience an individual similarly engaged in the industry would receive.

In a letter dated March 23, 2005 responding to the RFE, the petitioner provided the following description of the beneficiary's current position as Global Production Organization Manager – Precision Machining Division with Tyrolit/Austria:

[The beneficiary] reports directly to the Executive Production Director who is in charge of Tyrolit's worldwide manufacturing facilities. [The beneficiary] is responsible for the worldwide integration of [REDACTED]-newly acquired manufacturing plants relating to IT implementation, know-how transfer, merging of individual product ranges and staff training for the integrated SAP/ERP software. [The beneficiary] is/was responsible for IT integration at the newly acquired [REDACTED] manufacturing facility in the United Kingdom. In addition, [the beneficiary] is part of a global team managing the business transfer from Cimform Milacron (Canada) into the [REDACTED] organization. His main focus has been to integrate the products taken over into the SAP system.

With respect to the proposed position with the U.S. company, the petitioner stated that the beneficiary "will generally be responsible for the design, development, implementation and integration of [REDACTED] worldwide management/manufacturing information systems at [the U.S. company] and other newly acquired manufacturing facilities in North America as well as training key users in system usage." The petitioner submitted the IT Integration Plan that the beneficiary would manage and implement at the U.S. company and explained that the assignment can be divided into three categories: Production Standardization Requirements (25%), Implement [REDACTED] In-House/Customized Software (myPythia) (40%), Install and Train Cincinnati Production Planning Staff (35%).

The petitioner stated that the beneficiary "possesses extensive special knowledge of [REDACTED] abrasive production machinery, abrasive products, production planning and integration of [REDACTED] manufacturing subsidiaries into [REDACTED] global manufacturing management information technology system, which is essential for the performance of the proposed duties and responsibilities." The petitioner asserted that integrating the U.S. company's products into Tyrolit's global and uniform product line would require special and detailed knowledge of [REDACTED] products and production operation. The petitioner further asserted that as a member of the foreign entity's IT Integration Group from 1997 to 1998, the beneficiary's duties and responsibilities included the design, development and integration of "myPithya," which the petitioner described as a company-specific "and customized production management software which electronically determines Bills of Materials, Routings, Costing and Market Pricing [and] also generates production data, monitors production and controls production costs." According to the petitioner, the beneficiary would be responsible for implementing this proprietary software at the U.S. company in order to automate the company's current manual production planning process so that it is consistent with [REDACTED] worldwide manufacturing facilities. Finally, the beneficiary would be required to install and train the production planning department at the U.S. company in the use and development of the software and the implementation and maintenance of the systems.

The petitioner claimed that the beneficiary's employment with the foreign company is the source of his specialized knowledge. Specifically, the petitioner claimed that during his twenty-year employment with the Tyrolit Group, the beneficiary has acquired specialized knowledge through external as well as in-house training in the following areas: abrasive business specific production machinery knowledge, abrasive business specific product knowledge, production planning specific knowledge, and manufacturing subsidiary IT integration knowledge. The petitioner described and provided copies of certificates documenting various external training programs the beneficiary had completed, including (1) an external vocational training program for which the beneficiary was certified as a "technical draftsman" in 1988, (2) specialized training for metal fabrication and metal finishing in grinding technology, completed in-house in 1999, (3) a 120-hour "REFA" (translated in the documentation as "Association for Work Study, Industrial Organization and Business Development") seminar in "Work Systems Design" from October 18, 1996 through December 14, 1996; and (4) in 1998, a 100-hour REFA seminar in the use of information technology systems relating to "Costing." In addition, the petitioner indicated that throughout his employment, the beneficiary received "internal education covering the complete product range including production technology, process know-how and designing Tyrolit's market product terminology" and "advanced production planning internal training . . . which involved maximizing and improving production operations [and] developing new production planning IT-tools to increase automation rates. The petitioner also noted that the beneficiary was responsible for the design and development of an in-house, customized software (EDOK) that automates production data, monitors production and controls production costs as well as the "myPythia" production management software described above.

Finally, the petitioner claimed that the beneficiary was previously granted L-1A status when he was employed by the petitioner's affiliate, Tyrolit North America, from May 2000 to January 2003. The petitioner asserted that since the beneficiary's duties with that company were "virtually the same" as his proposed duties with the petitioner, approval of the instant petition should be warranted.

On March 31, 2005, the director denied the petition, concluding that the petitioner did not establish that the beneficiary possesses specialized knowledge or that the beneficiary would be employed in a capacity that requires specialized knowledge. The director noted that the record does not establish that the beneficiary completed any company-specific training program directly related to the proposed duties. The director further observed that the mere fact that the beneficiary has been employed with the foreign entity since 1985 is insufficient to establish "specialized knowledge," absent further evidence distinguishing the beneficiary from other employees with similar experience who have worked for the company for a similar length of time. Finally, the director noted that the petitioner's assertion that the beneficiary qualifies for L-1B status based on his prior L-1 status is unfounded given that the previous approval was for L-1A status.

