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U.S. Citizenship and Immigration Services  
Office of Administrative Appeals  
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File: EAC 08 144 52157 Office: VERMONT SERVICE CENTER Date: APR 03 2009

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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

IN BEHALF OF PETITIONER:  
[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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont 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, a New Jersey corporation, filed this nonimmigrant visa petition to employ the beneficiary in the position of "IT and finance auditor" as an L-1B 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 claims to have a qualifying relationship with the beneficiary's foreign employer in India.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary 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. 8 C.F.R. § 214.2(l)(3)(iii).

On appeal, counsel asserts that the petitioner need only establish that the beneficiary was employed abroad for six months, even though the Act was amended in 2004 to require one year of foreign employment for all beneficiaries under the L classification after June 6, 2005. *See* L-1 Visa Reform Act of 2004, Pub. L. No. 108-447, Div. J, Title IV, 118 Stat. 2809 (Dec. 8, 2004). Counsel argues that, because the petitioner received approval of a blanket L petition on April 17, 2003 (EAC 03 138 54641), the beneficiary is "grandfathered" and, accordingly, only needs to establish that its beneficiaries have six months of foreign employment.

To establish L-1 eligibility under section 101(a)(15)(L) of the Act, 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. The petitioner must also demonstrate that the beneficiary seeks to enter the United States temporarily in order to continue to render 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.

The primary issue in the present matter is whether the petitioner must establish that the beneficiary 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. 8 C.F.R. § 214.2(l)(3)(iii).

The instant petition was filed on April 23, 2008. The petitioner indicates in a letter dated April 21, 2008 that the beneficiary began working for the foreign employer in India in August 2007, less than one year prior to the filing of the petition. Accordingly, the director concluded that the beneficiary is not eligible for the benefit sought because the beneficiary was not employed for one continuous year abroad. 8 C.F.R. § 214.2(l)(3)(iii).

On appeal, counsel asserts that the petitioner need only establish that the beneficiary was employed abroad for six months. Counsel claims that, because the petitioner received approval of a blanket L petition on April 17, 2003 (EAC 03 138 54641), which was during a window in time during which beneficiaries of petitions filed by importing employers with approved blanket petitions were only required to have six months of qualifying foreign employment, the beneficiary of the instant petition is "grandfathered." As a grandfathered petition, counsel argues that the beneficiary only needs to have six months of qualifying employment abroad, even though the petition was filed almost three years after the June 6, 2005 effective date of the L-1 Visa Reform Act, which restored the requirement that beneficiaries have one year of foreign employment. *See* L-1 Visa Reform Act of 2004, Pub. L. No. 108-447, Div. I, Title IV, 118 Stat. 2809 (Dec. 8, 2004). Counsel concedes that policy guidance from U.S. Citizenship and Immigration Services (USCIS) indicates that all beneficiaries of initial petitions under the L classification filed after June 6, 2005 must have one year of qualifying foreign employment, including new beneficiaries of previously approved blanket petitions, like the instant beneficiary. Memo., [REDACTED], Dir. Of Operations, USCIS, *Changes to the L Nonimmigrant Classification made by the L-1 Reform Act of 2004* (July 28, 2005) (hereinafter "the Yates Memo"). However, counsel also asserts that, subsequent to the Yates Memo, "USCIS communicated to [the American Immigration Lawyers Association] that Blanket Ls approved prior to December 8, 2004 could continue to benefit from the six month exception." Counsel does not provide a copy of this "communication" or provide any additional details.

Upon review, counsel's assertions are not persuasive, and the appeal will be dismissed.

Prior to 2002, all beneficiaries under the L classification were required to have one year of qualifying employment abroad. However, in 2002, section 2(a) of the Act of January 16, 2002, Pub L. 107-125, 115 Stat. 2403 (Jan. 16, 2002) reduced this requirement to six months for beneficiaries of petitions filed by importing employers having approved blanket petitions. The Act of January 16, 2002 amended section 214(c)(2)(A) of the Act to state as follows:

In the case of an alien seeking admission under section 101(a)(15)(L), the 1-year period of continuous employment required under such section is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition under this paragraph and met the requirements for expedited processing of aliens covered under such petition.

