

(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

[Redacted]

MAR 10 2013

DATE: OFFICE: VERMONT SERVICE CENTER FILE: [Redacted]

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

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:

[Redacted]

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, 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 Florida limited liability company, operates a new upscale Japanese restaurant. The petitioner claims to be a subsidiary of [REDACTED] located in the United Kingdom, and an affiliate of the beneficiary's foreign employer, [REDACTED], located in Dubai, U.A.E. The petitioner seeks to employ the beneficiary as its sous chef for a period of one year.

The director denied the petition, concluding that the petitioner failed to establish the beneficiary possesses specialized knowledge or that he will be employed in a position requiring specialized knowledge. The director also found that the beneficiary does not have one year of employment abroad in a position involving 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 for the petitioner contends that the director erred in finding that the position does not require specialized knowledge due to the cooking technique used, and erred in finding that the beneficiary does not possess specialized knowledge.

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.

Additionally, when a petition indicates that the beneficiary is coming to the United States in a specialized capacity to open or to be employed in a new office, 8 C.F.R. § 214.2(l)(3)(vi) states that a petitioner shall submit evidence that:

- (A) Sufficient physical premises to house the new office have been secured;
- (B) The business entity in the United States is or will be a qualifying organization as defined in paragraph (l)(1)(ii)(G) of this section; and
- (C) The petitioner has the financial ability to remunerate the beneficiary and to commence doing business in the United States.

I. The Issue on Appeal

The first issue to be addressed is whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in the United States in a specialized knowledge capacity.

The petitioner operates an upscale Japanese restaurant located in Miami, Florida, with additional affiliate locations in Hong Kong, Dubai, London, and Istanbul. The company employs 108 individuals in its Miami

restaurant and estimates a gross income of \$8,039,000 for its first year of operations. The petitioner seeks to employ the beneficiary as a sous chef for one year.

In a letter accompanying the petition, the petitioner states that the restaurant requires a sous chef with specialized knowledge of a particular style of Japanese cooking called "Robatayaki," which the petitioner states is "inspired by the age-old cooking style of northern Japanese fishermen." The petitioner submits training materials and news articles explaining that Robatayaki cooking uses special ingredients, a special caramelizing glaze, and a type of Japanese charcoal that burns 50% hotter than standard charcoal. The petitioner submitted articles demonstrating the success of the restaurant world-wide and explaining the types of food served.

The petitioner provided certificates showing the beneficiary attended a culinary program for three years while working as a chef apprentice at a hotel in South Africa, resulting in the award of a Diploma in Food Preparation and Culinary Arts from [REDACTED] awarded in October 2006 and a Certificate in Professional Cookery issued by the hotel chain in August 2007.

In its letter, the petitioner stated that the "beneficiary originally worked at our Dubai location as a Sous Chef when he joined [the company] in July 2008, and that this was "after an extended period of training under the tutelage of [REDACTED] Chef, founder and CEO of [the company] at our landmark London location." However, the petitioner provided a promotion letter from the Dubai restaurant dated April 11, 2010, addressed to the beneficiary, indicating that he was promoted to the position of Sous Chef as of April 1, 2010, with a monthly salary of AED 7000. The petitioner also provided copies of the beneficiary's salary slips issued by his foreign employer for the period July 2009 through September 2010. According to the beneficiary's salary slips, he held the job title "Chef de Partie" from August 2009 through March 2010, and assumed the title "Senior Chef de Partie" in April 2010, with a monthly salary of AED 4000.

The petitioner explained the beneficiary's responsibilities as follows:

As Sous Chef, [the beneficiary] will be responsible for all kitchen operations in the absence of the Head Chef. [The beneficiary] also is responsible for ensuring that the kitchen's operational budget is strictly adhered to and all costs are strictly controlled. In addition, he is responsible for monitoring the kitchen's operating costs, assisting and training the junior sous chefs, chef de parties, and commis chefs in the preparation of all [REDACTED] dishes. A detailed job description has been enclosed along with this letter for the Sous Chef position.

The attached job duty description stated that the sous chef's main duties include:

- To ensure that all sections are prepared and ready for service at each meal period
- To assist and support each section area, ensuring the flair, creativity, and quality standards for which [the petitioner] is renowned
- To ensure that waste of all food items during food preparation is kept to a minimum
- To assist and train the junior sous chefs, chef de parties, and commis chefs in the preparation of all [the petitioner's] dishes
- To ensure the proper storage of all food items according to health and safety regulations

