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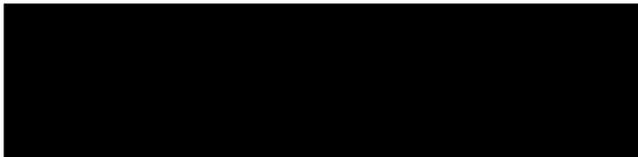
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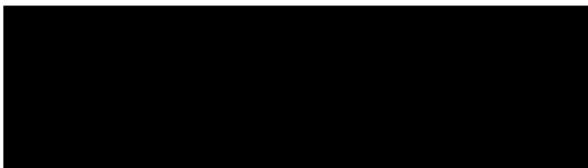
File: SRC 04 067 52430 Office: TEXAS SERVICE CENTER Date: OCT 02 2007

IN RE: Petitioner:  
Beneficiary:



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, Texas 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 is a corporation organized in the State of California that provides offshore drilling services to domestic and international oil and gas companies. The petitioner claims that it is the affiliate of the beneficiary's present employer, GlobalSantaFe Drilling UK, located in Aberdeen, Scotland. The petitioner now seeks to employ the beneficiary for three years as a drilling engineer.

The director denied the petition concluding that the petitioner has not shown that the position being offered to the beneficiary requires the services of an individual possessing specialized knowledge, or that the beneficiary possesses 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, counsel for the petitioner asserts that the director's decision to deny the petition is in error. Counsel submits additional evidence in support of his assertions on 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.

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(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 letter dated December 30, 2003 accompanying the initial petition, the petitioner stated the following in connection with the beneficiary's intended job duties in the United States:

[The beneficiary] has been offered the position [of] Drilling Engineer. He will be applying his expert working knowledge along with his education to contribute to the establishment of the drilling service group within the deepwater group to be able to provide the client with a more efficient rig. [His] job duties are as follows:

- A. Onshore – 25% of time spent
  1. Quality Assurance and Quality Control of all drilling equipment including operator owned and vendor furnished well construction material and service contractor rental equipment and tools such as wellheads, liner hangers, BHA components and logging tools. (Performed weekly)[.]
  2. Administration – Tracking of all actions arising from audits, lesson learned, after action reviews and end of hitch reports. (Performed weekly).
  3. Cost out process – Investigation of rig and service company equipment and job incidents and failures and close out of action resulting from the investigations. (Performed weekly).

B. Offshore – 75% of Time Spent

1. Operational Planning – Planning and optimizing offline operations including casing running, BHA makeup, running tool makeup, logging tool makeup and drilling contractor equipment job preparations. (Performed daily).
2. Pipe Management – Maintaining derrick management plan for every well. (Performed weekly).
3. Drilling Performance – Flatline and drilling performance measurement, tracking and improvement through time analysis, critical path analysis, de-bottlenecking and planning. (Performed daily).
4. Supervision – Assistance to Drilling Superintendents and Operator Drilling Supervisors on operations planning and execution. (Performed daily).
5. Engineering – Involvement in well planning activities particularly where equipment qualification and performance optimization are involved. (Performed daily).
6. "Learning" Custodian – Capture lessons learned throughout the operations. (Performed weekly).

On January 10, 2004, the director issued a request for further evidence (RFE). Specifically, the director requested:

- (1) evidence relating to the unique methodologies, tools, programs, and/or applications of the company, describing in detail how they are different from those used by other companies, and including an explanation of the equipment, system, product, technique or service of which the beneficiary has specialized knowledge, and indicating whether it is used by other companies;
- (2) information relating to the specific project to which the beneficiary will be assigned, which may include billing records to substantiate the length of time the beneficiary has actually worked on the project abroad, a letter of reference from the contracting entity, and the actual contract to confirm that he will continue to work on the same project in the United States;
- (3) training records, including documentation of training courses in which the beneficiary has been enrolled, a statement specifying the minimum amount of time required to train an employee to fill the proffered position and the number of workers similarly trained and employed in the company, a description of the training entailed if the beneficiary is to receive training or provide training to others in the United States, and a copy of the beneficiary's resume;
- (4) copies of the organizational charts for both the U.S. and foreign companies, each indicating the location of the beneficiary's position and level of supervision and number of types and positions under the beneficiary's supervision, and payroll records for both companies;
- (5) the beneficiary's payroll and personnel records to substantiate the length of time he had been employed abroad; and

- (6) a list of the L-1B specialized knowledge employees transferred to the U.S. location within the past twelve months, with their names, titles and position descriptions.

