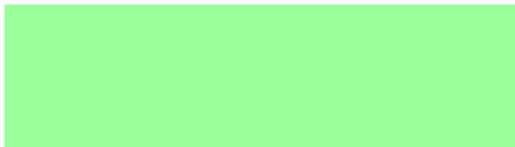




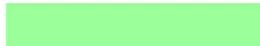
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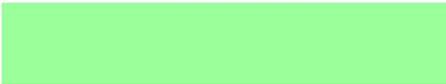
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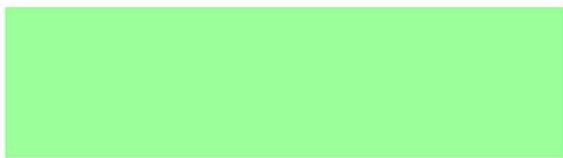
Petitioner:

Beneficiary:



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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an L-1B 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 Delaware limited liability company, states that it operates a commodity merchandising company. The petitioner claims to be an affiliate of [REDACTED] located in Canada. The petitioner seeks to transfer the beneficiary to the United States to serve in a specialized knowledge capacity, as an "organic specialty grain merchant," for an initial period of three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she has been employed abroad or would be employed in the United States 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. On appeal, counsel for the petitioner asserts that the director's decision is erroneous in light of the evidence submitted and the applicable law. The petitioner submits a letter and additional evidence in support of the appeal.

#### 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.

## II. THE ISSUE ON APPEAL

The sole issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and whether the beneficiary has been employed abroad, and would be employed in the United States, in a position that requires specialized knowledge.

### A. Facts

The petitioner indicated on the Form I-129, Petition for a Nonimmigrant Worker, that it operates a commodity merchandising company with 120 current employees and a gross annual income of \$4.3 billion. The Form I-129 indicates that the petitioner will employ the beneficiary in the position of "organic specialty grain merchant." In support of the petition, the petitioner submitted a letter describing the beneficiary's foreign employment and claimed specialized knowledge as follows:

The beneficiary has been the Organic Specialty Grain Merchant for the Canadian employer from November 2009 to present. In this capacity the beneficiary has been responsible for establishing and maintaining our Organic Commodity program. She has introduced specialty food grade agricultural products and established and maintained our non genetically modified soybean program. She is responsible for the Organic program management, development and audits. It is her responsibility to budget, forecast and position management. She more specifically, is responsible for the origination through growers and suppliers in various regions. The beneficiary is responsible for the following:

- Purchase for further processing or for resale, organic grains;
- Negotiate contracts with farmers for the production or purchase of farm products;
- Arrange for transportation or storage of purchased products;
- Review orders to determine product types and quantities required to meet demand;
- Maintain records of business transactions and product inventories, reporting data to companies or government agencies as necessary;
- Examine or test crops to estimate their value, determine their grade, or locate any evidence of disease or insect damage; and
- Calculate applicable government grain quotas.

We submit that [the beneficiary] has specialized knowledge for the following reasons:

The beneficiary came to us with the inherent skill required and in the last 3 years has become a key employee in the Organic Specialty Grain area. She is one of our most knowledgeable employees in this department. [The beneficiary] has been responsible for obtaining the [redacted] Organic Processor/Broker/Trader Certificate for [the petitioner] – [redacted] branch. In so doing she has been instrumental in emplacing company specific protocols in order to isolate fertilization and insecticide quantum's relative to limits of measure. She is exceptional with respect to accurate calculation of government grain quotas. In this regard, she has honed her previous industry experience to our particular needs, now being an integral part of our advanced proprietary program.

