



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[REDACTED]

DATE: **JUN 27 2013** Office: VERMONT SERVICE CENTER [REDACTED]

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)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
Ron Rosenberg

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner filed the nonimmigrant petition to classify the beneficiary as an intracompany transferee 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 computer software development and consultancy company with an affiliate, [REDACTED] located in India. It seeks to employ the beneficiary in the specialized knowledge position of senior systems analyst, and intends to extend his assignment at the offices of [REDACTED] for an additional three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary has been employed abroad or would be employed in the United States in a specialized knowledge capacity.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, counsel for the petitioner asserts that the record contains ample evidence establishing that the beneficiary was employed abroad and will be employed in the United States in a specialized knowledge capacity. Counsel submits a brief and additional documentation in support of the appeal.

### I. The Law

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. 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 U.S. temporarily to continue rendering his or her services to the same employer or a parent, subsidiary, or affiliate of the foreign employer.

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

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

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 a 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 and procedures.

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.

## II. The Issues on Appeal

The issues to be addressed are whether the petitioner established that the beneficiary was employed abroad and will be employed in the United States in a specialized knowledge capacity.

The petitioner stated on the Form I-129, Petition for a Nonimmigrant Worker, that it has approximately 60,000 employees worldwide and approximately 12,000 in the United States. In a letter of support appended to the petition, the petitioner averred that it is a "leading provider of custom IT design, development, integration, and maintenance services primarily for 'Fortune 1,000' companies." Regarding its business model, the petitioner stated as follows:

[The petitioner] designs, engineers, and implements IT business solutions on a project basis for companies that are not in the IT sector. [The petitioner] is **not** a staffing or placement company, nor an agent that arranges short-term employment. Because [the petitioner's] clients lack the expertise to develop their own complex IT solutions, the clients have engaged [the petitioner] to develop their IT solutions. Since our clients are not in the IT services sector in the U.S., the placement of Cognizant employees at our clients' sites is not a form of staff augmentation for an IT provider.

(Emphasis in original).

The petitioner also described the on-site/offshore model it uses to provide clients with IT solutions and services, noting that its employees "work as part of a 'virtual' team . . . at onsite client sites, who in turn focus on technical and account management at client locations." It further stated that it goes "far beyond" the established onsite/offshore model by offering an in-depth local management and consulting presence, comprised of onsite teams focused on the customer's business applications."

With regard to the beneficiary's position, the petitioner stated that he would be employed as a senior systems analyst working on the [REDACTED] Project for the petitioner's client, [REDACTED]. The petitioner explained that this project is aimed at building a claim processing system which will identify the most efficient path for healthcare claims to be delivered to the final claim adjudicator. The petitioner noted that the [REDACTED] project on which the beneficiary would be working is the same project to which the beneficiary is currently assigned in the United States. Regarding the beneficiary's physical worksite, the petitioner claimed that he would work onsite at the client's location in [REDACTED].

The petitioner explained that in providing solutions to [REDACTED], its project teams and the constituent professionals allotted to each project would develop a specific domain, also referred to as "an area of control" or "sphere of knowledge," particular to a specific project. The petitioner further stated that, from project to project, the technology spectrum is quite disparate and may involve any combination of technologies including application servers, products and data warehouse tools, databases, languages, multiple platforms, and other complex systems.

According to the beneficiary's resume submitted in support of the petition, the beneficiary has worked on the [REDACTED] since November 2009. The petitioner provided background information regarding the [REDACTED] project and the beneficiary's work on this project, and stated as follows:

While working on this project in the United States, [the beneficiary's] responsibilities include analyzing existing claim processing switches, IPN and Enhanced Edits, to prepare functional specification document, designing application architecture, identifying data loading and reporting requirements in order to develop data loading and reporting features, and developing and enhancing the consolidated claim processing system [REDACTED]. He is involved in system development, migration of Emdeon's claim processing business into technical architecture, and enhancement of data loading, reporting, and user interface modules. He is actively involved in providing the test strategy, test execution plan and test case walkthrough to the client for all related projects. Furthermore, he utilizes his expertise to prepare project metrics, project estimates, and status reports during system development, migration, deployment and maintenance phases. He is the key point of contact between the client and the offshore team. Moreover, he provides technical translation so that all issues and upgrades are accomplished and properly documented. He is responsible for providing status of the project to the client senior management.