This reduced requirement lasted until June 6, 2005, the effective date of the L-1 Visa Reform Act, which restored the requirement that beneficiaries have at least one year of foreign employment. L-1 Visa Reform Act of 2004, Pub. L. No. 108-447, Div. J, Title IV, 118 Stat. 2809 (Dec. 8, 2004). Section 413(b) of the L-1 Visa Reform Act states that the restoration of this requirement "shall apply only to petitions for initial classification filed on or after [June 6, 2005]." As the referenced 2002 amendment only applied to blanket-based petitions, it is clear that the L-1 Visa Reform Act's restoration of this requirement was also directed solely at blanket-based petitions, and no intent to grandfather an initial blanket-based petition could logically be derived from the plain language of the statute. Accordingly, all L-1 petitions filed after June 6, 2005 for new beneficiaries, including those filed by an employer with a previously approved blanket petition, must establish that the beneficiaries were employed abroad for at least one year.<sup>1</sup>

Consistent with this clear interpretation, USCIS issued the Yates Memo on July 28, 2005, which also announced revisions to pertinent sections of the *Adjudicator's Field Manual*. The policy guidance in the Yates Memo explains the application of the statutory changes on pages 11 and 12 as follows:

All L-1 beneficiaries are now required to have been employed abroad for a 12-month period regardless of whether the beneficiary is obtaining L classification based on a blanket petition or as an individual. This provision applies only to *initial* L-1 petitions filed after June 6, 2005. Thus, adjudicators should not issue RFEs on that issue for L-1 petitions that were pending on that date. The 6-month rule should also continue to be applied to cases involving extensions or changes of job duties within the L classification filed after the effective date, but in which the original status was obtained through a blanket process prior to the effective date based upon the then-existing eligibility requirements.

Finally, although counsel failed to specifically identify the claimed "communication" between USCIS and the American Immigration Lawyers Association (AILA) which is purportedly inconsistent with the Yates Memo, it appears that AILA has posted on its website a "communication" from June 8, 2006 which clarifies the position of both the Department of State and USCIS on this issue. *See* AILA InfoNet Doc. No. 06060863 (June 8, 2006). This "communication" is entirely consistent with the Yates Memo, stating in pertinent part:

In conclusion, it is the shared view of USCIS and [the Department of State] that the reinstated twelve month requirement applies to an alien who is seeking initial classification as an L-1 nonimmigrant on the basis of a blanket petition filed with USCIS irrespective of when

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<sup>1</sup> It is noted that blanket petitions do not seek a "classification" as that term is used in the Act and the regulations. Instead, a blanket petition is only filed by a petitioner that "seek[s] continuing approval of itself and some or all of its parent, branches, subsidiaries, and affiliates as qualifying organizations. . . ." 8 C.F.R. § 214.2(l)(4)(i). Based on an approved blanket petition, managers, executives, and specialized knowledge professionals may then seek to be "classified as intracompany transferees." 8 C.F.R. § 214.2(l)(4)(ii). Thus, based on this reasoning, it is even more apparent that Congress meant for the amendment in the L-1 Visa Reform Act to apply to any and all aliens covered under a blanket petition, who are seeking "initial classification" on or after June 6, 2005 as a manager, executive, or specialized knowledge professional. In other words, the determining factor in the amendment's applicability would be the date the I-129S or I-129 is filed seeking L-1 classification for the individual and *not* when the blanket petition seeking continuing approval of the qualifying relationship was initially filed and approved with USCIS.

the blanket petition was filed. Of course, an alien who was classified as an L-1 nonimmigrant prior to June 6, 2005 on the basis of the blanket petition would continue to be subject to [the] six-month employment requirement.

*Id.*

Therefore, although counsel claims that USCIS "only recently has been adhering to the Yates memo," this claim, to the extent it is even relevant, appears to be incorrect. USCIS's position was made clear in the Yates Memo in 2005, and this position, which is consistent with the unambiguous language of the statute, was communicated to AILA in 2006, almost two years prior to the filing of the instant petition on April 23, 2008.