- To assist in maximizing employee morale and productivity
- To be aware of and abide by all food hygiene laws and Regulations purporting to the preparation an service of fresh fish
- To work in any section of the kitchen when necessary or as requested by the Head Chef
- To become familiar with all sections of the kitchen to facilitate the flexible use of employees
- To ensure that operating and kitchen equipment is maintained to a good standard with minimum breakage
- To ensure work stations are cleaned down at the end of a meal period and food is stored away in the appropriate manner
- To ensure the kitchen and food preparation areas are left clean and sanitized when unattended

The job description also provided the following "departmental responsibilities":

- To report for duty punctually wearing the correct uniform
- To ensure correct handling and basic maintenance is carried out for all machinery and tools in the Sushi section
- To provide a courteous and professional service at all times
- To ensure a smooth operation is maintained at all times and good communication with all heads of department is maintained
- To comply with appropriate legislation
- To maintain a high standard of personal appearance and hygiene at all times
- To maintain a good rapport and working relationship with staff in all other departments
- To attend meetings as required by the management
- To have a complete understanding of the company's policies relating to fire, hygiene, health, and safety
- To be completely conversant with the company's employee handbook and at all times comply with the regulations.

Other listed responsibilities included ensuring adherence to the kitchen's operational budget, controlling operating costs, and ensuring that all chefs attend regular training in knife skills and recipes.

The petitioner stated that the beneficiary, as a result of his employment as a Sous Chef at the petitioner's sister restaurant in Dubai, "gained valuable insight and knowledge into the unique food preparation techniques of [the petitioner]." The petitioner summarized the beneficiary's specialized knowledge qualifications as follows:

[The beneficiary] has specialized knowledge of [the petitioner's] techniques and its application in international markets. His advanced expertise and knowledge of [company] food preparation techniques, including the "Robata Grill", make him essential if our company is to remain competitive in the South Florida market. . . . Our company wants to ensure that the first restaurant venture is a success and truly reflects the high [company] standards of our other restaurants around the world.

The director issued a Request for Evidence ("RFE"). The director requested that the petitioner provide, *inter alia*, evidence that the beneficiary has specialized knowledge and evidence of the proposed specialized knowledge position in the United States. The director requested: a description of the beneficiary's typical work week; the beneficiary's total length of training and classroom education; the minimum amount of time it would take the petitioner to train an employee to fill the position; the number of workers employed similarly to the beneficiary and/or with the comparable training; evidence that the method of cooking is exclusive to the company and not used by others in the industry; a description of the way in which the beneficiary's knowledge differs from other sous chefs.

In response to the RFE, the petitioner submitted a letter from its CEO and founder, who stated that 50% of the restaurants' revenue comes from the Robtayaki Grill, and that the menu, ingredients and cooking technique distinguishes the petitioner from other Japanese restaurants. The petitioner emphasized that Robotayaki cuisine is cooked on an open charcoal grill that demands "top quality ingredients and highly skilled chefs who understand the techniques and principles of the grill." The petitioner further explained that Robotayaki cooking requires the use of Bincho, a unique type of Japanese charcoal that burns 50% hotter than normal charcoal, thus its use requires training and knowledge of the petitioner's "'proprietary' cooking technique." The petitioner noted that different types of meats and skewering methods require different techniques and cooking times, and thus the chefs must be highly trained and experienced.

The petitioner further explained that the petitioner uses multiple glazes in order to caramelize ingredients before and during cooking, and that the cuisine requires specialty ingredients that are not readily available in the United States. For this reason, the petitioner emphasized that "it is imperative that our Sous Chef, who is responsible for the quality control of our ingredients, be able to select ingredients based on his knowledge and training" with ingredients such as "saikyo miso, nama normi, hacho miso, yuzu sudachi and ume boshi."

The petitioner stated that the beneficiary "possesses knowledge concerning food preparation techniques that is not readily available in the United States and that can only be gained through extensive prior experience with [the petitioner's group]." With respect to the requirements of the position, the petitioner stated: "Once a Senior Chef de Partie or a Junior sous chef is identified as a strong candidate to be trained to the Sous Chef position, it will take approximately nine (9) months to one (1) year to train them to a level where they can be left on their own. Most chefs at [the petitioner] are promoted to Sous Chef after approximately one (1) year of training."

The petitioner submitted a second letter which discusses the beneficiary's experience, training and qualifications:

[The beneficiary] gained his knowledge of [the petitioner's] cooking techniques, including the Robata grill, as a result of substantial training. [The beneficiary] followed a detailed Progression Plan to ensure he was ready to take on the role of Sous Chef in the Kitchen. The training mainly occurred in the kitchen area and lasted approximately one year. Most of the training was "on the job" and entailed the cooking and the preparation of food items under the direct supervision of a Senior Sous Chef at [the foreign entity]. [The beneficiary] was trained in the techniques/procedures which include, but are not limited to: the selection of food products, preparation of food items for cooking on the robata grill, seasoning and

glazing of food products, cooking of food products on the robata grill; all in a high-volume restaurant setting. In addition, he received significant training in sushi and tempura food preparation. He was also trained in Kitchen Management.