The petitioner also stated that the beneficiary's knowledge cannot be easily transferred or taught to another individual, including the petitioner's employees, without substantial financial and operational inconvenience to the petitioner and [REDACTED].

In addition, the petitioner stated that the beneficiary would be using Microsoft Office for documentation of the different processes used in the project, [REDACTED] for issue tracking, and Clearcase for source control and version control of documents. The petitioner also claimed that the beneficiary would use an array of internal tools such as Qview, Qsmart, eTracker, eMetrics, E-Cockpit, TSS (Time Sheet System), and Prolite. Finally, the petitioner stated that to serve as a senior systems analyst on the Advanced Claiming project, an individual must have advanced and special knowledge of various technologies and processes such as J2EE, XML, EJB, NetBeans, IDE, Hibernate, iReport, Struts 2.0, Log4j, JasperReports, and Unix in addition to the internal tools listed above. The petitioner stated that the beneficiary gained in-depth knowledge of these processes while working on various projects in the Healthcare – Plans & Providers domain of the petitioner's Indian affiliate, and further claimed that this knowledge is not generally known within the petitioning company or in the industry in general.

The petitioner's supporting evidence included the beneficiary's detailed resume, a copy of the beneficiary's diploma and transcripts demonstrating that he holds a bachelor's degree in computer science and engineering, and a copy of the Master Services Agreement between the petitioner and [REDACTED]. The petitioner claimed that the beneficiary received internal training in the usage of the tools and processes described above. On his resume, the beneficiary lists his technical skills as follows: Intel x86, IBM Z-series, Sun SPARC, Windows 2000 Professional and AIX Unix, J2EE 1.4, Struts 1.2, Spring, AEFW, Hibernate, EJB, XML, J2SE, LDAP, C, C++, Oracle 9i, IBM D2B and MSSQL Server 2000, IBM WebSphere Application Server 6.0, RAD 6.0, Eclipse IDE and IBM WebSphere Studio 5.0, Rational Rose, Rational XDE, Rational RSM, Visio, JavaScript, and HTML.

The director found the initial evidence insufficient to establish eligibility, and consequently issued a request for additional evidence (RFE). The director instructed the petitioner to submit additional evidence to show that the beneficiary's knowledge is not commonly held by practitioners in the field. The director requested that the petitioner describe a typical work day, highlighting specific duties that require an individual with specialized knowledge. The director also requested, *inter alia*, further documentation with respect to the training provided to the beneficiary, information regarding the amount of time required to train an employee to fill the proffered position, and the number of similarly trained workers within the organization.

In response, the petitioner explained that the beneficiary, while working on the [REDACTED] project in the United States, "has accumulated project and technology specific expertise that is advanced and special." The petitioner provided a more detailed description of the duties the beneficiary would be performing, which are summarized as follows:

1. Understanding the system requirements and design the new system using J2EE and Jasper Technical Architecture (25%)
2. Leveraging Special knowledge on rare technologies – Jasper Reports, Dynamic Jasper and iReport (15%)
3. Providing solution using Technical expertise (10%)
4. Technical Design of the Interaction points between modules (10%)
5. Architecting and designing Data loading tool (10%)
6. Onsite Team Lead work (10%)
7. Code Walk-through to Client (2%)

8. SCRUM Knowledge and Sprint Execution (4%)
9. Cross-verification with Migration strategy (4%)
10. Production Deployment design and planning (5%)
11. Tools development (5%)

In addition, the petitioner claimed that the beneficiary was involved in the development of two specialty tools for [REDACTED] namely: (1) a web tool to capture ILog rules and rule category; and (2) SPExec Tool, a Java tool designed to facilitate the execution and understanding of queries and their results.