The petitioner responded to the RFE on February 17, 2004. With respect to the petitioner's products and services, the petitioner submitted a company profile sheet, a publication relating to the company's offshore oil and gas drilling operations, and several specification sheets and brochures describing its drilling equipment. The petitioner also submitted an affidavit from its well engineering manager, an individual named [REDACTED] (hereinafter "the [REDACTED] affidavit"), attesting to the uniqueness of the company's drilling units. In his letter responding to the RFE, counsel claimed that the beneficiary has specialized knowledge of the company's current drilling systems and their design parameters, specifications, safety policies and standards. In support of this claim, counsel referred to the portions of the [REDACTED] affidavit attesting to the beneficiary's knowledge. Counsel indicated that the petitioner is unable to produce the billing records and contract for specific projects as requested, because the company does not "hire out" its personnel.

With respect to the requested training records, counsel indicated that the beneficiary has completed over 25 separate training sessions during his employment with the company. The petitioner submitted a document listing the names and dates of 28 courses that the beneficiary is said to have completed, and copies of 16 certificates of completion. Referring to the [REDACTED] affidavit, counsel stated that (1) it takes approximately four to six years to be fully qualified for the proffered position; (2) as of January 31, 2004, the petitioner has one wellsite drilling engineer and two senior wellsite drilling engineers, and (3) the petitioner would not be training other employees or receiving any training himself while in the United States.

The petitioner also submitted a copy of the beneficiary's resume, copies of his payroll records from May 2000 through December 2003, and organizational charts for the petitioner and the beneficiary's current overseas employer. Counsel stated in his letter that during the previous 12 months, four L-1B specialized knowledge employees have been transferred to the U.S. location and are there still. These employees include a mechanical superintendent/maintenance specialist, a drilling engineer, a tourpusher, and a superintendent – repair & overhaul. Counsel noted that there was one other drilling engineer who was approved for L-1B classification but opted not to transfer to the United States. Counsel indicated that the beneficiary is that person's intended replacement.

On March 4, 2004, the director denied the petition. The director concluded that the petitioner has not shown that the position being offered to the beneficiary requires the services of an individual possessing specialized knowledge, or that the beneficiary possesses specialized knowledge. Specifically, the director found that the evidence does not demonstrate that the company's methods, procedures and processes are significantly different from those generally used in any oil drilling company, or that an understanding of these methods, procedures and processes is indicative of advanced knowledge. The director noted that the beneficiary's training certificates were issued by external sources, thus the training courses in question must be general courses in the industry and not specific to the petitioner's family of companies. The director also noted that given the large number of other workers within the organization who have comparable knowledge to the beneficiary's, *his* knowledge cannot be deemed "noteworthy or uncommon."

On appeal, counsel for the petitioner asserts that the director's decision to deny the petition is in error. Counsel claims that the director failed to take into consideration all of the evidence before her. Specifically, counsel refers to the [REDACTED] affidavit, which counsel claims "clearly provides evidence that [the b]eneficiary has acquired 'substantial and highly advanced knowledge' regarding [the p]etitioner's technical drilling standards, drill vessels/unit as well as their respective drilling equipment and associated machinery." Counsel further contends that the director fails to give full credence to the policies and guidance set forth in the 1994 Immigration and Naturalization Service's memorandum from [REDACTED] Acting Executive Associate Commissioner. [REDACTED], Acting Executive Assoc. Commissioner, Office of Operations, Immigration and Naturalization Service, *Interpretation of Special Knowledge*, CO 214L-P, (Mar. 9, 1994) (hereinafter "Puleo Memorandum"). Counsel also asserts that a number of the characteristics of an alien who possesses specialized knowledge listed in the [REDACTED] Memorandum also apply to the beneficiary. Counsel further challenges the director's finding that the training the beneficiary received is not specific to the company. As evidence in support of his assertions, counsel submits a copy of the [REDACTED] Memorandum and a letter dated April 1, 2004 from the petitioner's human resources manager, excerpts from the beneficiary's previously submitted resume, as well as another copy of the [REDACTED] affidavit and a number of certificates documenting the completion of training courses that counsel claims to be specific to the petitioner's family of companies that are not generally available to the industry.

