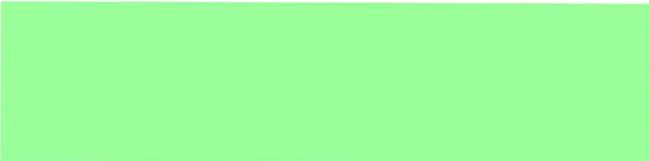
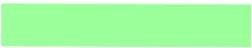
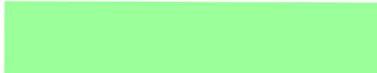




(b)(6)



DATE: **MAR 18 2013** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

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:



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, 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 classify the beneficiary as an L-1B nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a New Jersey corporation, is a comprehensive software consulting company. The petitioner is the wholly owned subsidiary of [REDACTED] [REDACTED] or "parent"), which it claims is "partially owned by [REDACTED]. The petitioner seeks to extend the beneficiary's L-1B status and employment as an Onsite Coordinator for approximately two additional years, until March 13, 2014.

The director denied the petition, concluding that the petitioner failed to establish the beneficiary possesses specialized knowledge and that he will be employed in a position requiring specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel asserts that the evidence in the record was sufficient to establish that the beneficiary is eligible for an L-1B visa.

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.

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.

Section 214(c)(2)(F) of the Act (the "L-1 Visa Reform Act") provides:

An alien who will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 101(a)(15)(L) and will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent shall not be eligible for classification under section 101(a)(15)(L) if—

- (i) The alien will be controlled and supervised principally by such unaffiliated employer; or
- (ii) The placement of the alien at the worksite of the unaffiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.

II. Facts and Procedural History

The petitioner is a comprehensive software consulting company, providing services such as long-term/short-term on-site/off-site software development services including application migration over architecture and operating systems and developing turnkey projects. The petitioner, along with its parent company, executes software development projects for [REDACTED] and its U.S. and other affiliates, as well as for other customers. The petitioner has an approved blanket petition listing the following as qualifying organizations: [REDACTED] (India) (parent); [REDACTED] (New Jersey) (100% owned subsidiary); [REDACTED] (UK) (100% owned subsidiary); [REDACTED] (Japan) (100% owned branch); [REDACTED] (Texas) (100% owned subsidiary); and [REDACTED] (India) (affiliate).

On Form I-129, the petitioner indicated that the beneficiary would be stationed offsite at [REDACTED], which the petitioner described as “an affiliate and part owner.” The petitioner indicated that the beneficiary would be under the direct supervision of a [REDACTED] employee. The petitioner further explained on Form I-129 that [REDACTED] provides IT, ERP, SAP, Oracle and SOX compliance services to [REDACTED] as if [REDACTED] was an in-house IT shop. Since we are the primary provider of these services to [REDACTED], our employees are stationed on-site at [REDACTED].”

In a letter accompanying the initial petition, the petitioner described the beneficiary's work history and job duties in the United States. The petitioner described how the beneficiary was initially transferred to the U.S. entity in January 2009 on an L-1B visa to serve as an Onsite Coordinator, and currently continues to work in this capacity. The petitioner described the beneficiary's duties as providing full time technical coordination support on projects, including working with the existing systems to give production support, understanding offshore work modules to be executed in India, and gathering system requirement specification at the client end. The petitioner specifically described the petitioner's current work on the [REDACTED] DBU BMS Upgrade (“DBU”) family of projects for [REDACTED] aimed at upgrading the existing infrastructure of the [REDACTED] Distribution system utilized by 17 distributors across North America. The petitioner listed the beneficiary's job duties and activities specific to this family of projects as the following:

- Define projects based on requests from users;
- Work with offshore teams for developing the system;
- Work with infrastructure groups for arranging the right environment timely;
- Run periodic meetings with IT Leader to update the progress on projects;
- Escalate issues related to infrastructure and other [REDACTED] groups to IT Leader;
- Provide timely help to users;
- Ensure successful completion of BMS Upgrade implementation at DBU;
- Ensure delivery of projects on time as committed;
- Pro-actively ensure that requirements are complete in all respects and inputs from other offshore teams are obtained (for understanding data inputs) on time before project development starts (preferably);
- Accountability for end deliverable in terms of timeliness, quality and user acceptance;
- Understand importance/criticality of each requirement as it pertains to business needs;

- Understanding key stakeholders for projects and ensuring requirements are closed with them before estimation;
- Present weekly status reports of projects (offshore) with other team members; and
- Interfacing with Other vendors.

