

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



D-7

FILE: WAC 04 180 50142 Office: CALIFORNIA SERVICE CENTER Date: NOV 10 2005

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

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

ON BEHALF OF PETITIONER:
[Redacted]

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.

6

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded for further consideration and a new decision.

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 Delaware limited liability company, provides litigation support services, and claims that it is a subsidiary of SPI Technologies, Inc. located in Manila, Philippines. The petitioner seeks to employ the beneficiary as a project manager for a three-year period.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary has specialized knowledge or that she will be employed in a capacity that involves specialized knowledge. The director noted that the petitioner had not provided a clear description of the services provided by the petitioner, or a clear description of how the beneficiary's position requires the services of an individual who possesses specialized knowledge. The director found that the petitioner had not established that the beneficiary's knowledge is uncommon, noteworthy, or distinguished and not generally known by practitioners in the beneficiary's field.

On appeal, counsel for the petitioner asserts that the petitioner: (1) clearly described the services offered by the petitioner and its parent company; (2) provided a detailed explanation of the specialized and proprietary knowledge required for the offered position; and (3) provided ample evidence that the beneficiary's knowledge is proprietary, uncommon, and not generally known in the petitioner's field. Counsel refers to three Immigration and Naturalization Service (now Citizenship and Immigration Services) memoranda that provide guidance in the interpretation of specialized knowledge and contends that the beneficiary meets the criteria outlined in the memoranda. Finally, counsel contends that the director was obligated to issue a request for additional evidence before denying the petition if he did not understand the evidence submitted or otherwise found it to be insufficient.

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

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

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.

- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct issues: (1) whether the beneficiary possesses specialized knowledge; and (2) whether the proposed employment is in a capacity 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 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 petitioner submitted the nonimmigrant petition on June 10, 2004. In a June 1, 2004 letter submitted with the petition, the petitioner indicated that the beneficiary satisfies four criteria of specialized knowledge as outlined in a 1987 Immigration and Naturalization Service (INS) memorandum in that she: (1) possesses knowledge that is valuable to the employer's competitiveness in the marketplace; (ii) is uniquely qualified to contribute to the U.S. employer's knowledge of foreign operating conditions; (iii) has been a key employee abroad and has been given significant assignments that have enhanced the employer's productivity, competitiveness, image, or financial position; and (iv) possesses knowledge that can only be gained through extensive prior experience with that employer. *See* Memo. from Richard E. Norton, Associate Commissioner, Examinations, USINS, to Regional Commissioners et al, *Interpretation of Specialized Knowledge Under the L Classification*, CO 214.2L-P (October 26, 1988), *reprinted in 65 No. 43, Interpreter Releases 1170, 1194 (Nov. 7, 1988)*. ("Norton Memo")

The petitioner indicated that the offered position "is crucial to [the petitioner] because overall business management is provided by the Project Managers like [the beneficiary] who possess current expertise in [the

foreign entity's] offshore production technology." The petitioner provided the following description of the proposed duties:

As a Project Manager, [the beneficiary] applies proprietary knowledge of SPI's international data conversion services that she acquired through 9 years of progressively responsible work experience with [the foreign entity]. [The beneficiary] provides technical and client services supervision to coding and indexing projects that are executed at [the foreign entity's] offshore production facilities. [The beneficiary] will report directly to the Director of Project Management of [the petitioner]. The Project Manager will effectively manage the development of [a] cross-functional project team (up to 20 people), guide the decision making process, develop and maintain timelines for each project, ensure integrity from operation and long-range perspectives, track project progress, and provide project management interface between clients and the [foreign entity's] production facilities. Specifically, [the beneficiary] will be responsible for:

Client Specifications and Requirements:

- Receiving, reviewing and distributing client specifications to the SPI project team.
- Approving project specifications and updates.
- Ensuring all project information is disseminated to the SPI project team.
- Serving as client interface by coordinating/communicating directly with the client on matters involving project instructions, job queries, production schedules, accuracy requirements and pricing.

Production Activities:

- Presiding over a joint production/system meeting to discuss procedural details on how to achieve initial production parameters.
- Determining initial production parameters based on preliminary workflow and pricing review.
- Coordinating matters related to project instructions, accuracy, quality requirements and related programs.
- Initiating preventive/corrective measures and coordinates with the SPI project team on qualify-related issues.

