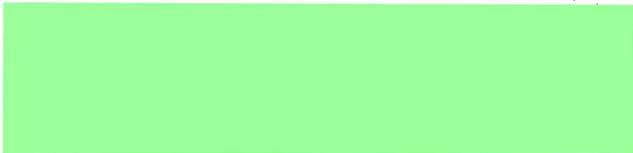


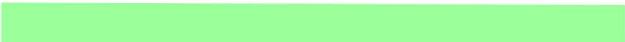


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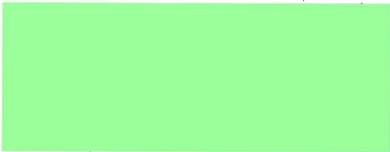


DATE: **MAR 29 2013** OFFICE: VERMONT SERVICE CENTER FILE: 

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, 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).¹ The petitioner, a Delaware corporation, provides technology solutions to the financial services industry. The petitioner claims to be the parent of [REDACTED] located in India. The petitioner seeks to employ the beneficiary as a Programmer Analyst for a period of three years.

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

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 submits a brief in which she contends the director erred in his conclusion that the beneficiary's knowledge is standard throughout the industry. She states that the petitioner's methodologies are highly technical, proprietary, and utilized by a small team of specialized knowledge developers.

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:

¹ The petitioner filed an L-1B blanket petition for the beneficiary in November 2011 at the U.S. Consulate in Hyderabad, India. The Consulate denied the petition.

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.

II. The Issue on Appeal

The 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 is a multinational corporation established in 2007. It provides technology-based solutions to the financial services industry. Its systems and services include investor

communications, securities processing and clearing, and operations support services. The petitioner claims \$2.10 billion in gross annual income and \$172 million in net annual income. It has 4050 current employees in the United States. The petitioner seeks to hire the beneficiary as a Programmer Analyst. It will pay the beneficiary an annual salary of \$66,000.

The beneficiary graduated from [REDACTED] in India with a Bachelor of Technology in April 2008. Since August 2008, the beneficiary has been employed by the foreign entity in the position of Senior Member Technical. Counsel for the petitioner asserted that the beneficiary's training and experience with the foreign entity has provided him with specialized knowledge of the petitioner's Dividend system, as well as the company's internal processes and procedures. Counsel stated that the beneficiary has experience in the following tasks: aiding in system analysis, design, coding, test planning and integration testing; providing input for writing new programs; scheduling and monitoring quality assurance and production jobs; and participating in setting up the production infrastructure for the new Dividend system.

In a letter accompanying its petition, the petitioner listed the beneficiary's duties with the foreign entity as follows:

- Aid in system analysis, design, coding, test planning and integration testing;
- Assist with writing new programs through comprehending the existing system;
- Schedule and monitor quality assurance and production jobs;
- Participate in setting up the production infrastructure for the new Dividend System;
- Provide production support, including resolving the [REDACTED] or error by communicating with tech support;
- Assist with the migration of the new system and the replacement of the existing system;
- Respond to queries initiated by client during testing;
- Write new online programs and implement changes in web-based user application interface – [REDACTED]
- Manage issues raised during user acceptance testing and production on an expedited basis;
- Write conversion programs in order to convert data from the old system to the new system;
- Implement enhancements requested by clients into the system;
- Write technical specification of rewrite programs as well as reconciliation utilities to reconcile with production data, using [REDACTED]

- Prepare, write and execute test cases and simulation of test scenarios for rare cases; and
- Analyze and comprehend the business functionality of existing programs, both batch and online.

The petitioner seeks to hire the beneficiary in the position of Programmer Analyst within the [REDACTED] department. In this position, he will assist in the support, maintenance, development and testing of the petitioner's Dividend System and its suite of products. The beneficiary will execute and implement proposed technical solutions; analyze requirements, as well as propose solutions to technical issues, and provide guidance to Member Technical colleagues.