The petitioner went on to further describe the beneficiary's training, noting most of the beneficiary's knowledge has come from his experience working on the [REDACTED] project as well as from related company projects in the healthcare vertical since the commencement of his employment. Nevertheless, the petitioner provided a detailed list of the training courses completed by the beneficiary. Specifically, the petitioner claimed that the beneficiary completed 113 hours of coursework through the petitioner's internal "academy" as follows:

1. Healthcare Foundation Program (8 hours)
2. Mainframe Basics (20 hours)
3. Rational Robot (20 hours)
4. Working with eTracker (3 hours)
5. Working with Websphere Portal Server 6.0 (20 hours)
6. Function Point Estimation (8 hours)
7. Software Configuration Management (SCM) (4 hours)
8. Cognizant Quality System (2 hours)
9. Rational Software Architect (8 hours)
10. Rational Rose (8 hours)
11. Cross Cultural Adaptability - US (8 hours)
12. Requirements Management – Webex-Client Lead on November 5, 2008 (2 hours)
13. Level 0: Project Management – Webex-Client Lead on November 19, 2008 (2 hours)

The petitioner also listed the various types of knowledge required for this project, identifying proprietary tools of both [REDACTED] and the petitioner, in addition to third party applications. The petitioner claimed that at least six years of experience working with the petitioner's proprietary project execution and management tools was required, and that this knowledge comes by experience and thus is not easy to transfer. The petitioner also claimed that six years of experience working in its healthcare domain was also required, as well at least nine years of experience working with proprietary third-party tools and processes.

Finally, the petitioner stated that there are 2,283 senior systems analysts employed by the petitioner. The petitioner also stated that nine of the petitioner's employees are currently assigned to the [REDACTED] Project in addition to the beneficiary, and that two of these nine employees are also senior systems analysts. In summary, the petitioner claimed that the beneficiary's special and advanced knowledge may only be attained within the petitioner through direct work experience with the petitioner's process and tools and through project work for its clients such as [REDACTED] along with similar training to that of the beneficiary.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that it will employ him in a capacity requiring specialized knowledge. In denying the petition, the director noted that the beneficiary's knowledge of the [REDACTED] project and the processes and procedures used on this project appeared to be related more to internal [REDACTED] procedures than to proprietary tools and processes of the petitioner. The director concluded by stating that the beneficiary's knowledge did not appear to be distinguishable from other similarly-employed individuals by the petitioner and in the industry in general.

On appeal, counsel for the petitioner asserts that the director's decision was erroneous, contending that the petitioner has submitted sufficient and detailed evidence of the beneficiary's specialized knowledge and the specialized knowledge capacity of the proposed position.

### III. Analysis

Upon review, the petitioner's assertions are not persuasive. The AAO finds insufficient evidence to establish that the beneficiary has been or will be employed in a specialized knowledge position.

In order to establish eligibility for the L-1B visa classification, the petitioner must show that the individual has been and will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." See also 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge. Once the petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. See *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

Turning to the question of whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in a capacity requiring specialized knowledge, upon review, the petitioner has not demonstrated that this employee possesses knowledge that may be deemed "special" or "advanced" under the statutory definition at section 214(c)(2)(B) of the Act, or that the petitioner will employ the beneficiary in a capacity requiring specialized knowledge.

#### A. Description of Job Duties

In examining the specialized knowledge of the beneficiary, the AAO will look to the petitioner's description of the job duties and the weight of the evidence supporting any asserted specialized knowledge. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed job description of the services to be performed sufficient to establish specialized knowledge. *Id.* Merely asserting that the beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the petitioner's burden of proof.

The description of duties that the petitioner provided for the proffered position is insufficient to establish that the beneficiary possesses specialized knowledge. While the description of the position clearly conveys that the beneficiary has worked on the [REDACTED] project, the petitioner repeatedly uses technical and abbreviated terms in the breakdown of duties and training, such as IPN, ETL, and EE, yet provides no explanation or further information regarding the nature of these terms or how they apply to the claimed specialized knowledge of the beneficiary and its application to the project in the United States. The pervasive use of acronyms and technical terminology, without explanation, does not assist the AAO in determining eligibility.

Moreover, the description of duties is generalized, citing duties such as gathering and analyzing requirements, using expertise and knowledge of rare technologies to design and meet project needs, and coordinating with the offshore team regarding technical and design queries. These statements fail to identify the manner in which the claimed specialized knowledge of the beneficiary is required and applied. The petitioner's description of duties, therefore, does little to clarify exactly what knowledge is required for performance of the role of senior systems analyst, or how such knowledge will be applied. Specifics are plainly 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).