These duties are directly related to the processes and procedures used at SPI's overseas facility. No U.S. workers, except for those transferred to the U.S. by [the foreign entity], who [sic] would have the requisite knowledge of SPI's proprietary data conversion technology.

The petitioner further indicated that its corporate group had been the first computer database manufacturer in the world to receive ISO 9002 certification. The petitioner stated that its technology "allows it to complete projects faster and more cost-effective than any other method in the industry," and indicated that the company "utilizes a five-stage quality control process involving a proprietary application that performs cross-database correlations on coded and image databases, and scans all records for errors. [The group's] proprietary technology is not available on the open market." The petitioner also indicated that it had recently signed a

contract with Merrill Corporation to provide litigation support services for a leading U.S. national law firm which would involve transaction coding of medical documents with an estimated volume of one million pages.

With respect to the beneficiary's qualifications, the petitioner indicated that she had completed a bachelor's degree in civil engineering. The petitioner also briefly outlined the beneficiary's employment history, which includes five years of experience as a document analyst with an unrelated company and two years of experience as a production supervisor with the foreign entity, where she was responsible for supervising, monitoring, and implementing data conversion systems for an automated mapping/facilities management project. The petitioner indicated that the beneficiary currently works as a project officer at the foreign entity's headquarters performing the following duties:

[The beneficiary] is responsible for analyzing, designing, developing and implementing data conversion systems for database creation projects utilizing [the foreign entity's] proprietary production resources. [The beneficiary] also acts as [the foreign entity's] interface with the client. [The beneficiary] has been involved in the Merrill Corporation project since its inception, and has been instrumental in the project set-up of [the foreign entity's] facility. [The beneficiary] has been interfacing directly with [the client] and Merrill Corporation, and is uniquely qualified to manager [sic] this project.

The petitioner also submitted the beneficiary's resume that lists over twenty seminars she attended between 1995 and 2004. The resume does not indicate whether the training seminars, which include project management, business communications, stress management, team building, supervisory development, and customer service leadership courses, were provided by the foreign entity or by an external provider.

In support of the petition, the petitioner provided: (1) the corporate group's 2002 annual report; (2) company brochures, newsletters, and information from the company's web site further describing the petitioner's litigation support services, methodologies and quality management processes; and (3) an organizational chart for the U.S. company. The organizational chart indicates that the petitioner's project management department currently employs a director, project management, and a project manager, who were both previously employed with the foreign parent company.¹ With respect to the project manager position, the petitioner's company newsletter states:

For additional staffing of the U.S. project management office, we have established a program of bringing experienced project officers from our Philippine facility to the U.S. for internships of approximately one year. This approach to staffing serves the dual purpose of providing experienced senior-level staffing in our U.S. office, and sending interns back to the Philippines after their tenure with a solid appreciation of our clients' needs.

¹ Citizenship and Immigration Services (CIS) records show that the petitioner's director of project management and project manager were employed as L-1A intracompany transferees.

The director denied the petition on June 24, 2004, concluding that the petitioner had not established that the beneficiary has specialized knowledge or that she will be employed in the United States in a position requiring specialized knowledge. Specifically, the director noted:

The petitioner has not described the employer's business activities in a manner that allows for a clear understanding of the products and services that are provided by the employer to its customers, and how the beneficiary's position requires the services of an individual who possesses specialized knowledge.

* * *

Merely indicating that the beneficiary has 9 years of progressively [sic] work experience with [the foreign entity] does not demonstrate specialized knowledge. The petitioner failed to submit probative evidence to demonstrate that the beneficiary is employed or will be employed in a capacity involving specialized knowledge.

* * *

It appears to USCIS that the beneficiary is a skilled Project Manager experienced with the petitioner's particular services. However, the USCIS does not find that simple experience and familiarity constitutes "special knowledge[]" within the meaning of section 214(c)(2)(B) of the Act.