Accordingly, the petitioner in this matter is obligated to establish that the beneficiary 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. As the petitioner concedes that the beneficiary has not been employed for at least one year abroad, the beneficiary is not eligible for the benefit sought and the appeal will be dismissed.<sup>2</sup>

Beyond the decision of the director, the petitioner has failed to establish that the beneficiary has been or will be employed in a specialized knowledge capacity or that the beneficiary possesses specialized knowledge. 8 C.F.R. §§ 214.2(l)(3)(ii) and (iv).

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.

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<sup>2</sup> Counsel further argues that, since the beneficiary will not apply for "admission" to the United States until after he completes his one-year period of foreign employment in August 2008, the petition should nevertheless be approved. However, this argument is not persuasive. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Therefore, the petitioner's speculation that, in the future, the beneficiary will be eligible for the benefit sought, because of his anticipated fulfillment of the one-year foreign employment requirement, may not be used to establish eligibility. The petitioner must wait until the beneficiary has completed his one-year period of foreign employment before filing an initial petition seeking L-1 classification.

The petitioner describes the beneficiary's duties and claimed specialized knowledge in a letter dated April 21, 2008. The petitioner claims that the beneficiary has worked for the petitioning organization for the past eight months "in reviewing, audit[ing] and documenting business processes and Internal Controls of [enterprise resource planning]-IT systems," and, thus, has "the required and necessary specialized and advanced knowledge of the project." The petitioner further claims that the beneficiary has special and advanced knowledge "of the domain and of [the petitioning organization's] financial and accounting systems, business processes and internal controls." Finally, the petitioner claims that, in the United States, the beneficiary will work as an "internal auditor, auditing IT & financial systems to ascertain weakness if any and compliance with current laws (particularly Sox-Sarbanes-Oxley Act) and financial reporting requirements."

Upon review, the record is not persuasive in establishing that the beneficiary has been or will be employed in a specialized knowledge capacity or that the beneficiary possesses specialized knowledge. 8 C.F.R. § 214.2(l)(1)(ii)(D).

The L-1B specialized knowledge classification requires USCIS to distinguish between those employees who possess specialized knowledge from those who do not possess such knowledge. Exactly where USCIS should draw that line is the question before the AAO. On one end of the spectrum, one may find an employee with the minimum one-year of experience but only the basic job-related skill or knowledge that was acquired through that employment. Such a person would not be deemed to possess specialized knowledge under section 101(a)(15)(L) of the Act. On the other end of the spectrum, one may find an employee with ten years of experience and advanced training who developed a product or process that is narrowly understood by a few people within the company. That individual would clearly meet the statutory standard for specialized knowledge. In between these two extremes would fall, however, the whole range of experience and knowledge that may be found within a workplace.

Looking to the language of the statutory definition, Congress has provided USCIS with an ambiguous definition of specialized knowledge. In this regard, one Federal district court explained the infeasibility of applying a bright-line test to define what constitutes specialized knowledge:

This ambiguity is not merely the result of an unfortunate choice of dictionaries. It reflects the relativistic nature of the concept special. An item is special only in the sense that it is not ordinary; to define special one must first define what is ordinary. . . . There is no logical or principled way to determine which baseline of ordinary knowledge is a more appropriate reading of the statute, and there are countless other baselines which are equally plausible. Simply put, specialized knowledge is a relative and empty idea which cannot have a plain meaning. *Cf. Westen, The Empty Idea of Equality*, 95 Harv.L.Rev. 537 (1982).

*1756, Inc. v. Attorney General*, 745 F.Supp. 9, 14-15 (D.D.C., 1990).<sup>3</sup>

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<sup>3</sup> Although *1756, Inc. v. Attorney General* was decided prior to enactment of the statutory definition of specialized knowledge by the Immigration Act of 1990, the court's discussion of the ambiguity in the legacy Immigration and Naturalization Service (INS) definition is equally illuminating when applied to the definition created by Congress.

While Congress did not provide explicit guidance for what should be considered ordinary knowledge, the principles of statutory interpretation provide some clue as to the intended scope of the L-1B specialized knowledge category. *NLRB v. United Food & Commercial Workers Union, Local 23*, 484 U.S. 112, 123 (1987) (citing *INS v. Cardoza-Fonseca*, 480 U.S. 421, 107 S.Ct. 1207, 94 L.Ed.2d 434 (1987)).