Her specialized knowledge relates to:

1. Organic certification program – obtaining, executing, maintenance and audit procedures to ensure product maintains organic integrity from origination to end-user;
2. Origination program respecting niche market production, focusing upon Canadian NOP standards with product destined for US market;
3. Non-genetically modified soybean program – specialty soybeans for food use – origination, maintaining Identity Preservation of the variety of soybean based on protein, oil content for variety of food uses;

4. Non-genetically modified corn program – specialty corn for food use – establishing non-gmo tolerance levels, securing acceptable seed sources;
5. Introduction of new genetics to Canada for development of acreage programs;
6. Sharing market information with various organizations;
7. Dry bean expertise focusing upon acreage programs with Canadian producers for various dry bean varieties for use in domestic canners and packaging industry. Sharing varietal information and quality standards necessary to meet demand;
8. Assisting producers with marketing opportunities into South East Asia; and
9. Importing expertise to ensure customers are supplied with the highest quality products meeting Canadian NOP Organic import standards.

This position is consistent with O\*NET 13-1021.00 Grain Origination Specialist Buyer.

The petitioner did not submit any additional information about the beneficiary's proposed position in the United States in support of the petition, but instead indicated that she would continue to perform the same duties she currently performs at the petitioner's Canadian branch office.

The petitioner submitted a document indicating that the beneficiary was designated by the Forum for International Trade Training as a "Certified International Trade Professional" on July 27, 2007. The petitioner also provided a company organizational chart depicting the beneficiary as one of approximately 70 employees working in the "Grain" department. While the department appears to be divided into six or more sub-divisions, the petitioner did not identify the names of divisions or provide job titles for the majority of employees depicted on the chart.

The director issued a request for evidence ("RFE"). The director requested that the petitioner provide, *inter alia*, evidence that the beneficiary: (1) possesses specialized knowledge; (2) has been employed abroad by a qualifying organization in a position that was managerial or executive or involved specialized knowledge; and (3) evidence of the proposed specialized knowledge position in the United States.

In response to the RFE, counsel for the petitioner provided the following description of the beneficiary's proposed duties in the United States:

On a percentage basis in the event of Service approval [the beneficiary's] projected US duties, as reconciled against those in Canada, may be broken down on a percentage allocated basis as follows:

- Purchase for further processing or for resale, organic grains; - 15%
- Negotiate contracts with farmers for the production or purchase of farm products; - 15%
- Arrange for transportation or storage of purchased products; - 10%
- Review orders to determine product types and quantities required to meet demand; - 10%

- Maintain records of business transactions and product inventories, reporting data to companies or government agencies as necessary; - 15%
- Examine or test crops to estimate their value, determine their grade, or locate any evidence of disease or insect damage; - 5%
- Calculate applicable government grain quotas – 5%.

The other 25% of [the beneficiary's] projected duties will be as follows:

- Organic certification program – obtaining, executing, maintenance and audit procedures to ensure product maintains organic integrity from origination to end-user;
- Origination program respecting niche market production, focusing upon Canadian NOP standards with product destined for US market;
- Non-genetically modified soybean program – specialty soybeans for food use – origination, maintaining Identity Preservation of the variety of soybean based on protein, oil content for variety of food uses;
- Non-genetically modified corn program – specialty corn for food use – establishing non-gmo tolerance levels, securing acceptable seed sources;
- Introduction of new genetics to Canada for development of acreage programs;
- Sharing market information with various organizations;
- Dry bean expertise focusing upon acreage programs with Canadian producers for various dry bean varieties for use in domestic canners and packaging industry. Sharing varietal information and quality standards necessary to meet demand;
- Assisting producers with marketing opportunities into South East Asia; and
- Importing expertise to ensure customers are supplied with the highest quality products meeting Canadian NOP Organic import standards.

Each of the foregoing activities will be conducted in a fashion serving to train others in the US petitioner employ via demonstration, practical guidance and availability for troubleshooting.

The petitioner submitted a letter from [redacted] manager of business development, who stated that she is the beneficiary's direct manager at the foreign entity. As further explanation of the beneficiary's claimed specialized knowledge and her ability to impart the knowledge to others, Ms. [redacted] stated:

With respect to [the beneficiary's] distinguished position with our company, she is solely responsible for our Organic Certification Program. As a whole, [the petitioner] would be hard pressed to produce another with her level of ability.

To be clear, by virtue of her employment tenure with [the petitioner], her training, experience and personal initiative, she has acquired a high level of company specific expertise which is of great value to us.

