



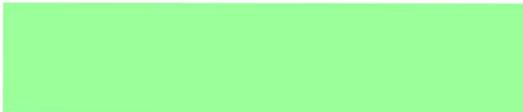
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 25 2013** Office: VERMONT SERVICE CENTER 

IN RE: Petitioner:  
Beneficiary:



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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

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

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

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, recommended denial of the nonimmigrant visa petition and certified his decision to the Administrative Appeals Office ("AAO") for review pursuant to the regulation at 8 C.F.R. § 103.4(a)(5). The AAO will affirm the director's decision and deny the petition.

The petitioner filed this nonimmigrant visa petition to classify the beneficiary as an 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, an Indian corporation with registered branch offices in the United States, indicates that it is a subsidiary of [REDACTED]. The petitioner states that it is engaged in information processing, manufacturing, sales and services. It seeks to employ the beneficiary in the position of System Engineer for a period of three years, based at its New York, New York office.

The director recommended denial of the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge. The director advised the petitioner that the decision was being certified to the AAO for review and issuance of a final decision, and that the petitioner had 30 days to submit a brief or other written statement to the AAO for consideration. As of this date, the petitioner has submitted nothing further and the administrative record will be considered complete.

#### I. The Law

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

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

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

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

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

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training and employment qualifies him/her to perform the intended services in the United States; however the work in the United States need not be the same work which the alien performed abroad.

## II. Specialized Knowledge

The sole issue addressed by the director is whether the petitioner has established that the beneficiary possesses specialized knowledge and will be employed in the United States in a specialized knowledge capacity.

### A. Facts and Procedural History

The petitioner is an information processing, manufacturing, sales and services company with 33,000 employees and over \$144 million in gross annual income.

In a letter submitted in support of the petition, the petitioner stated that it seeks to employ the beneficiary in the position of System Engineer, assigned to the petitioner's team working on the [REDACTED] project" for a U.S. client, [REDACTED]. The petitioner explained that the mission of the project team is "to provide continuous support and upgrade to the [REDACTED] according to their changing business requirements," including development, maintenance and production support for the [REDACTED]

application. The petitioner indicated that [REDACTED] that performs pre-certification, referrals, condition and case management, medical and appeal reviews and health care advocacy activities.

The petitioner described the beneficiary's specific role as follows:

As a System Engineer, [the beneficiary] will be a key member of the team responsible for understanding the specific requirements from the client [REDACTED] and [the petitioner] and architecting [sic] the solutions. He will also be responsible for resolving any production related issues, clarifying the technical and requirement queries, working on customer change requests, and analyzing the requirements mentioned in [REDACTED] and preparing technical design documents. He will also be preparing the estimate for the effort to complete the construction for the customer's satisfaction, performing unit testing and validating the test results against the unit test cases to ensure all the requirements are met. He will be coordinating with the regression team to perform regression testing for each release and establishing quality procedures. He will be planning and prioritizing the application development upon consultation with the client and the delivery team in India. [The beneficiary] will be responsible for gathering and understanding the new business and technical requirements from the client, creating the technical specifications based on the requirements and facilitating the transfer of the specifications to the development team in India.

[The beneficiary] will utilize his specialized knowledge of Mainframe, COBOL, JCL, VSAM, IDMS, and ADSO technologies as well as his knowledge and experience with Infoman, Eazytrieve, File Manager, SAR, Endeavor, WinCVS, IBM Rational Portfolio Manager (IBM RPM), Rational Clear Quest, DMLO, and IDD/IDDM tools, Six Sigma methodology, and IMB's proprietary Quality Management System (QMS), On Demand Process Asset Library (OPAL), and Rational Unified Process (RUP) to perform his daily activities. He will also use the vitally important experience he has gained from implementing the same project for [REDACTED] and [the petitioner] since July 2005. This has given him a keen understanding of [REDACTED] IT structure, business domain and key applications. His activities include, but are not limited to, 24/7 on call production support, monitoring jobs around the clock, preparing analysis and design documents, coding, unit and system testing as well as proposing, designing and implementing system enhancements and automations. He will be responsible for interacting with the client to capture the requirements, documenting these requirements as Use Cases using Rational Unified Process methodology, explaining these requirements to all project stake holders for obtaining sign off along with interacting with [the foreign entity's] team members to explain and communicate these requirements. He will be reporting the project progress to both Project Managers through weekly status reports, tracking project progress and milestones, along with updating project plans for activities completed and milestones achieved.