First, the AAO must look to the language of section 214(c)(2)(B) itself, that is, the terms "special" and "advanced." Like the courts, the AAO customarily turns to dictionaries for help in determining whether a word in a statute has a plain or common meaning. *See, e.g., In re A.H. Robins Co.*, 109 F.3d 965, 967-68 (4th Cir. 1997) (using *Webster's Dictionary* for "therefore"). According to *Webster's New College Dictionary*, the word "special" is commonly found to mean "surpassing the usual" or "exceptional." *Webster's New College Dictionary*, 1084 (3rd Ed. 2008). The dictionary defines the word "advanced" as "highly developed or complex" or "at a higher level than others." *Id.* at 17.

Second, looking at the term's placement within the text of section 101(a)(15)(L) of the Act, the AAO notes that specialized knowledge is used to describe the nature of a person's employment and that the term is listed among the higher levels of the employment hierarchy together with "managerial" and "executive" employees. Based on the context of the term within the statute, the AAO therefore would expect a specialized knowledge employee to occupy an elevated position within a company that rises above that of an ordinary or average employee. *See 1756, Inc. v. Attorney General*, 745 F.Supp. at 14.

Third, a review of the legislative history for both the original 1970 statute and the subsequent 1990 statute indicates that Congress intended for USCIS to closely administer the L-1B category. Specifically, the original drafters of section 101(a)(15)(L) of the Act intended that the class of persons eligible for the L-1 classification would be "narrowly drawn" and "carefully regulated and monitored" by USCIS. *See generally* H.R. Rep. No. 91-851 (1970), reprinted in 1970 U.S.C.C.A.N. 2750, 2754, 1970 WL 5815. The legislative history of the 1970 Act plainly states that "the number of temporary admissions under the proposed 'L' category will not be large." *Id.* In addition, the Congressional record specifically states that the L-1 category was intended for "key personnel." *See generally, id.* The term "key personnel" denotes a position within the petitioning company that is "[o]f crucial importance." *Webster's New College Dictionary* 620 (3<sup>rd</sup> ed., Houghton Mifflin Harcourt Publishing Co. 2008). Moreover, 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." *See* 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 (Nov. 12, 1969).

Neither in 1970 nor in 1990 did Congress provide a controlling, unambiguous definition of "specialized knowledge," and a narrow interpretation is consistent with so much of the legislative intent as it is possible to determine. H. Rep. No. 91-851 at 6, 1970 U.S.C.C.A.N. at 2754. This interpretation is consistent with legislative history, which has been largely supportive of a narrow reading of the definition of specialized knowledge and the L-1 visa classification in general. *See 1756, Inc. v. Attorney General*, 745 F.Supp. at 15-16; *Boi Na Braza Atlanta, LLC v. Upchurch*, Not Reported in F.Supp.2d, 2005 WL 2372846 at \*4 (N.D.Tex., 2005), *aff'd* 194 Fed.Appx. 248 (5th Cir. 2006); *Fibermaster, Ltd. v. I.N.S.*, Not Reported in F.Supp., 1990 WL 99327 (D.D.C., 1990); *Delta Airlines, Inc. v. Dept. of Justice*, Civ. Action 00-2977-LFO (D.D.C. April 6, 2001)(on file with AAO).

Further, although the Immigration Act of 1990 provided a statutory definition of the term "specialized knowledge" in section 214(c)(2) of the Act, the definition did not generally expand the class of persons eligible for L-1B specialized knowledge visas. Pub.L. No. 101-649, § 206(b)(2), 104 Stat. 4978, 5023 (1990). Instead, the legislative history indicates that Congress created the statutory definition of specialized knowledge for the express purpose of clarifying a previously undefined term from the Immigration Act of 1970. H.R. Rep. 101-723(I) (1990), reprinted in 1990 U.S.C.C.A.N. 6710, 6749, 1990 WL 200418 ("One area within the L visa that requires more specificity relates to the term 'specialized knowledge.' Varying interpretations by INS have exacerbated the problem."). While the 1990 Act declined to codify the "proprietary knowledge" and "United States labor market" references that had existed in the previous agency definition found at 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988), there is no indication that Congress intended to liberalize its own 1970 definition of the L-1 visa classification.