The [REDACTED] is one of the petitioner's products that facilitates dividend and interest disbursement, as well as the conversion of cash dividends into shares of eligible securities. It also supports functions such as automatic booking of distribution, foreign currency processing, and automatic [REDACTED] withholding. The program can be tailored to meet each customer's specific needs.

The petitioner described the beneficiary proposed duties in the United States as follows:

- Provide problem analysis and resolution proposals;
- Execute development, debugging and testing related to the Dividend System;
- Deliver documentation on development and testing analyses performed;
- Participate in system analysis, design, coding, test planning and integration testing;
- Interact with key stakeholders in order to resolve technical/implementation issues;
- Provide code review and test plan reviews;
- Assist with writing new programs by his comprehensive understanding of the existing system;
- Schedule and monitor quality assurance and production jobs;
- Participate in setting up the production infrastructure for the new Dividend System;
- Provide production support, including resolving the [REDACTED] or error by communicating with tech support;
- Assist with the migration of the new system in place of the existing system;
- Respond to queries initiated by client testing;
- Write new online programs and implement changes in web-based user application interface [REDACTED];
- Manage issues raised during user acceptance testing and production on an expedited basis;

- Write conversion programs in order to convert data from the old system to the new system;
- Implement enhancements requested by client into the system;
- Write technical specifications of rewrite programs as well as reconciliation utilities to reconcile with production data, using [REDACTED]
- Prepare, write and execute test cases and simulation of test scenarios for rare cases; and
- Analyze and comprehend the business functionality of existing programs, both batch and online.

According to the petitioner, it has initiated a project to rewrite the [REDACTED] which is a multi-year project with staged implementations. It claimed the beneficiary participated in building the [REDACTED] application, the backend online modules, and the reinvestment modules for the rewrite. The petitioner stated that the beneficiary was involved in the implementation of the rewrite code, and in system testing for the first and second project phases. It also stated that the beneficiary was “the point of contact for queries related to specific issues raised during User Acceptance Testing and migration phases, and after the migration of clients to the new system.” The petitioner further explained:

The Dividend Rewrite System was completely implemented at the [REDACTED] India office. The U.S. Dividend team was not involved in the implementation of Dividend Rewrite. Following the successful migration of the phase 1 and phase 2 clients to Dividends [sic] Rewrite, [the petitioner] proposed to transfer multiple clients in the upcoming phases. For the Dividend Rewrite, it is necessary to establish that there are no functional breaks between the old and new systems, as well as to respond to queries raised by clients, prepare clients for migration, provide production support, and set up the necessary infrastructure.

The petitioner stated that no qualified candidates are available in the petitioner’s U.S. offices and an employee would have to be sent to India in order to gain such training.

Accompanying the petition, the petitioner submitted evidence of the beneficiary’s academic credentials, the beneficiary’s identification documents, and the petitioner’s Securities and Exchange Commission (SEC) annual report dated August 12, 2011.

The director issued a Request for Evidence (RFE) in which he explained that, although the beneficiary appears to be knowledgeable, the law requires more than just training and skills in order to qualify as a specialized knowledge employee. The director requested evidence that the

² The meaning of the abbreviation [REDACTED] is unclear from the documents submitted.

beneficiary has specialized knowledge and that the beneficiary's proposed position in the United States requires specialized knowledge by providing, *inter alia*, a detailed description of the beneficiary's proposed duties on a daily basis, an explanation of which duties require specialized knowledge and why, the specific specialized knowledge processes or methods used to perform the beneficiary's duties, how long it would take to train someone so that he or she possessed the requisite specialized knowledge, how the beneficiary's training was different from that of his colleagues, and when and how it was determined that the beneficiary had specialized knowledge. The RFE further requests more documentation regarding the training received by the beneficiary, including a letter from the foreign company's human resources department detailing how the beneficiary obtained his specialized knowledge, as well as the duration and dates of completion of all training courses.