The petitioner stated that the position of system engineer requires: a degree in computer science, engineering, information technology or a related field; the above referenced-technical skillset as well as the ability to

understand business and technical requirements from clients and convert requirements into specifications; experience working in Systems Development Life Cycle (SDLC) phases in the capacity of designer, developer or tester; and a strong understanding of the technical and deliverable capabilities of the delivery team in India.

With respect to the beneficiary, the petitioner stated that he has been employed with the company in India as a System Engineer for three years and two months, and performing the duties described above on the application for two and one-half years. The petitioner provided evidence that the beneficiary has a Master of Science in Information Technology awarded in July 2005, as well as evidence that the beneficiary has received several awards and certificates from the petitioning company for his work on the project. The petitioner indicated that the beneficiary "possesses almost three years of total IT industry work and learning experience in Mainframe solutions"; experience with analysis, design, development, customization and implementation of mainframe applications; proficiency in analyzing business requirements; experience in executing projects in the healthcare domain; and experience with TSO/ISPF, COBOL, VSAM, JCL, IDMS, Oracle, DB2, J2EE, UNIX and RDBMS.

The petitioner's initial evidence included a copy of the beneficiary's detailed resume, which indicates that he developed two tools for the Account, including "Project Management Operations," a Windows based application developed to integrate all operations of Project Office into one application, and "PCR Generator," a Visual Basic and Mainframe based tool that interfaces with the mainframe to prepare PCR documents. According to the beneficiary's resume, his ongoing responsibilities for ECC are in the maintenance and production support area, and include on-call production support, monitoring jobs around the clock, preparing analysis and design documents, coding, unit and system testing, and proposing, designing and implementing system enhancements and automations.

The director issued a request for additional evidence (RFE) in which he advised the petitioner that, based on the initial evidence, it appears that the beneficiary's use of any proprietary or internally developed tools and methods is merely incidental to the U.S. position. Accordingly, the director requested that the petitioner provide a more detailed description of the nature of the procedures the beneficiary uses, and to describe how the beneficiary's knowledge is different from general knowledge commonly held throughout the industry or the organization. The director instructed the petitioner to use specific terminology, examples and documentary evidence in support of its claims that the beneficiary's knowledge is specialized.

In addition, the director requested: (1) a more detailed explanation of the equipment, system, product, technique, research or service of which the beneficiary has specialized knowledge and whether it is used or produced by other employers; (2) an explanation of how the duties the beneficiary will perform in the United States are different from those of other similarly employed workers; (3) evidence that the client purchased and received the petitioner's product or services in the forms of copies of purchase orders or other evidence; and (4) information regarding the minimum amount of time required to train an employee to fill the proffered position, and the number of similarly employed workers within the organization who have received comparable training.

In response to the RFE, the petitioner provided the following breakdown of the beneficiary's proposed duties:

- Coordinating with customer and off shore team for resolving any Production Related issues. – 25%
- Knowledge transfer to offshore team members of recent business trend and forthcoming projects, which gained by continuous interaction with customers. – 20%
- Clarifying the technical/requirement queries of off-shore development team by interacting with customers.- 10%
- Transformation of business requirements into Higher level technical design – 15%
- Delivering and releasing the project deliverables to the customer – 5%
- Prepare the estimate for the effort required to complete the construction to achieve the customer's requirements. – 5%
- Establish Quality Procedure for the team and continuously monitor and audit to ensure team meets quality goals. – 5%
- Tracking the entire implementation of change request for effort, schedule and issues – 5%

The petitioner indicated that such responsibilities require specialized knowledge of the following equipment, systems, technologies, tools and processes:

- CA-IDMS (CA – Integrated Database Management System) – IDMS is a Network Database Management System used by [REDACTED] system as the central data repository also called the Clinical Data Warehouse. IDMS is a unique and rare skill. . . .
- ADS/O (Application Development system/On-Line) – ADS/O is a development platform to develop online screens that interact with IDMS databases and data dictionaries. . . .
- System Architecture – Knowledge of the system architecture is necessary to be in a position to create design for the project. He has worked on many change requests and enhancements and projects in the [REDACTED] system for the customer to gain the required knowledge. . . .
- Knowledge of SARA – SARA (Systematic Analysis Review & Assistance) is the [REDACTED] Disease Management Library . . . . Close to 400 Matrices feed on the data to identify various medical conditions. Maintenance and enhancement of SARA requires extensive knowledge of how the matrices are configured to work, working with Wellpoint's clients to set up new business change requests, working with the team to set up, work and implement new business SARA change requests. Working with third party vendors for extracting data and reporting. He has worked on SARA for 3 years and is the only person in the team who has experience to work on setting up new business change requests for the project.
- [REDACTED] specific Frameworks and Workflows: [REDACTED] uses specific frameworks for implementation of the various system workflows. [REDACTED] uses software platforms such as SARA, the Unix-Mainframe Interface, Listener jobs, ECC-CS90 interface & Member portal framework to implement critical system-level functionality. His knowledge of the above will help the team

and the customers in making informed business and technical level decisions faster and therefore expedite project delivery.

- [REDACTED] Processes & Tools: The position requires familiarity and understanding of the processes and tools [REDACTED] uses for project delivery, software development life cycle, maintaining quality of deliverables, system maintenance, software configuration, management, production support, application user support, reporting and auditing. Some of them are:
  - OPAL (On Demand Process Asset Library) – The On Demand Process Asset Library (OPAL) represents an implementation of the Worldwide Project Management Method (WWPMM) that supports industry standards, such as CMMI. OPAL is designed to be used as a reference management system that is used in conjunction with the IBM Global Services Method. OPAL is an integrated web-based repository. . . .
  - IBM Quality Management System Process: Rational Unified Process (RUP) is a software development process platform that has all the requisite tools and processes required throughout Software Lifecycle . . . .
  - IBM Rational Unified Process: (Rational Unified Process (RUP) is a software development process platform that has all the requisite tools and processes required for use throughout Software Lifecycle . . . . The project team in Empire is RUP trained and is expected to implement this process in near future.
  - Ezitrieve: a fourth-generation user-oriented tool used with Batch processing. . . .
  - File Manager: File Manager is a powerful tool for editing, browsing, printing, copying and maintaining data on mainframe device. . . .
  - SAR – A SYSOUT Archival and Retrieval system, is a facility for storing and retrieving computer output. . . .
  - Network Data Mover: NDM (Network Data Mover) is a legacy file transfer product commonly employed to transfer files between mainframe computers, and Mid-Range Computers. NDM is used within the financial services industry, government agencies and other large organizations that have multiple mainframes, Mid-Range, Linux or Windows systems.
  - Endeavor – Source Configuration management tool is used to controls and maintains consistency between different versions of the code and ensures that any code in the 'live' environment is the result of thorough testing with minimal or no impacts to customer's business.
  - WinCVS – Is a Document repository and project management tool. This tool is central repository of all project related documents. This tool will provide the secured environment to maintain all project related documents in one single centralized system.
  - IBM Rational Portfolio Manager – Rational Portfolio Management is [the petitioner's] strategic project management tool. . .

- IBM Rational Clear Quest – Change Request Tracking and Defect Management Tool. . .
- DMLO – This tool will provide menu driven facility to access, modify & reporting of data reside in IDMS database.
- IDD/IDDM (Integrated Data Dictionary): IDD is the data dictionary of IDMS database. Anything or everything that IDMS contains will have its entry in IDD . . . .