The petitioner explained that its turnkey projects for [REDACTED] and affiliated companies are substantially executed offsite in India. However, initial scoping of the project, designing of the potential solution, estimation of manpower and costs, making the proposal, and closing the contract are all done in the United States. The petitioner explained:

Hence, we transfer to the USA, some of our professional overseas employees, who have a thorough knowledge of our pricing mechanisms, availability of in-house knowledge and resources, specialized analysis, design, execution and delivery methodologies and mechanisms, but, more particularly, have specialized and advanced knowledge of specific projects of these clients in the specific domain. These employees also have an advanced knowledge of our structure and of the professional employees of various teams as well as a thorough and advanced knowledge of the deliverables and client expectations. [The beneficiary] continues to be the most appropriate candidate because of specialized and advanced knowledge gained while working offshore on this project as well as while working on-site since his transfer in January 2009

In support of the initial petition, the petitioner submitted a letter from [REDACTED] Manager Global IT Preferred Vendors of [REDACTED], in reference to "the engagement of [REDACTED] employees on our projects at our worldwide locations of [REDACTED] operations including USA, UK, China & India pursuant to the master service agreement (MSA) between [REDACTED] & [REDACTED]" This letter confirms that as part of the engagement, the petitioner's staff is expected to perform the following duties: travel onsite to render value added services in the support and implementation of ERP systems, Movex, Oracle technologies and Lotus Notes applications and any other projects; requirements gathering, software design, and debugging activities; and coordinate with off-shore team, provide software validation support at [REDACTED], and to scope work which will be sent offshore.

The petitioner submitted a copy of its Master Service Agreement (MSA) with [REDACTED] The MSA states, in pertinent part, the following:

The [REDACTED] assignments for which VENDOR personnel provide Services and Products shall remain under the supervision and control of [REDACTED], unless the vendor is working on a Fixed Bid Statement of Work in which case the Vendor personnel shall remain under the supervision and control of the VENDOR.

The director issued a request for evidence ("RFE"). The director requested that the petitioner provide additional evidence to establish that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity in the United States.

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In response to the RFE's request for evidence that the beneficiary possesses specialized knowledge, the petitioner asserted that through the beneficiary's five-plus years of experience with the petitioning organization, the beneficiary has gained "valued specialized and advanced and unique knowledge of the [REDACTED] DBU BMS Upgrade (DBU) family of software development projects." The petitioner stated that the beneficiary's "specialized and advanced knowledge derives from his having worked on and coordinate the execution of this family of projects while overseas and since transfer in January 2009." The petitioner asserted that USCIS "agreed" that the beneficiary had specialized and advanced knowledge when it approved the beneficiary's initial entry into the United States on an L-1B visa in 2009.

With respect to the RFE's request for evidence that the beneficiary will be employed in a specialized knowledge capacity, the petitioner provided the same description and list of job duties for the beneficiary in the United States as previously submitted. The petitioner supplemented its response with a "detailed US Organizational chart which shows the beneficiary's immediate hierarchy, associates and subordinates." Again, the petitioner emphasized that this was the beneficiary's second L-1B extension.

The director ultimately denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge and that he will be employed in a position requiring specialized knowledge. In denying the petition, the director found that the petitioner submitted insufficient evidence to establish that the beneficiary's knowledge of the organization's processes, methodologies, framework, and projects constitutes specialized knowledge. The director also found that the petitioner failed differentiate the processes pertaining to the organization from those applied by any other computer systems analysts or similar positions working in the same industry.

On appeal, counsel asserts the following:

The Petition was denied since the Service opined that the Petitioner (with the Petition and the response to the RFE) had not demonstrated that the beneficiary possessed specialized knowledge and that the beneficiary's position in the U.S. involves specialized knowledge to the satisfaction of the CSC. The Petitioner disagrees with the opinion of the CSC. The Petitioner has clearly demonstrated that the petition complies with the requirements and [the beneficiary] is eligible for an L-1B particularly in light of the fact that the Service has twice, previously, approved an L-1B on behalf of [the beneficiary]. The Service argument that the prior two approvals were not granted by the USCIS but USDOS, holds no water since in blanket L visa issuances, the USDOS AmConsul acts as an agent of the USCIS. Accordingly, the Petitioner seeks de novo review and re-adjudication by the AAO.

Counsel provides no other explanation or documentation to support the appeal.

III. Analysis

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

Upon review, the petitioner failed to establish that the beneficiary possesses specialized knowledge, and that he will 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, the petitioner must show that the individual 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 or prongs. 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.