In response, the petitioner submitted a brief and additional evidence. In the brief, counsel listed five proprietary software programs used by the petitioner: [REDACTED] and [REDACTED]. The petitioner stated that the beneficiary is needed particularly for his knowledge of [REDACTED] its [REDACTED]. The petitioner described this product as follows:

The consolidated [petitioner] [REDACTED] platform supports real-time processing of North American and international equities, options, mutual funds, fixed income securities and more. Our extensive menu of services and open architecture allows our clients to tailor functionality for their businesses and focuses on what differentiates firms in the marketplace. The [REDACTED] products cover full [sic] spectrum of brokerage operations for financial [sic] industry. It uses major technologies like [REDACTED] an in-house tool - as part of major developments and consists of a set of complex products developed over last [sic] 20 years within [the petitioner]. [REDACTED] India office is [sic] involved in primary development of these applications for at least the last decade.

The letter also contains the following list of amended duties for the beneficiary, reproduced in part below:

- Provide problem analysis and resolution proposals and execute development and testing related to our [REDACTED] Dividend System – *our clients use [REDACTED] and [REDACTED] to transfer much of their back-office processing to [the petitioner], taking advantage of [REDACTED] and Impact and other similar financial software, using [the petitioner's] proprietary tools and instruments, some of which were directly developed by [the beneficiary] and his team of systems analysts and*

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software developers. These computerized tools are extremely technically complex and the knowledge about these tools is not available at other [of the petitioner's] divisions in the United States or at the office of any of our competitors. [The beneficiary] will be using highly specialized skills of [redacted] systems and other similar tools, and helping resources from our other U.S. divisions during his stay in L-1B visa status in the United States – 20% of his time.

- Provide code review and test plans reviews, schedule and interact with key stakeholders (institutional clients) in order to resolve systemic problems . . . [the beneficiary] is the only person with significant experience and expertise on these [petitioner] products in his entire Team and such Team only exists in our India office, therefore he is considered a key employee on the team -20% of his time.
- Analyze and fix the critical technology product issues reported by corporate clients, creating system and program test plans and procedures and working on custom code development for client product enhancements – . . . the hands-on practical training for these products may last well over three (3) years. [The beneficiary] is one of only four (4) technical experts out of 4000 employees of [the petitioner] across the world having experience and expertise with these [petitioner] products, particularly thanks to his participation in various classroom and other training programs conducted previously with our firm – 20% of his time.
- Execute unit testing and prepare an integration region for performing the Integration Testing for various technology enhancements . . . the beneficiary heavily contributes to building regression testing suites for various [petitioner] applications, using specialized tool [redacted] and helps our [petitioner] development team in training [redacted] tool for regression automation of Impact and other applications. [redacted] is [the petitioner's] proprietary tool and knowledge of the tool is not available in our offices in the United States, and only a very limited knowledge of this exists in our office in Hyderabad, India, where [the beneficiary's] team works and performs all of its business functions—10% of his time.
- Monitor provision of business validation of support issues for proposed fixes to [the petitioner's] products, to ensure accurate functionality of products and

enhancements, in accordance with specifications – business validation of support issues requires extensive knowledge of [redacted] back office operations and [redacted] products knowledge. [The beneficiary] is one of very few, key employees, having experience and expertise with these [petitioner] products . . . 10% of his time.

- Interface and coordinate with off-shore development teams to ensure that work assigned to junior developers is being understood and done as per [the petitioner's] internal requirements and standards and design proposals for enhanced product ability and efficiency – [redacted] and other [petitioner] IT products need to be optimized for better efficiency and quality IT products need to be optimized for better efficiency and quality for our institutional clients . . . Special knowledge is necessary to perform work on such a complex application, primarily requiring thorough knowledge of [redacted] applications and other high technology product suites. [The beneficiary] is the only person within our Group/Unit having experience and advanced knowledge of some of these new emerging [petitioner] products, which is critical for his transfer to the United States – 10% of his time.
- Write technical specifications of rewrite programs, develop and analyze [redacted] codes for enhancing the existing system and perform impact analysis and code reviews of code changes impacting product – [redacted] India office is involved in [redacted] analysis, code reviews and technological “walkthrough” based on best practices for [the petitioner's] products. Only few [sic] senior IT employees with long term training and highly specialized knowledge of [the petitioner's] products [redacted] can perform these job duties – 10% of his time.