On appeal, counsel for the petitioner contends that the evidence on record establishes that the director erred in his review of the facts and application of the law. Counsel asserts that the petitioner clearly described its business activities and provides a detailed summary of the information and documentation submitted with the initial petition regarding the petitioner and the services it provides. With respect to the beneficiary's specialized knowledge qualifications, counsel re-states portions of the petitioner's June 1, 2004 letter and asserts:

The petitioner clearly stated it is transferring the beneficiary solely to oversee the Baach Robinson & Lewis LLC/Merrill Corporation project. As stated in the employer support letter, the beneficiary has been involved in this project since its inception. The beneficiary was selected for this overseas assignment because she has been instrumental in establishing and customizing [the foreign entity's] capabilities to satisfy the customers' requirements. The beneficiary has been interfacing directly with the Baach Robinson & Lewis LLC and the Merrill Corporation and is uniquely qualified . . . to manage this project.

Counsel further states: "The key to the petitioner's business is the in-house production facility located at the company's headquarters in the Philippines utilizing proprietary technology and processes. U.S. projects are transferred to the offshore facility and Project Managers are transferred to the U.S. to oversee the project." Counsel contends that the petitioner provided detailed descriptions of the beneficiary's job duties, the U.S. project, and the petitioner's proprietary technology, and "established a nexus between the job duties and the

U.S. project.” Counsel states: “[N]o reasonable person could conclude the petitioner failed to describe how the beneficiary’s position requires the services of an individual who possesses specialized knowledge.”

Finally, counsel objects to the director’s findings that the petitioner had not established that the beneficiary’s knowledge is “uncommon, noteworthy, or distinguished and not generally known by practitioners in the beneficiary’s field.” Counsel notes that the director failed to acknowledge the five years of industry experience gained by the beneficiary prior to joining the foreign entity, giving her a total of fourteen years of experience in litigation support services. Counsel further refers to the aforementioned Norton memo, as well as 1994 and 2002 INS memoranda regarding the adjudication of L-1B petitions, noting that these memoranda set forth the standards for specialized knowledge. *See* Memo. from James A. Puleo, Acting Exec. Assoc. Commr., Office of Operations, Immigration and Naturalization Serv., to All Dist. Dir. et al., *Interpretation of Special Knowledge*, 1-2 (March 9, 1994) (copy on file with *Am. Immig. Law Assn.*) (“Puleo Memo”); Memo. from Fujie Ohata, Assoc. Commr., Service Center Operations, Immigration and Naturalization Serv., to All Service Center Directors, *Interpretation of Specialized Knowledge*, HQSCOPS 70/6.1, (December 20, 2002)(copy on file with *Am. Immig. Law Assn.*) (“Ohata Memo”)

Counsel states that the beneficiary satisfies five criteria or characteristics of an individual with “specialized knowledge” as outlined in the Puleo Memo. First, counsel contends that the beneficiary possesses knowledge that is valuable to the employer’s competitiveness in the marketplace, explaining: “[The foreign entity] utilizes a five-stage quality control process involving a proprietary application that performs cross-database correlations on coded and image databases and scans all records for errors.” Counsel further claims:

The petitioner’s proprietary technology and procedures distinguish it from its competitors allowing the company to land U.S. contracts like the Baach Robinson & Lewis LLC/Merrill Corporation project. The success of this project depends on the proper exchange of technology between petitioner’s overseas facility and the U.S. subsidiary. The petitioner could not service this contract without an individual, such as the beneficiary, trained and qualified in-house at [the foreign entity.]

Referring to the Puleo Memo, counsel further contends that the beneficiary is qualified to contribute to the petitioner’s knowledge of foreign operating conditions as a result of special knowledge not generally found in the industry; has been utilized abroad in a capacity involving significant assignments which have enhanced the employer’s productivity, competitiveness, image or financial position; possesses knowledge which could be gained only through prior experience with the foreign employer; and possesses knowledge of a product or process which cannot be easily transferred or taught to another individual. Counsel notes that the petitioner submitted the beneficiary’s resume, which “outlines her extensive training regimen and establishes her advanced knowledge of [the foreign entity’s] proprietary technology.” Counsel asserts that knowledge of the petitioner’s proprietary technologies can only be gained with the parent company, and referring to Matter of Penner, 18 I&N Dec. 49 (Comm. 1988), states that a distinction can be made between a person with skills and knowledge to produce a product through physical or skilled labor and an individual who carries out a key process or function essential to the company’s operation. Counsel notes that the beneficiary will be managing a project rather than performing hands-on document coding and indexing services, and, due to her involvement in setting up the Merrill Corporation project overseas, is uniquely qualified to manage the