The petitioner stated that the beneficiary currently uses these tools for his work on the [REDACTED] project and had specific company training on some of these items, while he learned others through experience or through formal education. The petitioner further indicated that the beneficiary's experience "has helped him to gain strong knowledge of the business processes and technical aspects of the [REDACTED] Systems and modules," giving him functional and technical knowledge that is "specialized and unique in the industry."

The petitioner indicated that "[t]o train an employee to fill the proffered position it takes around 1 year 8 months including training all the System Knowledge, tools, languages, domain, processes and methods/procedures." Specifically, the petitioner indicated that a new employee would require: three months of training in Top Level Care; six months of training in SARA; six months of training in [REDACTED] three months of training in IDMS/ADSO, DB2, Unix and Java; two months of training in tools, processes, methods and procedures; and one month of training, combined with on-the-job learning, in the healthcare domain.

The petitioner concluded by stating:

[The petitioner] is the most advanced IT company in the world and incorporates swaths of knowledge. [The beneficiary] comprehends the vast information at [the company] so as to be employed as a System Engineer for [the petitioner] on these projects in the US. He also possesses knowledge of [company] products, services and equipment, particularly as they are applied in international markets. [The beneficiary] commands advanced, uncommon and distinguished knowledge of our services, which is apart from the elementary or basic knowledge possessed by others either in the industry or in our corporation. Through his employment with our organization and his participation on very specific client projects, which have a particular combination of technologies, tools, processes, and criteria associated with it, that does not exist elsewhere in the industry, [the beneficiary] has obtained and utilized special, distinct knowledge and worked in a specialized knowledge capacity in the course of his employment with us.

The petitioner's response to the request for evidence also included a letter from a project manager, who provided the following summary of the beneficiary's company-provided training:

Project Specific Training for Empire Care Connect – 15 days  
HIPPA (Health Insurance Portability and Accountability Act) – 5 days  
Health Care Industry Overview – 5 days  
AHM-250 (Academy of Healthcare Management) Training – 7 days

REXX – 1 day  
Customer Interaction Skills – 1 day  
Java Coding – Best Practices – 3 days  
Software Configuration Management – 1 day  
Defect Prevention – 1 day  
TLC/TK – 3 days  
Webify – 4 days  
Informatica – 3 days  
Terradata – 3 days

The petitioner provided a list of all company employees currently assigned to the [REDACTED] Project at the company's New York, New York office. The list includes a total of 18 employees, including a project manager, two delivery managers, five technical and team leads, two senior software engineers, three system engineers, two advisory systems analysts, a programmer analyst, an application programmer and a technical specialist.

The director concluded that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge and certified his decision to the AAO. In reaching this determination, the director acknowledged the petitioner's description of tools and methodologies the beneficiary uses to perform his duties, but noted that the petitioner failed to provide documentary evidence to establish that these internal tools and processes are anything other than tangential to the client's project. In addition, the director noted that, while the petitioner claimed that the beneficiary's knowledge of the listed tools is specialized within its organization, the petitioner had in fact filed many petitions with USCIS in which beneficiaries were claimed to be well-versed in the same tools and methodologies. The director found that the petitioner failed to establish that the beneficiary's knowledge of such tools and methodologies alone constitutes specialized knowledge, and it failed to document how the beneficiary's knowledge of internal processes, tools and methodologies is different from or advanced in relation to, any similarly employed individual.

The director further found that, based on the evidence submitted, the majority of the beneficiary's work would be centered on the development of [REDACTED] systems, and that any specialized knowledge he may possess would relate to the client's systems, not to the petitioner's products or services. The director noted that, while the petitioner failed to provide a copy of the contract or statement of work describing the exact nature of the petitioner's agreement with the client, the petitioner noted that the beneficiary's project team is providing "development, maintenance and production support of the ECC application," which is owned by [REDACTED]

#### B. Analysis

Upon review, the petitioner has not established that the beneficiary possesses specialized knowledge or that he has been or would be employed in the United States, in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