The petitioner repeatedly emphasized the beneficiary's “long-term” training abroad. It submitted a chart of the beneficiary's trainings that includes a short description of each course and the number of weeks or days each required. The chart shows a total of approximately 78 weeks of training. No dates of completion or certificates are provided for the courses listed.

The petitioner stated that the beneficiary's training differs from the training provided to other employees because the employees in the U.S. office do not have the same support and development experience due to their “late entry in to the project, department and the organization.”

Although the petitioner's brief refers to organizational charts for both the foreign entity and the petitioner, the petitioner submitted only one organizational chart with the label "PROPOSED ORGANIZATIONAL CHARTS – POSITION OFFERED IN THE UNITED STATES EVIDENCING UNIQUENESS AND COMPLEXITY OF THE POSITION – BOTH PROGRAMMING AND ANALYSIS SIDE. The chart shows nine people. At the top of the chart is the Senior Vice President of Product Development, under whom is the Senior Director of Product Development and Support, under whom is the Manager of Product Development and Support. Beneath these three individuals are three branches consisting of a Programmer/Analyst supervising a Senior Programmer, a Technical Consultant supervising an Associate Programmer, and a Lead Programmer supervising a Senior Programmer. The beneficiary is listed as the Programmer Analyst.

Lastly, in response to the RFE the petitioner submitted print-outs from the petitioner's website and a copy of remarks made at the 2012 National Press Club by the petitioner's CEO.

The director ultimately denied the petition, concluding that the petitioner failed to establish the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge position. In denying the petition, the director found that the petitioner failed to show the beneficiary possesses specialized knowledge of the petitioner's products, processes, or procedures, as opposed to the skills required to use such products and provide the normal consulting services of the company.

On appeal, the petitioner submits a brief in which it alleges that the director erred in failing to acknowledge the petitioner's proprietary products and in wrongly finding that knowledge of these products is commonplace. Counsel further states that the director erred in finding that the petitioner failed to show the beneficiary has been and will continue to be employed in a specialized knowledge capacity. Counsel states:

. . . [the petitioner's] technology associates in our team/group in the United States are primarily involved in client relationship, rather than hands-on conversion projects. These workers coordinate efforts and keep our clients updated on the status of various projects. In-house United States associates work on a single product and do not have the exposure to the daily activities and conversions which were, until recently, implemented by associates of [REDACTED] India.

In contrast, implementation in terms of loading data, validations, client functionality customizations, establishing the [REDACTED] links and setting up critical downloads are the main activities of a conversion project. United States workers are no longer involved in this work as our Indian subsidiary has established an exceptional training and research facility for this purpose. A conversion and

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development/technical support associate working on our financial products must understand business domain, internal corporate products flow, mapping of a client's business on to [sic] our products and fast track implementation procedures.

Counsel reasons that the beneficiary is therefore necessary in the United States due to his experience with the Indian subsidiary. She states that hiring someone from outside the organization to perform the beneficiary's proposed task would require the petitioner to train the individual for 3-6 months in New Jersey, then at their New York headquarters, and then in the development office near Denver, Colorado. After these trainings, the individual would then have to transfer to India for at least two years of additional training and experience. At that point, the individual might possibly have the ability to perform the duties associated with the beneficiary's proposed position. Such extensive efforts are cost prohibitive and necessitate the beneficiary's transfer.

III. Analysis

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge or that he 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, 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 matter, the petitioner does not clearly state whether its claim is based on the first or second prong of the statutory definition. The petitioner asserts generally that the beneficiary has special knowledge of the company's product and its application in international markets, but also asserts generally that the beneficiary's knowledge of the company processes and procedures is advanced. Upon review, the evidence of record does not satisfy either prong of the definition.