project. Counsel states that the beneficiary is one of the few employees within the foreign entity qualified for the U.S. position based on her involvement in setting up the project overseas, and claims: "In order to transfer the knowledge an individual must be trained at the [the foreign entity's] headquarters in Manila in [the foreign entity's] proprietary processes, procedures and technology for several years."

Counsel concludes that the director "failed to consider the description of beneficiary's 9 years of progressively responsible work experience with the parent company [sic] private and proprietary operations. Considering an L-1B petition can be submitted with only 6 months of work experience abroad under the revised blank [sic] regulations, the beneficiary's work experience and qualifications is not an issue." Counsel comments that the director denied the petition without issuing a request for evidence, and notes that if the director "failed to understand the petition or was unwilling to review the extensive documentation, then, at a minimum, it should have issued a Request for Evidence."

Upon review, the director's decision will be withdrawn and the matter remanded for further consideration and a new decision.

The regulation at 8 C.F.R. § 103.2(b)(8) states:

If there is evidence of ineligibility in the record, an application or petition shall be denied on that basis notwithstanding any lack of required initial evidence [I]n other instances where there is no evidence of ineligibility, and initial evidence or eligibility information is missing or the Service finds that the evidence submitted either does not fully establish eligibility for the requested benefit or raises underlying questions regarding eligibility, the Service shall request the missing initial evidence, and may request additional evidence

The director examined the petitioner's evidence and determined that the petitioner had not submitted sufficient evidence to establish whether the beneficiary was employed abroad in a position which involved specialized knowledge, or to establish that the position offered in the United States requires a person with specialized knowledge specific to the petitioner's products or processes.

However, the record as presently constituted does not contain any evidence of clear ineligibility that would justify the director's decision to deny the petition without first requesting additional evidence or issuing a notice of intent to deny the petition. *See* 8 C.F.R. § 103.2(b)(8); *see also* Memo. of William R. Yates, Associate Director, Operations, USCIS, to Regional Directors, et al, *Requests for Evidence (RFE) and Notices of Intent to Deny (NOID)*, HQOPRD 70/2 (February 16, 2005).

Accordingly, as the evidence of record does not directly reflect that the petitioner or beneficiary is ineligible, the director should not have denied the petition based on a lack of evidence without first requesting additional explanation and documentation. *See* 8 C.F.R. § 103.2(b)(8); 8 C.F.R. § 214.2(l)(14)(i). The AAO agrees that the evidence of record raises underlying questions regarding eligibility. In such an instance, director "shall request the missing initial evidence, and may request additional evidence" 8 C.F.R. § 103.2(b)(8).

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.*

When analyzing whether a beneficiary's knowledge rises to the level of specialized, 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)).² As stated by the Commissioner in *Matter of Penner*, 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." 18 I&N Dec. at 52. Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

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

Id. at 53.

It should also 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

² Although the cited precedents pre-date the current statutory definition of "specialized knowledge," the AAO finds them instructive. As will be discussed, other than deleting the former requirement that specialized knowledge had to be "proprietary," the Immigration Act of 1990 did not significantly alter the definition of "specialized knowledge" from the prior INS interpretation of 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.

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.

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 all employees with specialized knowledge, but rather to "key personnel" and "executives.")

In this matter, the petitioner has not documented the beneficiary's claimed specialized knowledge. Although the petitioner has submitted voluminous documentation and explanation regarding the services provided by the U.S. and foreign entities, it has provided only a brief and vague description of the beneficiary's nine years of employment with the foreign entity. On appeal, counsel emphasizes that the beneficiary is one of few employees capable of filling the U.S. position, but supported this statement only with a vague reference to her role in the "set up" of a project for the U.S. client at the foreign entity's facility. 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)). To cure these deficiencies, the petitioner should provide a comprehensive description of all positions held by the beneficiary since joining the foreign entity, including all job duties performed, the specific knowledge and skills applied in each position, and the foreign entity's requirements for each position. The petitioner should also describe all projects to which the beneficiary has been assigned, particularly the Merrill Corporation project, and any special or advanced assignments that would help to establish that the beneficiary should be considered "key personnel," as discussed above.