The petitioner emphasized that the beneficiary "has developed a thorough understanding of [the petitioner's] concept," and that "it is difficult to find a chef who possesses skills in all facets of traditional Japanese food preparation including the robata grill, sushi, and tempura." The petitioner states that the company employs 15 sous chefs worldwide, and generally has two in each restaurant; however, the Miami location has only one sous chef requiring the head chef to perform the additional duties.

The petitioner submitted an unsigned letter attributed to a food writer at the *Miami New Times* providing the opinion that the petitioner's restaurant serves an uncommon type of food, and that its sous chefs are highly trained and possess extraordinary abilities in Robata grill cooking that are "not general or commonly held in the food industry."

The petitioner also provided a letter from the foreign entity confirming the beneficiary's experience with the petitioner's affiliate. According to the letter, the beneficiary was hired in July 2008 as a Chef de Partie, and later promoted to the position of Senior Chef de Partie, and finally, to the Sous Chef position. The letter indicates that the beneficiary "has been fully trained in all departments" and "has a full knowledge of all the systems, costings and menu planning" practices that are also used at the Miami, Florida location.

The petitioner also submits the company's training materials for newly hired employees and for sous chefs. The training materials for the newly hired employees provide an explanation of the cuisine's culture, stating that "Robata grills are among the most popular dining establishments in Japan." The materials also provide a glossary of ingredients, descriptions of menu items, a spreadsheet for testing new employees on the preparation of menu items, and an eleven page quiz about the company's products and recipes.

The petitioner provided a training record for the beneficiary which is labeled "Learning Objectives – Sous Chef Level" This document indicates that the beneficiary received training in "people management" beginning in April 2010, including topics such as leadership techniques, conflict management, legal requirements, managerial responsibilities, team communications, upward communication, and motivation. The beneficiary completed this training and was tested on the individual topics between April 2010 and December 2010. The beneficiary also received training in "kitchen management" topics including food cost, overall responsibilities, appraisals and staff discipline. The last of these training courses was completed in November 2010.

The director ultimately denied the petition, concluding that the petitioner failed to establish that the beneficiary would be employed in a specialized knowledge position or that the beneficiary possesses specialized knowledge. In denying the petition, the director found that the petitioner failed to establish the position of sous chef requires "special or advanced" knowledge. The director expressly noted that the organization chart shows an unfilled position of Senior Sous Chef to whom the beneficiary would report, and the director observed that every high-end restaurant has sous chefs.

Additionally, the director found that the beneficiary had not been employed in a specialized knowledge capacity for the year preceding the filing of the petition because his promotion to sous chef occurred on April 1, 2010, seven months before the petition was filed.

On appeal, counsel for the petitioner claims the director erred in finding that cooking on the Robata grill does not require specialized knowledge because a sous chef must know how to use special glazes and special charcoal unique to this cooking process. Counsel claims the knowledge would be difficult, if not impossible, to impart to another chef. The petitioner provides job advertisements for the position and claims that its inability to fill the advertised position is further evidence that the knowledge is uncommon in the United States.

The job announcements include the same position description provided for the beneficiary and state that the position requires "a minimum of 8 years preferred experience in Japanese cuisine or high profile restaurants" along with a "positive attitude, strong communication and organizational skills." The petitioner also submits a letter from its recruiter, who states that the position "requires an individual who possesses very specialized skills and training in Robata food preparation techniques," which cannot be found in the local market.

Finally, counsel asserts that the director erred in not considering the economic impact if the petitioner needed to hire an employee other than the beneficiary to fill the position. Counsel states that the petitioner has been recognized locally, nationally, and internationally, as one of the top 100 restaurants in the world, the training period required for the petitioner's chefs spans one year, and that the inability to find a properly trained sous chef is adversely affecting the petitioner by requiring the executive chef to undertake job duties related to his position. Petitioner submits additional publicity showing the success of the restaurant, including an article claiming "[a]ll of [the petitioner's] chefs and management were extensively trained in London, where [the company] originated, before working here."

III. Analysis

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge or that his position abroad or in the United States requires an employee with specialized knowledge 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 petitioner must also show that the individual's employment abroad for the prior year involved specialized knowledge. 8 C.F.R. § 214.2(l)(3)(iv). 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 advanced or special, and that the beneficiary's position requires such knowledge.

In the present case, the petitioner's claims are based the assertion that the beneficiary has advanced knowledge of the Robatayaki cooking process used in the petitioner's restaurants and that this knowledge is uncommon in the United States.