If any conclusion can be drawn from the enactment of the statutory definition of specialized knowledge in section 214(c)(2)(B), it would be based on the nature of the Congressional clarification itself. By not including any strict criterion in the ultimate statutory definition and further emphasizing the relativistic aspect of "special knowledge," Congress created a standard that requires USCIS to make a factual determination that can only be determined on a case-by-case basis, based on the agency's expertise and discretion. Rather than a bright-line standard that would support a more rigid application of the law, Congress gave the INS a more flexible standard that requires an adjudication based on the facts and circumstances of each individual case. *Cf. Ponce-Leiva v. Ashcroft*, 331 F.3d 369, 377 (3d Cir. 2003) (quoting *Baires v. INS*, 856 F.2d 89, 91 (9th Cir. 1988)).

To determine what is special or advanced, USCIS must first determine the baseline of ordinary. As a baseline, the terms "special" or "advanced" must mean more than simply "skilled" or "experienced." By itself, work experience and knowledge of a firm's technically complex products will not equal "special knowledge." *See Matter of Penner*, 18 I&N Dec. 49, 53 (Comm. 1982). 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. In other words, specialized knowledge generally requires more than a short period of experience; otherwise special or advanced knowledge would include every employee in an organization with the exception of trainees and entry-level staff. If everyone in an organization is specialized, then no one can be considered truly specialized. Such an interpretation strips the statutory language of any efficacy and cannot have been what Congress intended.

Considering the definition of specialized knowledge, it is the petitioner's, not USCIS's, burden to articulate and prove that the beneficiary possesses "special" or "advanced" knowledge. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). 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. A petitioner's assertion that the beneficiary possesses advanced knowledge of the processes and procedures of the company must be supported by evidence describing and distinguishing that knowledge from the

elementary or basic knowledge possessed by others. Because "special" and "advanced" are comparative terms, the petitioner should provide evidence that allows USCIS to assess the beneficiary's knowledge relative to others in the petitioner's workforce or relative to similarly employed workers in the petitioner's specific industry.

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. At a minimum, the petitioner must articulate with specificity the nature of the claimed specialized knowledge. Merely asserting that the beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the petitioner's burden of proof.

Upon review, the petitioner in this case has failed to establish either that the beneficiary's position in the United States or abroad requires an employee with specialized knowledge or that the beneficiary has specialized knowledge. Although the petitioner repeatedly asserts that the beneficiary has been and will be employed in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has failed to identify any special or advanced body of knowledge which would distinguish the beneficiary's role from that of other similarly experienced workers employed by the petitioning organization or in the 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)). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990).

The petitioner asserts that the beneficiary has approximately eight months of experience abroad where he allegedly acquired "specialized knowledge" of the petitioning organization's financial and accounting systems, business processes, and internal controls. The petitioner also asserts that this knowledge was necessary to perform the beneficiary's duties abroad and will be necessary to perform the duties of the proffered position in the United States. However, despite the petitioner's claim, the record does not establish how, exactly, this knowledge materially differs from knowledge possessed by other workers employed by the petitioning organization or by similarly experienced and educated workers in the industry at-large. The record does not establish what qualities of the petitioning organization's financial and accounting systems, business processes, and internal controls are of such complexity that the impartation of this knowledge amounts to the acquisition of special or advanced knowledge. Importantly, the record is not persuasive in establishing why, exactly, any of the beneficiary's knowledge cannot be imparted to a similarly experienced and educated accountant in a relatively short period of time. Again, 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190)). Finally, the record is not persuasive in establishing that the beneficiary's claimed eight months of work experience truly imparted to him knowledge that could reasonably be considered "special" or "advanced." Not only is the record devoid of evidence establishing that he received any training, it does not appear that knowledge of a process or methodology that can be imparted to a worker after eight months of work experience, absent evidence to contrary, could be considered to be specialized knowledge.