In the present case, the petitioner's claims are based on the second prong of the statutory definition, asserting that the beneficiary has an advanced level of knowledge of processes and procedures of the company. Specifically, the petitioner asserts that the beneficiary has specialized knowledge of the [REDACTED] DBU BMS Upgrade (DBU) family of software development projects." However, the petitioner failed to articulate with specificity how the beneficiary's knowledge is special, or why the beneficiary's position in the United States requires an employee with specialized knowledge. Therefore, the petitioner's claims fail on an evidentiary basis.

In the instant matter, the petitioner made only broad and conclusory claims regarding the nature of the beneficiary's knowledge. At the time of filing, the petitioner broadly asserted that the beneficiary has "specialized and advanced knowledge" of the petitioner's pricing mechanisms, availability of in-house

knowledge and resources, specialized analysis, design, execution and delivery methodologies and mechanisms, as well as project-specific knowledge for specific clients. However, other than listing the areas the beneficiary purportedly has specialized knowledge in, the petitioner provided no other explanation or documentation to support its claim.

The record is devoid of any technical description or documentation explaining exactly what are the petitioner's processes and procedures related to its pricing mechanisms, availability of in-house knowledge and resources, specialized analysis, design, and execution and delivery methodologies and mechanisms. Furthermore, other than assertions that the beneficiary will continue to work on the [REDACTED] DBU BMS Upgrade (DBU) family of projects for [REDACTED] the petitioner failed to articulate or document why this project will require specialized knowledge. Without this evidence, the AAO is unable to evaluate the petitioner's claims that knowledge of the petitioning company's processes and procedures is truly specialized knowledge, and that the beneficiary will be employed in a specialized knowledge capacity.

When requested by the director to provide a more detailed description of the beneficiary's specialized knowledge and proposed job duties in the United States, the petitioner responded with another broad assertion regarding the beneficiary's "valued, specialized and advanced and unique knowledge." The petitioner also reiterated the same job duties for the U.S. position that the director found to be insufficient. The petitioner failed to provide any meaningful clarification and explanation of the nature of the beneficiary's specialized knowledge and proposed employment. The petitioner's conclusory assertions are insufficient to meet the burden of proof in these proceedings.

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 AAO cannot accept the petitioner's and counsel's unsupported assertions regarding the claimed specialized knowledge. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner's descriptions of the beneficiary's job duties in the United States indicate that the beneficiary will be primarily providing services in third-party technologies such as ERP, SAP, Oracle, and Lotus Notes. The petitioner also described generic job duties such as software design, debugging activities, and coordination with off-shore teams that might reasonably describe the general duties of any software consultant or similarly employed technician working in the petitioner's industry. Notably, the petitioner indicated on Form I-129 that it "provides IT, ERP, SAP, Oracle and SOX compliance services to [REDACTED] Inc. as if [REDACTED] was an in-house IT shop." Considering the above, the petitioner failed to establish that the beneficiary's employment in the United States requires specialized knowledge *particular to the petitioning organization*. See Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D) (requiring specialized knowledge with respect to the petitioning company).

On appeal, counsel asserts that the petitioner has “clearly demonstrated that the petition complies with the requirements and [the beneficiary] is eligible for an L-1B.” Counsel failed to provide any other explanation or documentation to support his claim. The record as presently constituted fails to establish that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity. Again, the unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. at 534; *Matter of Laureano*, 19 I&N Dec. 1; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506.

Finally, on appeal counsel emphasizes that USCIS has twice approved L-1B status on behalf of the beneficiary. Specifically, counsel asserts: “The Service argument that the prior two approvals were not granted by the USCIS but USDOS, holds no water since in blanket L visa issuances, the USDOS AmConsul acts as an agent of the USCIS.”

Counsel’s assertion on this point is unpersuasive.¹ As stated by the director, each nonimmigrant petition filing is a separate proceeding with a separate record and a separate burden of proof. *See* 8 C.F.R. § 103.8(d). Counsel did not supplement the appeal by providing any documents from the petitioner’s prior petitions to establish that the nonimmigrant petitions were approved based on the same facts and scant documentation contained in the current record. If the previous nonimmigrant petitions were approved based on the same unsupported and vague assertions that are contained in the current record, the approval would constitute material and gross error on the part of the director. The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm’r 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

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

Beyond the decision of the director, the record contains insufficient evidence to establish that the petition would be approvable under the L-1 Visa Reform Act. Section 214(c)(2)(F) of the Act specifies that if a specialized knowledge beneficiary will be primarily stationed at the worksite of an unaffiliated employer, the statute mandates that the petitioner establish both: (1) that the beneficiary will be controlled and supervised principally by the petitioner, and (2) that the placement is related to the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary. These two questions of fact must be established for the record by documentary evidence; neither the unsupported assertions of counsel or the employer will suffice to establish eligibility. *Matter of Soffici*, 22 I&N Dec. 158; *Matter of Obaigbena*, 19 I&N Dec. at 534. If the petitioner fails to establish *both* of these elements, the beneficiary will be deemed ineligible for classification as an L-1B intracompany transferee.