The petitioner fails to adequately articulate or document the manner in which the beneficiary has been and will be employed in a specialized knowledge capacity. Going on record without 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'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

#### B. Proprietary Tools And Methodologies

With regard to the specific claims on appeal, both counsel and the petitioner continually assert that the proffered position requires project-specific knowledge that the beneficiary gained in the United States, as well as experience with the petitioner's internal processes and procedures. They conclude that the duties of the

proffered position could not be performed by the typical skilled senior systems analyst specializing in either the petitioner's healthcare vertical or in that industry in general.

One question before the AAO is whether the beneficiary's knowledge of and experience with the petitioner's proprietary tools, processes and methodologies, by itself, constitutes specialized knowledge. The AAO notes that the current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the beneficiary's knowledge be proprietary. *Cf.* 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988). However, the petitioner might satisfy the current standard by establishing that the beneficiary's purported specialized knowledge is proprietary, as long as the petitioner demonstrates that the knowledge is either "special" or "advanced." By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard.

The proprietary specialized knowledge in this matter is stated to include proprietary tools and methodologies developed by the petitioner for the management of the company's software and systems development projects. Initially, in its letter in support of the Form I-129, the petitioner stated that in order to serve as a senior systems analyst on the [REDACTED] project, a senior systems analyst must have "advanced and special knowledge" of various internal and external processes.

Additionally, the petitioner provided the beneficiary's resume for the record. The AAO notes that while the beneficiary may in fact use the petitioner's internal tools to track his project activities, no company-specific knowledge is mentioned anywhere in his resume. For example, the beneficiary lists the [REDACTED] project for [REDACTED] on his resume yet indicates that the project was executed using knowledge of third-party technologies such as J2EE, XML, and JasperReports.

The petitioner emphasizes that the beneficiary possesses special knowledge and advanced understanding of these tools and their implementation in the [REDACTED] project. However, it is reasonable to expect all IT consulting firms to develop internal tools, methodologies, procedures and best practices for documenting project management, technical life cycle and software quality assurance activities. The petitioner did not attempt to explain how its processes and methodologies differ significantly from those utilized by other IT companies. The petitioner has not specified the amount or type of training its technical staff members receive in the company's tools and procedures and therefore it cannot be concluded that processes are particularly complex or different compared to those utilized by other companies in the industry, or that 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. 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 to the tools and methodologies discussed above, the petitioner also claimed that the beneficiary had knowledge of proprietary tools developed by the petitioner that are applicable to the project in the United States, including eTracker and Prolite. The petitioner claimed that the beneficiary's knowledge of these internal tools, as well as various hardware and software platforms which are used in the [REDACTED] project, has allowed him to play a major role in the project. Moreover, the petitioner claims that an individual must have at least six years of experience working with these internal tools and processes in order to perform the duties of the proffered position. The petitioner concludes that his concentrated focus on the development

and implementation of the client's technology cannot easily be passed to another senior systems analyst. The record, however, contains no documentation, such as internal handbooks or promotional materials, which document the existence of these internal processes and platforms the petitioner claims form the basis of the beneficiary's special and advanced knowledge, and which it claims are essential to the performance of duties for [REDACTED]. In addition, despite the listing of training received by the beneficiary which was submitted in support of the claim that his knowledge is specialized, there is minimal evidence (i.e., three hours of training in eTracker) of training being administered in any of these claimed internal processes. This lack of documentary evidence, coupled with the non-specific description of the duties to be performed in the United States, shed little light on the exact requirements for the beneficiary on the [REDACTED] project in the United States and whether specialized knowledge of these, or any similar processes or procedures, will actually be required. 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.

### C. Training

Turning to the training history of the beneficiary, the AAO notes that since the commencement of his employment with the petitioner on July 5, 2004, the petitioner claims that the beneficiary underwent 113 hours of formal training in the processes identified above.