[The beneficiary's] highly advanced level of knowledge may best be addressed by expanding upon her specialized duties, broken down as follows:

- A. Soley [*sic*] Responsible for Organic Certification Program
- B. Investigate and Analyze Soybean Variety Performance and Descriptions
- C. Sampling and Testing for Biotech Grains
- D. International Trade Expertise

\* \* \*

The specialized lab equipment utilized was introduced to [the beneficiary] attendant with her employment. She has been instrumental in reconciling our protocols respecting soybean analysis in order to effectuate what has become a very effective company specific methodology. We hope to have [the beneficiary] impart such advanced practiced to our Grain Merchant personnel employed in the US.

[The beneficiary] is a certified International Trade Professional (CITP) by virtue of certification undertakings 2003-2007. She also maintains [redacted] Organic Processor/Broker/Trade Certification, most recently issued October 28, 2011 . . . .

. . . In addition to her wealth of experience under the employ of [the petitioner] in [redacted] Ontario, she draws upon prior employment related experience commencing in 1995. In sum, [the beneficiary] has 18 years of advancing industry specific experience.

As to the way forward, it is our purpose to draw upon her expertise in Organic Specialty Grain marketing, distribution and testing in order that she may impart the benefit of her tenured experience to our US personnel. In so doing she will act upon her established industry relationships with customers and suppliers in order to educate her US counterparts with respect to customer specific needs relative to our company specific services – many of which have been advanced by [the beneficiary] while employed by [the petitioner].

\* \* \*

[The beneficiary] has been instrumental in applying her experience derived knowledge to work with our management in establishing very company specific protocols which have proven most effective, enabling advantage over our competition. We ask that [the beneficiary] be permitted to transfer her capability to our US parent. In so doing she will not only address micro applications such as the effective utilization of Grain Analyzers/Micrometers and related technology, but also impart the manner by which such

analysis may be applied on a broader (macro economic) scale – relative to the factors enunciated.

Her ability to accurately maintain records involving government quotas, diseased crops, transport and perishable produce factors is very valuable and derives from first hand experience.

\* \* \*

Concerning the request to compare and contract [*sic*] [the beneficiary's] duties with others "performing the same type of work," with respect [*sic*] – we do not employ others having the same duties with emphasis upon specialty and genetically modified food grade soybean production. [The beneficiary] is our one and only Organic Grain specialist – as depicted upon the Canadian Organization Chart.

This is a niche market, with unique grains, with limited volume and production areas. Unlike commercial grains which are low margin, high volume commodities are typically grown in the USA. As such, we have relied heavily upon [the beneficiary's] specialized expertise.

\* \* \*

This specialized knowledge takes years of experience to acquire. A single soybean variety that could be marketed and accepted internationally takes 10 years to develop. [The beneficiary] provides the developers of the variety with the necessary information of what the market is looking for. Likewise, she is most effective at introducing these new varieties to the market.

[The beneficiary's] specialized knowledge enables her to introduce the new EU/NOP equivalency agreement which came into effect June 1, 2012.

\* \* \*

In the event of USCIS approval, [the beneficiary], on behalf of the petitioner, will engage in training and information seminars for US farmers, presenting her knowledge and expertise to the farmers in order to help them make decisions respecting viable crops.

[The beneficiary] has intimate knowledge of our proprietary goods – in that we have developed specialized bags for individual customer needs i.e. – Sunburst High Protein Non GMO Soybeans – which are marketed in Hong Kong.

With respect to the projected US duties, [the beneficiary's] program is unique and specialized to grain grown in the US about 95% of which is for commercial use into Ethanol and feed. 5% is non genetically modified for food use. [The beneficiary] specializes with respect to the 5% area.

[The beneficiary] will impart such knowledge to her US counterparts on a pragmatic basis, imparting insight and knowledge, demonstrating applications on a case by case basis. Heavily reliant upon [the beneficiary] at present, we hope to enable others within our US employ – such that growth in market share may be pursued on a more secure basis.