¹ Counsel’s assertion is also of questionable relevance to this particular record of proceeding. Nowhere in the director’s RFE or final decision did the director discuss the issue of whether the prior approvals were granted by USCIS or the U.S. Department of State (USDOS).

As a threshold question in the analysis, USCIS must examine whether the beneficiary will be stationed primarily at the worksite of an unaffiliated company. Section 214(c)(2)(F) of the Act. Here, the petitioner indicates on Form I-129 that the beneficiary will be stationed offsite at [REDACTED], but claims that [REDACTED] is "an affiliate and part owner" of the petitioner. If the petitioner can establish that it and [REDACTED] are "affiliates" or "qualifying organizations" as defined in section 101(a)(15)(L) of the Act, 8 C.F.R. § 214.2(l), then the beneficiary will not be deemed to be working "offsite."

Other than the petitioner's conclusory assertions that it and [REDACTED] are "affiliates," the record is devoid of any documentary evidence to support this claim. Specifically, [REDACTED] is not listed as a qualifying organization on the petitioner's blanket L petition, and the petitioner submitted no evidence to establish the exact percentage of ownership [REDACTED] purportedly owns in the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Without such evidence, the petitioner failed to establish that it and [REDACTED] "affiliates" or "qualifying organizations" as defined in section 101(a)(15)(L) of the Act, 8 C.F.R. § 214.2(l). Therefore, the AAO concludes that the beneficiary will be stationed offsite at an unaffiliated employer, and that the terms of the L-1 Visa Reform Act apply.

The first issue under the L-1 Visa Reform Act analysis is whether the petitioner has established that the alien will be controlled and supervised principally by the petitioner, and not by the unaffiliated employer. Section 214(c)(2)(F)(i) of the Act.

Notwithstanding the director's decision, the petitioner has not satisfied this prong of the L-1 Visa Reform Act test. The petitioner asserted on Form I-129 that the beneficiary will "work under the direct supervision of a [REDACTED] employee," but provided insufficient documentary evidence to prove this claim. The petitioner's organizational chart for the "[REDACTED] Onsite Team" reflects that the beneficiary reports directly to [REDACTED], Project Manager-[REDACTED]. However, the same organizational chart reflects that [REDACTED] reports directly to [REDACTED], Manager-[REDACTED] A/C. Furthermore, another organizational chart for the particular "[REDACTED] DBU project team" reflects that the beneficiary reports directly to [REDACTED] Distribution IT Manager- North America, but fails to identify the employer of [REDACTED]. Additionally, the petitioner claimed in its initial supporting documentation that the beneficiary would be "supervised onsite by [REDACTED] an employee of [the petitioner]" and that for human resources issues, "he will continue to be supervised by [REDACTED] our Human Resources manager based in Columbus, IN." Neither organizational chart lists [REDACTED] or [REDACTED] as the beneficiary's direct or indirect supervisor. Therefore, the evidence in the record is insufficient to establish that the beneficiary will be controlled and supervised principally by the petitioner, not by the unaffiliated employer.

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). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

Lastly, the Master Services Agreement between the petitioner ("vendor") and [REDACTED] states the following:

The [REDACTED] assignments for which VENDOR personnel provide Services and Products shall remain under the supervision and control of [REDACTED], unless the vendor is working on a Fixed Bid Statement of Work in which case the Vendor personnel shall remain under the supervision and control of the VENDOR.

The petitioner provided no evidence to establish that the beneficiary is working on a Fixed Bid Statement of Work. Notably, the petitioner failed to provide a copy of the pertinent Statement of Work which was supposed to be included with the Master Services Agreement as "Attachment A," although the petitioner provided copies of attachments B through J. Absent evidence that the beneficiary is working on a Fixed Bid Statement of Work and therefore "shall remain under the supervision and control of the VENDOR," the Master Services Agreement specifies that the beneficiary "shall remain under the supervision and control of [REDACTED]" Considering the above, the petitioner failed to submit sufficient documentation establishing that the beneficiary will be controlled and supervised principally by the petitioner, and not by the unaffiliated employer. Section 214(c)(2)(F)(i) of the Act. The record fails to establish that the petition is approvable under the L-1 Visa Reform Act.

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.

IV. Conclusion

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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 the petitioner has not met that burden.

ORDER: The appeal is dismissed.