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

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

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

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

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. Merely asserting that the beneficiary possesses "special" or "advanced" knowledge, or that the position requires such 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 requires an employee with specialized knowledge or that the beneficiary has specialized

knowledge. While the petitioner has provided a detailed description of the beneficiary's duties, such duties are typical of a systems engineer working with mainframe-based database technologies, and require him to use knowledge and technical skills which are widely available in the information technology industry, such as COBOL, Oracle, DB2, J2EE, UNIX, RDBMS, JCL, VSAM and IDMS technologies, and mainframe system tools. The technical environment in which the beneficiary works is one which requires general knowledge that would not be considered specialized within the beneficiary's occupation. Counsel and the petitioner assert, however, that some aspects of the position require project-specific knowledge that the beneficiary gained in India, as well as experience with the petitioner's internal or proprietary processes, methodologies and procedures, and therefore could not be performed by the typical skilled mainframe solutions specialist, or even by other system engineers within the petitioner's group of companies.

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

The proprietary specialized knowledge in this matter is stated to include proprietary tools and methodologies developed by the petitioner for the management of the company's software and systems development projects. The petitioner identifies these tools and methodologies as Quality Management System Process, Rational Unified Process, Rational Portfolio Manager, and Rational Clear Quest. The petitioner emphasizes that its quality procedures are SEI-CMM (Software Engineering Institute – Capability Maturity Model) Level 5 certified, thus further setting apart its employees' knowledge from that generally possessed by similarly-employed workers in the information technology industry. However, it is reasonable to believe that other IT consulting firms develop internal tools, methodologies, procedures and best practices for documenting project management, technical life cycle and software quality assurance activities. It is also industry standard practice for such companies to seek SEI-CMM assessment of their processes and methodologies. The software Capability Maturity Model is not particular to the petitioner's organization.

Other than stating that its software development processes have been given the highest rating from the Software Engineering Institute, the petitioner did not attempt to explain how or whether its processes and methodologies differ significantly from those utilized by other IT companies who have also adopted and followed the software CMM. The petitioner has not specified the amount or type of training its technical staff members receive in the company's tools and procedures and therefore it cannot be concluded that its processes are particularly complex or different compared to those utilized by other companies in the industry, or that it would take a significant amount of time to train an experienced information technology consultant who had no prior experience with the petitioner's family of companies. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings.

*Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The evidence submitted suggests that the petitioner's employees are not required to undergo any extensive training in the company's processes and methodologies. The petitioner indicates that the beneficiary completed 13 classroom-based courses totaling only 54 hours over two years, the majority of which do not appear to be associated with the petitioner's claimed proprietary internal tools and processes. Rather, it appears that the foreign entity hired the beneficiary immediately after he finished his degree, provided him with 15 days of training in the Empire Care Connect System, and immediately assigned him to work on an offshore team charged with maintenance and production support of [REDACTED] Top Level Care Management System, performing duties that are similar to those he will perform for the client in the United States, such as on-call production support, monitoring and optimizing jobs, and preparing analysis and design documents. Further, although the petitioner asserts that it would take approximately 20 months to train another employee to perform the same duties, there is no indication that the beneficiary himself has not been fully performing the duties of a system engineer for [REDACTED] projects since he was hired by the foreign entity. While the petitioner indicates that the beneficiary learned some of his skills through company training, some "through experience" and some through his formal education, it has not provided further specificity in describing when and how he gained the claimed specialized knowledge, nor does the petitioner articulate or document how specialized knowledge is typically gained within the organization.

Accordingly, the petitioner has not adequately supported its claim that it would take 20 months to train a worker for the beneficiary's position. The AAO notes that even if this claim were supported by the record, the petitioner indicates that only two months would be required to familiarize a new employee with the applicable tools, processes, methods and procedures used in performing the job duties. The vast majority of this hypothetical time would be spent learning the client's systems.