The petitioner submitted a copy of the foreign entity's "Organic Processor/Broker/Trader Certificate" issued by the [REDACTED] in October 2011.

The petitioner also provided the beneficiary's "professional profile" indicating that she is a certified international trade professional specializing in organic/food grade specialty agricultural products. The document also states that she has been a specialty grain merchant at the foreign entity since November 2009 and a specialty food grain merchant (focused on organic grains) at [REDACTED] located in Canada, from November 2006 to November 2009. Her employment prior to [REDACTED] was as a "trader" with two other Canadian companies.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she has been employed abroad or would be employed in the United States in a capacity requiring specialized knowledge. In denying the petition, the director found that, based on the evidence submitted, it cannot be concluded that the beneficiary, as a result of her knowledge, education, training, and employment with the foreign entity, has knowledge or experience in the field of commodity merchandising that is significantly different from that possessed by similarly employed workers in the petitioner's industry. The director found that the petitioner failed to demonstrate that knowledge of its organization's processes and methodologies is specialized knowledge. The petitioner stated that the beneficiary acquired a high level of company specific expertise by virtue of her employment with the petitioner, her training, experience, and personal initiative; however, the director found that, although requested by USCIS, the petitioner failed to provide any supporting documentation that establishes the beneficiary's completion of any company training, such as the content of the course, duration, completion dates, and the number of employees enrolled in each course.

The director observed that, according to the Department of Labor's Occupational Outlook Handbook (OOH), the duties of the beneficiary's position abroad reflect the same or similar duties of an Organic Specialty Grain Merchant or related occupation working in the commodity merchandising field. The director found that the petitioner failed to submit sufficient evidence to establish that the beneficiary's position abroad involves a special or advanced level of knowledge in the commodity merchandising field.

In denying the petition, the director found that there is no evidence on record to suggest that the processes pertaining to the petitioner's organization are different from those applied by any Organic Specialty Grain

Merchant or similar position working in the same industry. The director further found that an assertion that the beneficiary possesses knowledge of the petitioner's products, tools, and processes does not amount to specialized knowledge. The director emphasized that while individual companies will develop methodologies, products, processes, and procedures tailored to their own needs, it has not been established that similarly employed persons in the field could not readily acquire such company-specific knowledge.

On appeal, counsel for the petitioner contends that the beneficiary possesses specialized knowledge based on her experience and work product with the foreign entity. Counsel for the petitioner asserts that the beneficiary developed the petitioner's organic specialty grain program and her specialized knowledge is not readily transferrable to another individual without significant negative repercussions.

In support of the appeal, counsel for the petitioner submits a brief and duplicate copies of the petitioner's initial evidence and response to the RFE. Counsel contends that the director failed to consider all of the petitioner's evidence. Counsel emphasizes that Ms. [REDACTED]'s letter in particular provides significant detail as to the beneficiary's duties abroad and specialized knowledge.

#### B. Analysis

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge or that she has been or would be employed in a position that requires specialized knowledge.

In order to establish eligibility, the petitioner must show that the beneficiary 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 first prong of the statutory definition, asserting that the beneficiary has a special knowledge of the company's products and their application in international markets. The petitioner claims that the beneficiary is solely responsible for its organic certification program and is the sole employee with specialized knowledge of specialty and genetically modified food grade soybean production.

In examining the beneficiary's specialized knowledge and whether the offered position requires specialized knowledge, the AAO will look to the petitioner's description of the job duties and the weight of the evidence supporting any asserted specialized knowledge. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed job description of the services to be performed sufficient to establish specialized knowledge. *Id.*

The petitioner has not shown that the beneficiary possesses a level of knowledge that is specialized or advanced. The beneficiary had been employed by the petitioner's Canadian branch for three years at the time the petition was filed, performing the same duties as those she will perform in the United States. The petitioner indicates that the beneficiary's knowledge of its organic certification program, along with her knowledge of genetically modified food grade soybean production, distinguishes her knowledge from that possessed by other employees at the company and in the industry. However, the petitioner has not demonstrated how this knowledge sets the beneficiary apart from any other individual in the same or similar position within the company or the industry. In fact, the record reflects that the beneficiary performed very similar duties and relied on similar knowledge to perform her duties as a "specialty food grain merchant" with an unrelated company prior to joining the petitioner's Canadian operations. In that role, the beneficiary was also an organic specialist responsible for certification and program development associated with organic products, and it appears that her experience with the unrelated company provided the beneficiary with the necessary skills and knowledge to perform her current duties with the foreign entity.