While the petitioner claims that Robatayaki cooking requires specialized knowledge due to the use of special charcoal, ingredients, and glazes, it has not provided a description of the process sufficient to evince the differences in this particular method of cooking are so substantial that a similarly experienced chef could not perform the duties required of the position. All restaurants have individualized recipes and cooking techniques, however, it seems reasonable that skilled chefs would have experience using a variety of ingredients, learning new recipes, and cooking foods using different techniques. Though counsel claims "it would be difficult, if not impossible to impart to another chef the knowledge necessary to perform the cooking techniques required of the Robata Grill," it has not provided evidence to support its claim that the ingredients or technique are so complex that this knowledge could not be imparted to a similarly experienced restaurant chef within a short period of time. 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 job duties and responsibilities provided for the proposed position do not sufficiently demonstrate that the U.S. position or beneficiary's employment abroad require specialized knowledge. The position description fails to clarify the beneficiary's duties related to the claimed specialized knowledge. For example, the petitioner stated that the proposed job duties include ensuring proper food storage, abiding by all food hygiene laws and regulations, ensuring that operating and kitchen equipment is maintained to a good standard, ensuring the kitchen and food preparation areas are left clean and sanitized, providing professional service and maintaining personal appearance and hygiene, attending meetings, communicating effectively, ensuring that all sections are prepared and ready for service, and maximizing employee morale and productivity. The petitioner has not provided an explanation or detail sufficient to show that these tasks are

specialized, rather than generally required of all sous chefs. Further the job description does not explain how specialized knowledge of Robata Grill cooking techniques is required to perform these duties. The advertisement placed to fill an open sous chef position in the petitioner's Miami restaurant states that the position requires a minimum of 8 years of culinary experience, either in a Japanese restaurant or in any high profile restaurant, and the ability to work in a fast-paced environment. While the advertisement suggests that experience in Japanese cuisine is preferred, it does not state that it is required or that knowledge or experience in Robatayaki technique is required for the position.

The petitioner has also failed to clearly or consistently explain and document the beneficiary's training and work experience. The petitioner claims that all chefs working with the company undergo "rigorous" in house training, and that the beneficiary underwent "extensive" training by internationally renowned chef and company CEO, [REDACTED] in London; however, the petitioner has not provided documentary evidence showing the content of the beneficiary's training or a quantifiable duration to support these claims. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden 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)).

In fact, the petitioner initially stated that the beneficiary trained with [REDACTED] in London for an undisclosed period of time prior to assuming the position of Sous Chef in July 2008. The petitioner later clarified that the beneficiary was actually promoted to the position of Sous Chef in April 2010. However, the salary slips provided for the beneficiary reflect that he received a promotion to the position of Senior Chef de Partie in April 2010 and still held this position as of September 2010. While the petitioner submitted a promotion letter dated April 2010, neither the stated job title nor wage is reflected in the beneficiary's salary slips. 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.* at 591.

These inconsistencies are material, as the petitioner relies on the beneficiary's prior experience as a sous chef at one of its restaurants to support its claim that the beneficiary possesses specialized knowledge. The petitioner has not described the duties performed by a Senior Chef de Partie or Chef de Partie, and has not identified these as positions requiring specialized knowledge. Rather, the petitioner relies on the elevated status of the sous chef as a leader in the kitchen and as a basis for the premise that the position requires advanced knowledge of cooking techniques.

The sole training record provided for the beneficiary indicates that he started completing sous chef training in "people management" and "kitchen management" topics in April 2010, but he had not completed the training prior to the filing of the petition. While the petitioner indicates that the sous chef has an advanced knowledge of food preparation techniques, the AAO notes that all of the food preparation training documented in the record is provided to "new kitchen personnel" while the sous chef training, to the extent that it is documented in the record, focuses on supervisory, administrative and management skills. The petitioner has established that its chefs undergo a period of training to familiarize themselves with the restaurant's dishes, including

recipes, ingredients and preparation methods; however, it is unclear that the training is more extensive or different from what any chef undergoes at any fine dining restaurant.

The petitioner has not explained how the beneficiary's training differs from other sous chefs employed in the petitioner's industry. Again, training materials that are included in the record indicate that new employees are trained in the culinary culture, ingredients, preparation and presentation of the petitioner's menu items. Training provided for the sous chef position shows training in kitchen and personnel management, but is not evidence of the beneficiary's advanced training in the claimed cooking techniques. The training spreadsheet for the Robata grill does not document the beneficiary's specific training or give insight into the methods used or the duration of the training.

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. 369, 376 (AAO 2010). 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 that the beneficiary possesses specialized knowledge, was employed in a specialized knowledge capacity abroad, or 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.

IV. 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 the petitioner has not met that burden.

ORDER: The appeal is dismissed