On appeal, counsel for the petitioner claims the evidence establishes that the beneficiary possesses substantial specialized knowledge based upon his past employment with the foreign entity and another North American affiliate. In his brief, counsel refers to the information regarding the beneficiary's training and current and proposed job duties that was set forth in the petitioner's response to the RFE and asserts that as the result of the beneficiary's long employment with the foreign company in progressively more responsible technical and managerial positions, he "predictably possesses substantial special knowledge of Tyrolit's products, services, equipment, techniques, management [and/or] other interests and its application in international markets – and

has an advanced level of knowledge of [REDACTED] processes and procedures." Counsel contends that [REDACTED] Group's intensified presence and investment in the United States supports the beneficiary's proposed transfer to the U.S. company, and that the transfer is "vital and essential to [the U.S. company's] competitiveness, financial position, image, as well as future growth and development." Counsel further claims that the beneficiary possesses the characteristics of an employee with "specialized knowledge as set forth in an Immigration and Naturalization Service's memorandum from [REDACTED] Associate Commissioner, Examinations dated October 27, 1988. [REDACTED] memorandum (CO 214.2L-P). *Interpretation of Specialized Knowledge under the L Classification*, October 27, 1988, reproduced in 65 Interpreter Releases 1170, 1194 (November 7, 1988) (hereinafter Norton Memorandum). Finally, counsel contends that the fact that the beneficiary previously held L-1A status for an affiliate of the petitioner demonstrates that the beneficiary is a "key employee."

On review, the record is insufficient to establish that the beneficiary possesses specialized knowledge, or that he would be employed in a specialized knowledge capacity as defined in section 214(c)(2)(B) of the Act, 8 U.S.C. section 1184(c)(2)(B), and the regulation at 8 C.F.R. section 214.2(l)(1)(ii)(D).

When 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). As required in the regulations, the petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.*

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)).<sup>1</sup> As stated by 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 firm's operation.

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<sup>1</sup> 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 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.

*Id.* at 53.

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 [REDACTED]. 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.

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 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.")

In the instant matter, while the petitioner has provided descriptions of the beneficiary's current job duties with the foreign company and his intended job duties with the U.S. company, the petitioner has not sufficiently documented how the beneficiary's performance of his duties distinguishes his knowledge as specialized. The petitioner repeatedly asserted that the beneficiary possesses extensive special knowledge of the company's products, production machinery, production planning and manufacturing management information technology system, which the petitioner claims to be essential to the performance of his current and anticipated duties. The petitioner asserted, and counsel also claims on appeal, that the beneficiary possesses specialized knowledge as the result of his twenty years of work experience in the foreign company. Specifically, the petitioner claims that the beneficiary's duties in the past have included the design, development and integration of the company's "myPythia" software for the production facilities. It also appears that the majority of the beneficiary's time in the proposed position with the U.S. company would be spent implementing this software and training the company's staff in the use of the software. However, the petitioner has offered little information regarding the company's IT systems in general and the "myPythia" software in particular. The record also contains insufficient evidence relating to the beneficiary's training, education and experience with the "myPythia" software. The petitioner asserted that the beneficiary's employment with the foreign company is the source of his specialized knowledge and, specifically, that the beneficiary has acquired specialized knowledge through external as well as in-house training during his twenty-year employment with the ██████ Group. However, while the petitioner was able to document the beneficiary's completion of external training, the petitioner provided no evidence to support its claim that the beneficiary received "substantial . . . internal training related to his production planning and IT system management functions," for example. While the petitioner and counsel assert that the beneficiary is among the "key personnel" with specialized knowledge, the lack of specificity pertaining to the beneficiary's work experience and training fails to distinguish the beneficiary's knowledge, purportedly gained from that work experience and training, as specialized. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. at 190.

Moreover, the petitioner has not provided information such that the AAO can compare the beneficiary's knowledge with that of other IT specialists at the beneficiary's level employed by the petitioner or the beneficiary's foreign employer. The petitioner has not provided any information pertaining to other staff employed at either company, or the beneficiary's level of prominence among them. Similarly, the petitioner has not distinguished the beneficiary's knowledge, work experience, or training from the other employees. The insufficiency of the record in this regard precludes any comparisons between the beneficiary's knowledge and that of the remainder of the petitioner's workforce. It is clear that the petitioner considers the beneficiary to be an important employee of the organization. However, absent further evidence relating to the other personnel of either entity, the AAO cannot determine whether the beneficiary qualifies as "key personnel" or an employee of "crucial importance" within the petitioner's family of companies. See *Matter of Penner*, 18 I&N Dec. at 53. Furthermore, as previously noted, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. at 190.

Counsel contends on appeal that ██████ Group's intensified presence and investment in the United States supports the beneficiary's proposed transfer to the U.S. company, and that the transfer is "vital and essential to [the U.S. company's] competitiveness, financial position, image, as well as future growth and development."

While the beneficiary's skills and knowledge may contribute to the success of the company, this factor, by itself, does not constitute the possession of specialized knowledge. Similarly, counsel's reliance on the Norton Memorandum is misplaced. It is noted that the memorandum was intended solely as a guide for employees and will not supersede the plain language of the statute or regulations. While the factors discussed in the memorandum may be considered, the regulations specifically require that the petitioner demonstrates that the beneficiary possess an "advanced level of knowledge" of the organization's processes 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 discussed above, the petitioner has not established that the beneficiary's knowledge rises to the level of specialized knowledge contemplated by the regulations.

Finally, counsel asserts that the beneficiary's previous approval for L-1A status with the petitioner's affiliate demonstrates that the beneficiary is one of the organization's "key personnel." Counsel's assertion is not persuasive. First, the regulations set forth different and non-interchangeable requirements for the L-1A and L-1B classifications and, therefore, a different standard is applied in determining whether an employee is considered to be one of the petitioner's "key personnel" for purposes of the L-1A classification. Second, it must be emphasized that each petition filing is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, CIS is limited to the information contained in that individual record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). Based on the record as presently constituted and for the reasons discussed above, the AAO cannot conclude that the beneficiary qualifies as being one of the entity's "key personnel" in this instance.

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 evidence presented is insufficient to establish that the beneficiary possesses specialized knowledge or that he would be employed by the petitioner in a specialized knowledge capacity. For this reason, the appeal will be dismissed.

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 appeal will be dismissed.

**ORDER:** The appeal is dismissed.