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

The remaining tools and technologies the beneficiary utilizes to perform his duties appear to be developed by third-party companies in the information technology industry. For example, the petitioner singles out the beneficiary's experience in "CA-IDMS" or "IDMS" as a "unique and rare skill" and among the most valuable of his skills, as the client uses IDMS as the Network Database Management System for its [REDACTED] system. IDMS is, as the petitioner noted, a CA (Computer Associates) product, and the beneficiary's skills in IDD/IDDM and ADSO relate directly to this third-party product. While the petitioner claims that the beneficiary is the only person on the [REDACTED] project team that possesses the necessary experience with IDMS

and ADSO, it has not been established that such skills are in fact "unique and rare" within the petitioner's industry, or specific to the petitioner or the client project.

The petitioner claims that the second component of the beneficiary's purported specialized knowledge is his existing knowledge of the client's [REDACTED] project and the client's related systems, Top Level Care and SARA. Specifically, the petitioner suggests that the beneficiary's involvement in this client project for approximately three years is indicative of his knowledge of the petitioner's products, services and techniques and their application in international markets. The beneficiary's familiarity with the unaffiliated employer's systems and requirements, while valuable to the petitioner, cannot be considered knowledge specific to the petitioning organization and cannot form the basis of a determination that he possesses specialized knowledge of the petitioner's products, processes or procedures. Most systems and software development employees within the petitioning organization would reasonably be familiar with its proprietary internal processes and methodologies for carrying out client projects. Similarly, most employees would also possess project-specific knowledge relative to one or more international clients, which the petitioner would equate to knowledge of the application of the petitioner's methodologies and processes in international markets. The fact that the beneficiary possesses very specific experience with a particular international client project does not establish that the beneficiary's knowledge is indeed special or advanced. As noted by the director, the beneficiary's knowledge of the petitioner's internal processes, tools and methodologies for project management appear to be tangential to his primary duties, which consist of maintaining, supporting and enhancing the client's [REDACTED] and related systems that are built largely on common third-party technologies.

All employees can be said to possess unique skills or experience to some degree. Moreover, the proprietary qualities of the petitioner's process or product do not establish that any knowledge of this process is "specialized." It is the petitioner's burden to establish that qualities of the unique process or product require this employee to have knowledge beyond what is common in the industry. This has not been established in this matter. The fact that other workers may not have the same level of experience with the petitioner's methodologies as applied to one component of a specific client project is not enough to establish the beneficiary as an employee possessing specialized knowledge.

The petitioner has not demonstrated that the beneficiary's knowledge of the petitioner's processes and procedures gained during his three years of employment with the foreign entity is advanced compared to other similarly employed workers within the organization. The beneficiary would be joining a project team in the United States which appears to be comprised of a number of senior, lead and management-level technical personnel, as well as other system engineers. Although requested by the director, the petitioner failed to explain how the beneficiary's duties are differentiated from those performed by other workers assigned to the same project, or how the beneficiary and his project team are differentiated from other workers providing system development and maintenance duties in the same functional domain. The petitioner simply stated that the beneficiary "commands advanced, uncommon and distinguished knowledge of our services which is apart from the elementary or basic knowledge possessed by others either in the industry or in our corporation." The petitioner attributed this knowledge to his "participation on very specific client projects, which have a particular combination of technologies, tools, processes and criteria . . . that does not exist elsewhere in the

industry." 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)). Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Again, the AAO emphasizes that the particular skill the petitioner emphasized as "unique and rare" relates to the third-party technology IDMS. No support was given for the proposition that this skillset is rarely known in the industry. The petitioner must establish that some qualities of its processes, procedures, and technologies require this employee to have knowledge that is not common in the industry. This has not been established in this matter.

The AAO does not dispute that the beneficiary is a skilled and experienced employee who has been, and would be, an asset to the petitioner. As explained above, however, the record does not meaningfully distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other system engineers employed by the petitioning organization or as specialized compared to similarly-employed workers in the industry. The beneficiary's duties and technical skills, while impressive, demonstrate that he possesses knowledge that is common among system specialists in the information technology consulting field. Furthermore, it is not clear that the performance of the beneficiary's duties would require more than basic proficiency with the company's internal processes and methodologies. 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 used by the petitioner are substantially different from those used by other technology consulting companies.

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

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

### III. Conclusion

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The director's decision will be affirmed and the petition will be denied.

**ORDER:** The petition is denied.