Upon review, the AAO finds this evidence insufficient to establish that the beneficiary possesses specialized knowledge. The training list submitted in response to the RFE included minimal courses in proprietary or client-specific processes. In fact, a review of the list indicates that the only internal process in which the beneficiary received training was eTracker for three hours. This minimal information raises questions regarding the true nature of the beneficiary's claimed special and advanced knowledge. The record reflects that the beneficiary has been assigned to various projects in the petitioner's healthcare vertical since the commencement of his employment, thereby demonstrating that extensive experience and training was not a prerequisite prior to working on the current project and related projects. Absent evidence from the petitioner outlining the manner in which senior systems analysts are trained and the length of time required to become, as the petitioner claims, an "expert" in these processes, the AAO must conclude that other senior systems analysts in the healthcare vertical have received similar training and perform similar duties to those of the beneficiary. Although the petitioner submits a list of the other employees assigned to the [REDACTED] project along with their training records, there is no documentary evidence to support these claims, nor does this list establish a training curriculum or structure such that the AAO can determine and distinguish the nature of the beneficiary's training in comparison to other systems analysts assigned to the same project. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14).

Again, the record appears to indicate that the beneficiary has been fully performing the duties of the senior systems analyst position since the date he was hired by the foreign entity. There is no indication that the beneficiary was employed as a "trainee" or any other position other than that of a senior systems analyst. Moreover, most of the courses he allegedly completed do not appear to constitute or contribute to specialized knowledge as contemplated by the regulations. Finally, the petitioner does not articulate or document how specialized knowledge is typically gained within the organization, or explain how and when the beneficiary

gained such knowledge. Instead, the petitioner repeatedly asserts that knowledge is gained while working in a hands-on manner on various Emdeon projects.

Based on the petitioner's representations, its proprietary processes and tools, while highly effective and valuable to the petitioner, are customized versions of standard practices used in the industry that can be readily learned on-the-job by employees who otherwise possess the requisite technical background in software and systems technologies and appropriate functional or domain background for the project to which they will be assigned. For this reason, the petitioner has not established that knowledge of its processes and procedures alone constitute specialized knowledge.

#### D. Preponderance Analysis

The petitioner submitted lengthy statements in support of the petition and in response to the RFE which provide extensive detail regarding the nature of its business operations. However, it simultaneously provided varied claims with regard to the beneficiary's specialized knowledge that have not consistently explained the nature or specifics of the claimed knowledge, documented when or how he acquired such knowledge, or explained why such knowledge is necessary to the performance of his proposed job duties in the United States. As such, the evidence as a whole does not allow the AAO to conclude that the beneficiary possesses special knowledge by virtue of his training as a senior systems analyst working in the petitioner's healthcare vertical, either compared to senior systems analysts working for the petitioner or compared to other senior systems analysts providing consulting services in the same industry segment.

All employees can be said to possess unique skill or experience to some degree. Moreover, the proprietary qualities of the petitioner's process or product do not establish that any knowledge of this process is "specialized." Rather, the petitioner must establish that qualities of the unique process or product require this employee to have knowledge beyond what is common in the industry. This has not been established in this matter.

On appeal, counsel relies heavily on policy memoranda issued by the former Immigration and Naturalization Service and USCIS. In the present matter, the most pertinent memorandum is the Memorandum from James A. Puleo, Assoc. Comm., INS, "Interpretation of Special Knowledge," March 4, 1994 (Puleo Memorandum). The Puleo Memorandum concluded with a note about the burden of proof and evidentiary requirements:

From a practical point of view, the 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.

*Id.* at page 4.

The AAO does not dispute that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. However, as explained above, the evidence does not distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other people employed by the petitioning organization or by workers employed elsewhere. The beneficiary's duties and technical skills, while impressive, demonstrate that he possesses knowledge that is common among senior systems analysts in the information technology consulting field. Furthermore, it is not clear that the performance of the beneficiary's duties would require more than basic proficiency with the company's internal processes and methodologies. Although the petitioner repeatedly claims that the beneficiary's knowledge is special and advanced, the petitioner failed to provide independent and objective evidence to corroborate such claims. 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.

It is reasonable to conclude, and has not been shown otherwise, that all senior systems analysts assigned to client projects must use the same tools to record and track project activities. The petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's processes is advanced in comparison to that possessed by others employed by the petitioner, or that the processes used by the petitioner are substantially different from those used by other technology consulting companies, such that knowledge of such processes alone constitutes specialized knowledge.

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.*

For the reasons discussed above, the evidence submitted fails to establish by a preponderance of the evidence that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity with the petitioner in the United States. See Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

#### IV. Conclusion

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.