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(I)(3)(ii). The petitioner must submit a detailed job description of the services to be performed sufficient to establish specialized knowledge. *Id.* Merely asserting that the beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the petitioner's burden of proof.

The petitioner initially submitted very similar lists of job duties for his current position with the foreign entity and his proposed position with the petitioner. Both contain generic duties of someone in the programming or analyst field. These include: aiding in system analysis, design, coding, test planning and integration testing; assisting with writing new programs; providing production support; scheduling and monitoring quality assurance and production jobs; and responding to client questions. The petitioner alleges that the beneficiary's duties require specialized knowledge, however, because they refer to the implementation of a new proprietary Dividend System, with which the beneficiary has experience.

The amended job duties submitted on appeal contain more detail and include the percentage of time the beneficiary will spend on each. The list contains seven total duties. However, the petitioner uses wordy and unclear language to describe the duties and, upon examination, it appears that many of the seven listed duties overlap. Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103

(E.D.N.Y. 1989), aff'd, 905, F.2d 41 (2d. Cir. 1990). An attempt to coherently summarize the petitioner's statements reveals the following as the beneficiary's claimed duties: planning and executing development and testing of system, analyzing problems and proposing solutions, writing and reviewing code (including the supervising off-shore coders), and monitoring the outcome of implemented solutions. Several of the job duties contain more than one of the above-listed responsibilities and several of the responsibilities are repeated in slightly differing versions. Given the lack of clarity with which the petitioner describes the beneficiary's proposed duties, it is impossible to determine what percentage of time the petitioner claims the beneficiary will dedicate to each responsibility.

In addition to the petitioner's vague and unclear list of job duties, it failed to provide sufficiently detailed information regarding the Dividend System rewrite, its implementation, and the beneficiary's involvement in the process. These details are relevant and necessary because the petitioner claims that knowledge of and experience with the Dividend System rewrite form the basis for the beneficiary's specialized knowledge.

First, the petitioner's description of the Dividend rewrite and the process for its design and implementation are extremely vague. The petitioner stated that the transition requires a multi-stage approach. It referred to phase 1 and phase 2 and stated that these were successfully implemented in India. It did not provide further information regarding the process, such as whether phases beyond 2 will be necessary, or what each of the phases entails. As an explanation for its need to transfer the beneficiary, the petitioner stated that, after success in India, it "proposed to transfer multiple clients in the upcoming phases." With this statement, the petitioner appears to suggest that, after success with phases 1 and 2 in India, it decided to implement these same changes in the United States. However, this cannot be ascertained with certainty because the petitioner did not indicate who the clients are, nor did it explicitly state that these clients are located in the United States. Such basic information is necessary to understand the petitioner's claimed reason that the beneficiary must transfer to the United States.

Second, the petitioner failed to provide sufficient detail regarding the beneficiary's role with the foreign entity. The petitioner repeatedly stated that the beneficiary was "involved in" the development and implementation of the rewrite. However, the petitioner provided no indication of the number of individuals involved in the process, their titles, their specific responsibilities, or any other details necessary to develop a true understanding of the beneficiary's level of experience. Particularly in a company with over 4,000 employees, more details are necessary to understand the true nature of the beneficiary's involvement.

In its second list of job duties, the petitioner refers to the beneficiary's "team" in India, stating that

only the petitioner's team has the necessary experience, and that the beneficiary is a key employee due to his role on the team. However, the petitioner provides no other information about the team, such as how many people are on the team, how many teams exist in the foreign entity, how the team is structured, or how the team operates. Without such basic information, the petitioner's assertions regarding the team are meaningless for purpose of determining whether the petitioner has specialized knowledge.

The petitioner repeatedly emphasized the proprietary nature of its products and states that its ownership of its programs means the beneficiary's experience with them equates to specialized knowledge. All employees can be said to possess unique skill or experience to some degree; the petitioner must establish that qualities of its processes, products or other aspect of its operations require this employee to have knowledge beyond what is common in the industry, and knowledge that is not commonplace within the company itself. Although it is accurate to say that the statute does not require that the advanced knowledge be narrowly held throughout the company, it is equally true to state that knowledge will not be considered "special" or "advanced" if it is universally or even widely held throughout a company.

Here, the petitioner has not successfully demonstrated that the beneficiary's knowledge of the company's products or processes gained during his employment with the foreign entity is advanced. Although the petitioner states that the beneficiary is one of only 4 individuals out of 4,000 technical employees that possesses this knowledge, the petitioner has not supported that statement with documentary evidence. Going on record without documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)). Furthermore, counsel for the petitioner provides no explanation for this assertion or information regarding how it came to this conclusion. Given that the beneficiary has been employed with the foreign entity for less than four years, it is counterintuitive to suggest that he has specialized knowledge that surpasses 99.9% of employees working in a similar capacity. Although theoretically possible, such an assertion requires the petitioner to describe with specificity the basis for this claim. Simply stating that no one else has the same experience or training as the beneficiary is not sufficient to meet the petitioner's burden of proof.

The petitioner repeatedly emphasizes the beneficiary's years of training. The RFE requested evidence of this training in the form of a letter from the petitioner's human resources department indicating the pertinent training courses in which the beneficiary participated, as well as the duration of the courses, the number of hours spent each day, the completion dates, and certificates of completion. The RFE also instructed the petitioner to explain how the beneficiary's training differs from the core training provided to other employees.

The petitioner failed to adequately discuss how the beneficiary's training differs from that of other employees. The petitioner did not indicate the standard training received by an individual in his position. In response to the RFE, the petitioner submitted a chart listing 14 different trainings the beneficiary purportedly attended. The trainings vary in duration from 2 days to 25 weeks and are on a range of topics. According to the chart, the beneficiary spent approximately 76 weeks in training during his first three years with the foreign entity.

Many of the trainings listed do not involve proprietary products or processes of the petitioner, but instead reference general subject matter training. For example, the beneficiary spent 8 weeks training on IBM AS400, 4 weeks on Java programming, 13 weeks on fixed income domain, and 1 week on financial markets. Despite this, several of the training descriptions do reference proprietary products of the petitioner. However, none of the training descriptions specifically mentions the Dividend system rewrite and the petitioner does not provide a sufficient explanation as to how these trainings contribute to the specialized knowledge necessary for the proposed position in the United States.

Although specifically requested in the RFE, the petitioner has not stated at what point it considers the beneficiary to have obtained specialized knowledge. The beneficiary received his bachelor's degree in April 2008. He began working for the petitioner in August 2008. The instant petition was received on January 11, 2012. On appeal, counsel for the petitioner states that, for another individual to obtain the required specialized knowledge, he or she would have to spend approximately one year in the petitioner's U.S. offices, followed by at least two years in India with the foreign entity. Thus, counsel appears to state that at least 3 years of training are required in order to obtain the necessary specialized knowledge.

The petitioner provides no basis for this calculation. More importantly, however, the law requires that a beneficiary have spent at least one year working in a specialized knowledge capacity in order to be eligible for an L1B visa. If obtaining the beneficiary's claimed specialized knowledge truly requires at least three years of training and experience with the petitioner, then the beneficiary is statutorily ineligible for the visa sought, as he had less than four total years working with the foreign entity.

For the reasons stated, the petitioner has not successfully demonstrated that the beneficiary's knowledge of the company's products gained during his employment with the foreign entity is specialized or advanced. The AAO does not dispute the possibility that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. However, the petitioner has not established that familiarity with the petitioner's proprietary products

constitutes specialized knowledge, and has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's products or processes is more advanced than the knowledge possessed by others employed by the petitioner, or that the products developed by the petitioner are substantially different from those used by other companies in the petitioner's industry. As the petitioner has failed to document any special or advanced qualities attributable to the beneficiary's knowledge, the petitioner's claims are not persuasive in establishing that the beneficiary, while perhaps experienced or skilled, would be a "specialized knowledge" employee.

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.*

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.

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.