On review, the record is insufficient to establish that the beneficiary possesses specialized knowledge, or that the proffered position is one requiring 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).

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.* 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:

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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.

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.

*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 (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.

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49. 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. 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, the petitioner submitted descriptions of the beneficiary's employment in the foreign entity and his intended employment in the United States entity. However, the evidence is insufficient to demonstrate that the job duties to be performed require specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D). The beneficiary's job description, setting forth his tasks in generic terms, such as "quality assurance and quality control," "operation planning," "pipe management," "drilling performance," etc., is insufficient to distinguish his knowledge as more advanced or distinct among other drilling engineers employed by the foreign or U.S. entities or by other unrelated companies. Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise meeting the definitions would simply be a matter of reiterating the regulations. See *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). In addition, while the petitioner did disclose that the petitioner has one other wellsite drilling engineer and two senior wellsite drilling engineers, the petitioner failed to indicate whether these individuals have received training comparable to the beneficiary, as requested in the RFE. Without the requested information regarding similarly situated employees of the petitioner, the AAO is unable to make the comparisons necessary to determine whether the beneficiary rises to the level of "key personnel" or an employee of "crucial importance" to the company, as discussed above. Moreover, failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The petitioner and counsel have repeatedly asserted that the beneficiary is knowledgeable of equipment, standards and procedures that are proprietary and unique to the petitioner and its foreign parent company, and that such knowledge constitutes "specialized knowledge." However, the petitioner has not demonstrated the uniqueness of the petitioner's claimed proprietary equipment, standards and procedures with any specificity.<sup>2</sup> The Wilson affidavit, upon which counsel relies heavily on appeal, claims that "GlobalSantaFe has developed its own standards and specifications" that "are the result of years of GlobalSantaFe's experience in the offshore drilling industry and are thus considered proprietary to GlobalSantaFe." The affidavit further claims that the company's "technical standards, drilling equipment designs and modifications and methodologies . . . are not generally available in the industry or known to other engineers outside of GlobalSantaFe." However, these assertions are not supported by documentary evidence that would establish that its equipment, standards, methodologies and procedures are actually significantly different from those utilized by other companies in

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<sup>2</sup> It is noted that a beneficiary is not required to possess knowledge of proprietary products or processes in order to be deemed to have specialized knowledge. Further, the fact that a beneficiary has experience with a proprietary product or procedure does not serve as prima facie evidence that the beneficiary possesses specialized knowledge. As in the present matter, when a petitioner asserts that a beneficiary has experience with proprietary products or procedures, Citizenship and Immigration Services (CIS) must carefully evaluate the claimed knowledge and the depth of the beneficiary's experience in order to determine whether it rises to the level of specialized knowledge as contemplated by 8 C.F.R. § 214.2(l)(1)(ii)(D).

the field. In fact, [REDACTED] further states in his affidavit that "[a]s I am not knowledgeable of other company's specific technical methods, standards, equipment etc. [sic] I am unable to describe how theirs technically differs from that utilized by GlobalSantaFe." 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)). The record as presently constituted does not demonstrate that the petitioner's "proprietary and unique" equipment, standards and methodologies, while they may be highly effective and valuable to the petitioner, are more than customized versions of standard equipment or practices used in the industry. As such, the petitioner has not established that the beneficiary's knowledge of its equipment, standards and methodologies alone constitutes specialized knowledge.