The petitioner has submitted a resume for the beneficiary that provides a training summary. However, it refers to the training seminars by course title only. If the beneficiary has undertaken specialized training with the foreign entity, the petitioner should identify the type and length of training, the purpose of such training, and evidence, such as course completion certificates or other records, to establish that the beneficiary actually completed the training. The petitioner should also describe the training program typically completed by similarly employed workers in the foreign organization. If all employees receive exactly the same training, mere completion of the training program is insufficient to establish that the beneficiary's knowledge is advanced.

The record contains no information regarding other similarly employed workers employed by the foreign entity which would allow CIS to make comparisons between the beneficiary and the remainder of the foreign entity's workforce. The petitioner should identify the total number of workers employed at the location where

the beneficiary works, the number of workers employed in the same or similar roles, and provide an organizational chart for the foreign entity. As noted above, the petitioner has stated that the beneficiary is one of "the few" employees of the foreign entity capable of performing the duties of the position offered in the United States, but did not provide documentary evidence to support this statement. The petitioner should also further describe the staffing of the United States entity. If the petitioner employs other workers in the position to be filled by the beneficiary or similar positions, it should describe how the beneficiary's duties will differ from those of the other employees, and describe the educational and professional background of any similarly employed worker.

Counsel states on appeal that the beneficiary earned the offered position of project manager only after gaining nine years of experience with the foreign organization and its proprietary processes and technology. A review of current position openings available on the foreign entity's web site reveals that the company's requirements for a project officer/project manager position include a college degree, two years of experience in project management, knowledge of traditional project management methodologies, and organizational, leadership and team building skills. The petitioner should clarify its statement that it would require years of training with the foreign entity in order to prepare another individual to perform the duties of a project manager.

In addition, the AAO notes that the supporting company documents submitted with the initial petition indicate that the company transfers project managers from the foreign entity to complete "internships" within the petitioner's U.S. operations. On appeal, counsel suggests that the beneficiary is coming to the United States solely to manage a specific project. The petitioner should clarify the purpose for the beneficiary's transfer and provide a more detailed description of the scope and anticipated length of the U.S. project.

Finally, the petitioner has not provided sufficient information or documentation regarding its proprietary technologies and processes that would distinguish it from other companies providing litigation support services. Any company offering services in this industry would reasonably utilize sophisticated quality control procedures and methodologies for transferring data and coding documents. The petitioner vaguely referred to "proprietary technology" and indicates that the beneficiary creates or implements databases, but failed to provide a description of any technology that is specific to the petitioner. Nor did the petitioner indicate how the beneficiary utilizes proprietary technology to perform her current duties, or how she will use this knowledge to manage projects in the United States. The petitioner should explain how its technologies or processes differ from those used by other companies in its industry, and why knowledge needed to perform the duties of the U.S. position could not be easily transferred to an experienced project manager with similar experience in the petitioner's industry.

The lack of evidence in the record as presently constituted makes it impossible to classify the beneficiary's knowledge of the petitioner's technology and processes as advanced, and precludes a finding that the beneficiary's role is "of crucial importance" to the organization. Although the knowledge need not be narrowly held within an organization in order to be specialized knowledge, the L-1B visa category was not created in order to allow the transfer of employees with any degree of knowledge of a company's products. As the petitioner did not have sufficient notice of the deficiencies in its evidence, the petition will be remanded, and the petitioner shall be given the opportunity to submit additional evidence in order to establish the beneficiary's specialized knowledge qualifications.

In this matter, the evidence of record raises underlying questions regarding eligibility. Further evidence is required in order to establish that the petitioner and beneficiary meet the requirements for L-1B classification. The director's decision will be withdrawn and the matter remanded for further consideration and a new decision. The director is instructed to issue a request for evidence addressing the issues discussed above, and any other evidence he deems necessary.

ORDER: The decision of the director dated June 24, 2004 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision.