

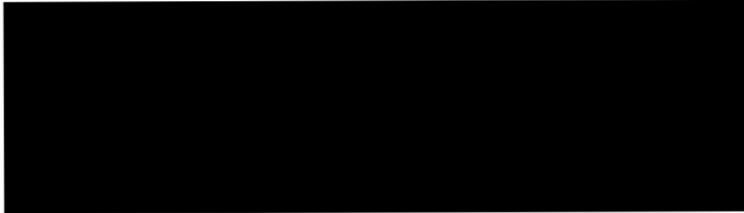
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U.S. Citizenship  
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Services

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DT



File: WAC 05 800 50348 Office: CALIFORNIA SERVICE CENTER

Date: **AUG 01 2008**

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)

ON 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, California 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 in the position of Claims Adjustment Specialist 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 corporation, claims to be a third party claims administrator. The petitioner claims to be an affiliate of the beneficiary's foreign employer, ProcessMind Services Pvt. Ltd., located in India. The petitioner seeks to employ the beneficiary for a period of two years.

The director denied the petition, concluding that the petitioner failed to establish that the position offered to the beneficiary requires someone with specialized knowledge or that the beneficiary has such knowledge.

On appeal, counsel for the petitioner asserts that the petitioner has satisfied the criteria for establishing that the beneficiary is a specialized knowledge employee, and that CIS misapplied current standards set forth in section 101(a)(15)(L) of the Act and agency memoranda. Counsel for the petitioner states that the beneficiary has specialized knowledge because she satisfies the following criteria: 1) the beneficiary possesses knowledge that is valuable to the employer's competitiveness in the market place; 2) the beneficiary is uniquely qualified to contribute to the United States employer's knowledge of foreign operating conditions; 3) the beneficiary has been utilized as a key employee abroad and has been given significant assignments which have enhanced the employer's productivity, competitiveness, image or financial position; and, 4) the beneficiary possesses knowledge, which can be gained only through extensive prior experience with that employer. Counsel submits a brief in support of the appeal.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

The regulation at 8 C.F.R. § 214.2(l)(3) further 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:

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 May 17, 2005. In a support letter dated May 18, 2005, the petitioner stated that the current duties the beneficiary performs as a team coordinator with the foreign company is as follows:

Beneficiary's duties with [the foreign parent company] include working on the health insurance projects with specialization on provider's maintenance and coordination of benefits. Beneficiary also investigates, determines liability, confirm coverage, establish damages, and negotiate the settlement of the assigned claims. Is responsible for supervising the team in conducting investigation on assigned cases, confirm coverage, determine liability, establish damages and adjust all types of claims including property, casualty insurance and Worker's compensation. Analyzes detailed coverage issues and is responsible for complex investigation on litigated and unlitigated cases; reads and understands complaints and petitions, insurance contracts and indemnity agreements from inception to final settlement, including initial investigation of new claims to include recorded statements. Provide client with status of claims at quarterly meetings. Monitor medical and legal issues of claim files.

Beneficiary has special expertise in the area of Claims Management with specific reference to property and casualty insurance. Has received training on worker's compensation Insurance concepts and labor code regulations specific to the California state. Other areas of expertise include health insurance medical claims processing and annuity administration. Also has handled the policy owner services in the annuity domain. As stated earlier the Beneficiary is our certified Claims Adjuster and as part of the training, [s]he is [sic] been taught the following:

- Worker's Compensation Basics
- Temporary Disability Management
- Permanent Disability management
- Vocational Rehabilitation
- Cambridge Best Practices
- Medical Record Interpretation
- Claims Investigation
- File Documentation
- Action Plan Quality Initiative
- Reserving Overview
- Recovery
- Medical Disability Management
- Litigation management and Negotiation
- Cambridge WC best Practices

In addition, the petitioner provided the following description of the duties the beneficiary will perform in the proposed position as a claims adjustment specialist in the United States:

Beneficiary will now being [sic] transferred to United States, where with the specialized knowledge of the ProcessMind and Cambridge proprietary methodology to assess claims and be responsible for handling the Workers Compensation caseload from inception to final settlement, including initial investigation of new claims to include recorded statements. She will use the Cambridge proprietary methodology for processing the claims. Provide client with status of claims at quarterly meetings. Direct activities of CSR. Monitor medical and legal issues of claim files. Other duties as assigned. Use Cambridge proprietary suite Cambridge Ovation Business Intelligence Suite and Cambridge Ovation OSHA.

The petitioner further explains its company methodology as a "comprehensive, well-structured, and expertly managed approach to every claim. Our claim professionals communicate clearly with all parties involved and continuously monitor and manage all of the issues that can affect the cost of a claim." In addition, the petitioner explains:

Each month, scheduled training are [sic] delivered to key resources around the world who were chosen by their management based on specific skill levels, and their accountability included the delivery of specific monthly topics to the local Claims Professionals. The training topics included Investigation, (including Fraud prevention), Recovery, File

Evaluation, Medical and Disability Management, Negotiation, and Litigation Management. All participants are required to pass a final exam with score of 85% or higher.

On June 2, 2005, the director issued a notice requesting additional evidence in order to adjudicate the petition. Specifically, the director requested: (1) a brief description of the proprietary methodology and explain how it is different from other methodology for processing claims; and, 2) explanation of how the duties the beneficiary performed abroad and those she will perform in the United States are different or unique from those of other workers employed by the petitioner or other U.S. employers in this type of position.

In response, counsel for the petitioner submitted a letter, dated July 6, 2005, responding to the director's request. In response to the director's request for a description of the proprietary methodology utilized by the petitioner, counsel for the petitioner focused on the company's training process that the beneficiary completed. Counsel for the petitioner asserted the following [emphasis omitted]:

Beneficiary has successfully completed the Adjuster Training Professional Development Program and Phase Training Development Program.

These trainings are aimed at training the participants as a Claims and specifically workman compensation claim Specialist using Cambridge proprietary methodology and tools. It helps participant acquire in depth theoretical and practical knowledge of the management and administration of the Claims with special emphasis on the specialized workmen compensations claims by the third parties. They learn to handle such claims right from origination to final negotiations and adjudication using the company's proprietary tools and methodology. The skills gained by the participant in the training include Temporary Disability Management, Permanent Disability management, Vocational Rehabilitation, Cambridge Best Practices, Medical Record Interpretation, Claims Investigation, File Documentation, Action Plan Quality Initiative, Reserving, Recovery, Medical Disability Management, Litigation management and Negotiation, Worker's Compensation regulations and laws, training on Cambridge proprietary suite Cambridge Ovation Business Intelligence Suite and Cambridge Ovation OSHA and Cambridge WC best Practices.

Cambridge has developed a user-friendly system known as the Cambridge Ovation Business Intelligence Suite, specifically for clients who want a sophisticated tool for consolidating and managing their claim and risk exposure data. It is a web-based application that gives clients access to details of the individual claims, view monthly loss runs and create individualized reports, all of which can be saved and updated automatically.

Cambridge Ovation OSHA, is the company's proprietary online recordkeeping system. This increases administrative efficiency by dramatically reducing the time spent on manual recordkeeping and increasing information accuracy by virtually eliminating date transcription errors. It ensures that the clients of the company are compliant with the required regulations. Because Ovation OSHA is integrated with the Cambridge Ovation business intelligence system, it helps populate the required OSHA recordkeeping forms.

The petitioner did not submit an explanation of how the duties the beneficiary performed abroad and those she will perform in the United States are different or unique from those of other workers employed by the petitioner or other U.S. employers in this type of position as requested by the director.

On July 21, 2005, the director denied the petition concluding that the petitioner did not establish that the position of claims adjustment specialist requires someone with specialized knowledge, or that the beneficiary has such knowledge. The director noted that the petitioner did not demonstrate that the petitioner's processes and procedures are significantly different from the methods generally used by other claims service providers. The director also stated that the duties to be performed by the beneficiary "are essentially those of a claims adjustor."

On appeal, counsel for the petitioner reiterates the job duties to be performed by the beneficiary in the United States, and asserts that the position requires specialized knowledge in order to successfully perform the duties required of the position. Counsel for the petitioner states that the petitioner has satisfied the factors utilized to determine specialized knowledge as outlined in a legacy Immigration and Naturalization Service (INS) memoranda. See Memorandum from [REDACTED], Acting Exec. Assoc. Comm., INS, *Interpretation of Special Knowledge* (March 9, 1991)(hereinafter [REDACTED] memorandum"). Specifically, counsel asserts that the beneficiary meets the requirements set forth in the [REDACTED] memorandum in that she possesses (1) knowledge valuable for competitiveness; (2) unusual knowledge of foreign operating conditions; (3) experience with significant assignments abroad that were beneficial to the employer; and (4) knowledge that can only be gained with the employer or which can not be easily transferred. Counsel further emphasizes that according to the Puleo memorandum, the petitioner is not required to establish that the claimed specialized knowledge is narrowly held within the company or the United States labor market.

On review, the record as presently constituted is not persuasive in demonstrating that the beneficiary has been employed in a specialized knowledge position or that the beneficiary is to perform a job requiring specialized knowledge in the proffered U.S. position. 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 job description of the services to be performed sufficient to establish specialized knowledge.

Although the petitioner repeatedly asserts that the beneficiary's proposed U.S. position requires specialized knowledge, the petitioner has not adequately articulated sufficient basis to support this claim. Although the petitioner has provided a detailed description of the beneficiary's proposed responsibilities as a claims adjustment specialist, the description does not mention the application of any special or advanced body of knowledge which would distinguish the beneficiary's role from that of other claim adjustors employed by the petitioner or the insurance industry at large. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Based upon the lack of supporting evidence, the AAO cannot determine whether the U.S. position requires someone who possesses knowledge that rises to the level of specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

More specifically, while the petitioner has repeatedly asserted that the beneficiary was trained in using the "Cambridge proprietary methodology and tools," the petitioner does not establish that the beneficiary is one of the few employees of the company that obtained this knowledge, or that she is entering the United States in order to train U.S. employees on the business processes, procedures and methods of operation that are unique and proprietary to the company. According to the letter dated July 6, 2005, counsel for the petitioner asserts that the foreign company will become "an extension of the onsite [U.S. company] team because both of them work on the same claims/client that are remotely connected through a virtual private network." Thus, the beneficiary has the same training with the U.S. company's methodologies which is practiced by all employees in the United States company. In addition, there is no evidence in the record that the beneficiary actually participated in the development of such methodologies and processes that might lead to the conclusion that her level of knowledge is comparatively "advanced." In fact, it appears that most of the employees of the petitioning company must complete training in the petitioner's methodology. Again, simply 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. at 165.

In addition, contrary to the assertions of counsel and the petitioner, there is no evidence on record to suggest that the computer systems used by the petitioner, the Cambridge Ovation Business Intelligence Suite and Cambridge Ovation OSHA, are different from those applied by any claims adjustment provider. While individual companies will develop a computer system tailored to its own needs and internal quality processes, it has not been established that there would be substantial differences such that knowledge of the petitioning company's processes and quality standards would amount to "specialized knowledge."

In addition, there is no evidence in the record that the beneficiary has received specific in-house training that would have imparted her with the claimed "advanced" knowledge of the company's processes, procedures and methodologies. In the petition, the petitioner explained that the beneficiary received nine months of in-house training and completed the "adjuster training professional development program" and the "phase training development program." It appears that the beneficiary completed her training on March 31, 2005. According to the "claims management phase training overview from the professional development team" submitted with the petition, the petitioner explains the Phase training and states that "each month, scheduled training was delivered to approximately 80 'Training Champions' nation-wide. Champions were chosen by their management based on specific skill levels, and their accountability included." In addition, it states that the goal of the company is to "follow-up with the developer of 'Phase' training over the next six months to approximately 800 claims professionals." Thus, according to this sheet, each month approximately 80 employees received the Phase training, and eventually the company wanted to provide this training to approximately 800 employees. On appeal, counsel for the petitioner states: "The goal [of training 800 employees] was never achieved and the training referred to in this goal was general training not the specific proprietary training which the beneficiary underwent." Although counsel argues that there are two types of training, a general training and a specific proprietary training, nothing in the documentation supports this claim. The beneficiary completed the "phase training development program" which appears to be the same program discussed in the "claims management phase training overview from the professional development team" as discussed above. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits

competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The AAO does not dispute the likelihood that the beneficiary is an experienced claims specialist who understands claims and is able to apply it within the context of the petitioner's specific environment. However, it is 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*, 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 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. at 15. 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

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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 interpretation of the term. The 1990 Committee Report does not reject, criticize, or even refer to any specific 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 remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification. The AAO supports its use of *Matter of Penner*, as well in offering guidance interpreting "specialized knowledge." Again, the Committee Report does not reject the interpretation of specialized knowledge offered in *Matter of Penner*.

“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 the employee and the remainder of the petitioner’s workforce. While it may be correct to say that the beneficiary in the instant case is a highly skilled and productive employee, this fact alone is not enough to bring the beneficiary to the level of “key personnel.” In addition, it appears that the beneficiary commenced her employment with the foreign company in June 2003 and only recently completed the specific in-house training on March 31, 2004, only two months prior to filing the instant petition. It is implausible that the beneficiary was a “key personnel” for the foreign company when she had been employed with the foreign company for two years and completed her in-house training two months prior to filing the instant petition. Furthermore, even if the beneficiary obtained the required specialized knowledge upon completion of the in-house training, the beneficiary was not employed in a specialized knowledge position for one year prior to filing the instant petition. Thus, the evidence does not establish the beneficiary’s one year of qualifying employment abroad. See 8 C.F.R. § 214.2(l)(3)(v).

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

Further, although counsel correctly states that the L-1B visa classification does not require a test of the U.S. labor market for available workers, CIS is permitted to compare the beneficiary's knowledge to the general United States labor market and the petitioner's workforce in order to distinguish between specialized and general knowledge. The Associate Commissioner notes in the Puleo memorandum cited by counsel that "officers adjudicating petitions involving specialized knowledge must ensure that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized." *Memo, Supra*. A comparison of the beneficiary's knowledge to the knowledge possessed by others in the field is therefore necessary in order to determine the level of the beneficiary's skills and knowledge and to ascertain whether the beneficiary's knowledge is advanced. In other words, absent an outside group to which to compare the beneficiary's knowledge, CIS would not be able to "ensure that the knowledge possessed by the beneficiary is truly specialized." *Id.* The analysis for specialized knowledge therefore requires a test of the knowledge possessed by the United States labor market, but does not consider whether workers are available in the United States to perform the beneficiary's job duties.

Furthermore, in the request for evidence, the director instructed the petitioner to submit evidence of how the beneficiary's knowledge differs from the knowledge held by similarly employed individuals within the company and within the labor market. The petitioner failed to submit this documentation in its response. Without this information, the AAO has no basis to compare the beneficiary's knowledge to that of other workers within the company, and therefore it cannot be concluded that his knowledge is "special" or "advanced." There is no indication that the beneficiary has any knowledge that exceeds that of any experienced claims adjuster, or that she has received special training in the company's methodologies or processes which would separate her from any other similarly employed worker with the foreign company. Moreover, notwithstanding the lack of documentation, the petitioner still failed to demonstrate that the beneficiary's knowledge is more than the knowledge held by a skilled worker. *See Matter of Penner*, 18 I&N Dec. at 52.

The record does not distinguish the beneficiary's knowledge as more advanced or special than the knowledge possessed by other claims adjusters. The petitioner has not established that the beneficiary has been trained in and has participated in developing proprietary methodologies for the petitioner. The beneficiary is claimed to have "advanced" knowledge of the company's business processes, procedures and methodologies, as well as "specialized knowledge" in the intricate methodologies created by and utilized by the company. However, as the petitioner has failed to document the purported knowledge, these claims are not persuasive.

Again, the AAO does not dispute that the petitioner's organization, like any claims provider, has its own internal information systems processes and methodologies. However, there is no evidence in the record to establish that the beneficiary's knowledge of these systems processes and methodologies is particularly advanced in comparison to her peers, that the processes themselves cannot be easily transferred to its U.S. employees or to professionals who have not previously worked with the organization, that the U.S.-based staff does not actually possess the same knowledge, or that the U.S. position offered actually requires someone with the claimed "advanced knowledge." The petitioner has simply submitted no documentary evidence in support of its assertions or counsel's assertions that the beneficiary's skills and knowledge of the foreign entity's processes, procedures and methodologies would differentiate her from any other similarly employed claims adjusters within the petitioner's group or within the industry. Simply going on record

without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

In addition, counsel's reliance on the Puleo memorandum is misplaced. It is noted that the memoranda were intended solely as a guide for employees and will not supersede the plain language of the statute or regulations. 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 regulations.

In sum, the beneficiary's duties and technical skills, while impressive, demonstrate knowledge that is common among claims adjustor professionals working in the beneficiary's specialty in the claims adjustment field. The petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's processes is more advanced than the knowledge possessed by others employed by the petitioner, or that the processes and systems used by the petitioner are substantially different from those used by other large claims providers. The AAO does not dispute the fact that the beneficiary's knowledge has allowed her to successfully perform her job duties for the foreign entity. However, the successful completion of one's job duties does not distinguish the beneficiary as possessing special or advanced knowledge or as a "key personnel," nor does it establish employment in a specialized knowledge capacity. As discussed, the petitioner has not submitted probative evidence to establish that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known in the beneficiary's field of endeavor, or that her knowledge is advanced compared to the knowledge held by other similarly employed workers within the petitioner and the foreign entity.

The legislative history of 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. Based on the evidence presented, it is concluded that the beneficiary has not been employed abroad and would not be employed in the United States in a capacity involving specialized knowledge. For this reason, the appeal will be dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.