Furthermore, the record is insufficient to establish that the beneficiary actually possesses the claimed knowledge as a result of his training or work experience. Counsel asserts on appeal that the director erred in finding that the training received by the beneficiary was not specific to the petitioner's family of companies. In support of his assertion, counsel submits a letter from the petitioner's human resources manager and copies of eight certificates of completion for training courses attended by the beneficiary that appeared to have been issued by the GlobalSantaFe companies. The AAO acknowledges that these eight certificates were among those previously submitted in response to the director's RFE. Accordingly, the director's statement that "[t]he certificates issued to the beneficiary are from agencies or schools that are outside [the petitioner's] firm" is withdrawn.

Notwithstanding the foregoing, however, the AAO does not find that the evidence, specifically that pertaining to the beneficiary's training, adequately "present[s] an accurate description of the training required for the position" or establishes that "the beneficiary's knowledge is uncommon, noteworthy or distinguished by some unusual quality and not generally known by practitioners in the field," as requested in the RFE. The petitioner did provide a list of 28 training courses completed by the beneficiary and certificates of completion for 16 out of those 28 courses. However, there was no description or explanation of either the training required for the beneficiary's position or the courses he had actually completed. Based on the list of course names and certificates of completion alone, the AAO cannot determine whether the beneficiary had in fact met the training requirement and acquired the required knowledge for his position. Nor is there any basis for concluding that the training courses the beneficiary had completed were indeed for the purpose of imparting company-specific knowledge and not training that would have been completed and/or required of practitioners in the industry in general.

Counsel also cites as evidence of the beneficiary's specialized knowledge the statement in the [REDACTED] affidavit that the beneficiary "has acquired substantial and highly advanced knowledge regarding GlobalSantaFe's technical drilling standards, drill vessels/unit as well as their respective drilling equipment and associated machinery. He also has acquired substantial knowledge as to GlobalSantaFe's policies, drilling methods and processes as a consequence of his assignment as a Wellsite Drilling Engineer." However, as discussed, the petitioner has not submitted sufficient evidence to substantiate this claim in the [REDACTED] affidavit. 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.

Moreover, even assuming that the beneficiary's proffered position qualifies as one requiring specialized knowledge, the [REDACTED] affidavit itself raises the question of whether the beneficiary is indeed qualified for the position. Counsel specifically quoted the following statement from the [REDACTED] affidavit in his appeal brief:

[I]t would be extremely difficult to impart the specialized knowledge and experience required for GlobalSantaFe's position of Wellsite Drilling Engineer to another petroleum engineer just coming directly from the industry. It usually takes between 4 and 6 years of GlobalSantaFe experience (depending upon the talent and capacity of the individual) to be fully qualified for this position.

The evidence of record shows that the beneficiary has been employed by the foreign company since May 2000. As of the date this petition was filed in January 2004, the beneficiary has been with the company for less than four years. Thus, absent further evidence regarding the specific "talent and capacity" of the beneficiary, it would appear that the beneficiary cannot be deemed to be "fully qualified" for the proffered position, based on the petitioner's own criteria.

Finally, counsel contends on appeal that the director failed to consider the [REDACTED] Memorandum and asserts that the beneficiary meets several of the characteristics of an alien who possesses specialized knowledge as addressed in the memorandum. In this instance, counsel's reliance on the [REDACTED] memorandum is misplaced. First, agency policy memorandum and unpublished decisions do not confer substantive legal benefits upon aliens or bind CIS. Second, it must be noted that in making a determination as to whether the knowledge possessed by a beneficiary is special or advanced, the AAO relies on the statute and regulations, legislative history and prior precedent. The [REDACTED] Memorandum was issued as guidance to assist Citizenship and Immigration Services employees in interpreting a term that is not clearly defined in the statute, not as a replacement for the statute or the original intentions of Congress in creating the specialized knowledge classification, or to overturn prior precedent decisions that continue to prove instructive in adjudicating L-1B visa petitions. The AAO will weigh guidance outlined in policy memoranda accordingly, but not to the exclusion of the statutory and regulatory definitions, legislative history or prior precedents. Therefore, by itself, counsel's assertion that the beneficiary's qualifications are analogous to the examples outlined in the memoranda is insufficient to establish the beneficiary's qualification for classification as a specialized knowledge professional. While the factors discussed in the memorandum may be considered, the regulations specifically require 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 statute and the regulations.

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.

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In visa 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.