The petitioner also indicates that 75 percent of the beneficiary's time is allocated to duties that would reasonably be performed by any experience commodity merchant, such as purchasing grains, negotiating contracts with farmers, arranging for transportation and storage of purchased products, reviewing orders, maintaining records of transactions and inventories, examining and testing crops, and calculating grain quotas. Therefore, the beneficiary's claimed specialized knowledge must be specific to the petitioner's organic and non-GMO programs. However, the petitioner has not established how its organic and non-GMO programs differ from those implemented by other commodity brokers, such that the beneficiary's knowledge and experience with the program rises to the level of specialized knowledge.

The petitioning company's organization chart depicts dozens of employees in its grain department, many of whom are commodity merchants/purchasers assigned to a specific region or grain type. Some specialization in a particular area or type of commodity appears to be typical of the occupation. While many of the company's merchants likely possess knowledge of specific programs that is valuable and not generally held within the organization, the petitioner claims that the organic and food-grade non-GMO programs specifically require specialized knowledge. This claim is not adequately supported by the record.

The petitioner provided evidence that it is a certified "Organic Processor/Broker/Trader." The existence of a reviewing body and certification procedure confirms that there are established processes, standards and requirements for the trading of organic commodities. Therefore, other commodity traders obtain the same certification for their programs and employ food grain merchants who specialize in organic specialty products. The petitioner stated that the beneficiary is solely responsible for its organic certification program. However, the petitioner has not provided any further explanation or documentation with respect to this certification program or its involvement in the specialty and genetically modified food grade soy bean production, and thus provided no basis on which USCIS could conclude that the program and products are particularly complex in comparison to any other programs in the petitioner's company or in the industry in general. The petitioner cannot simply make a broad assertion that the beneficiary possesses advanced knowledge of its program and products without defining those programs and products. 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 petitioner has not identified any aspect of its certified organic program that would require special knowledge, nor has it explained why any experienced international trade professional could not readily perform the duties of the position.

The petitioner states that the beneficiary will be the sole employee in the United States in the specialized knowledge position. The petitioner indicated that the beneficiary possesses a unique knowledge of its organic certification program and food grade soybean products that qualify her for the specialized knowledge position in the United States. However, the petitioner has not little evidence or other information relating to the beneficiary's education or training. Based on the limited information provided, the record reflects that the beneficiary received a certificate issued by the Forum for International Trade Training, designating her as a "Certified International Trade Professional" on July 27, 2007, two years prior to her employment with the foreign entity. The petitioner has not provided any information related to the beneficiary's certificate, the requirements to acquire the certificate, or how the completion of the certificate qualifies the beneficiary as having an advanced or specialized level of knowledge in the petitioner's organization or within the industry in general. This failure of documentation is important because the evidence does not demonstrate that the beneficiary possesses education, training, or experience that rises to the level of having acquired specialized or advanced knowledge. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). 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).

Other than its assertions that the beneficiary is solely responsible for its organic certification program and the specialty and genetically modified food grade soybean product, the petitioner has not adequately demonstrated how the beneficiary possesses a level of knowledge that is specialized or advanced. The petitioner has not submitted any evidence of the knowledge and expertise required for the beneficiary's position abroad and in the United States that would differentiate that employment from the position of specialty grain merchant at other employers within the industry.

Additionally, the petitioner claims that the beneficiary's employment abroad involved specialized knowledge because she established the Canadian branch's organic program. The petitioner provided the above description of the beneficiary's duties at the foreign entity and asserts that her position as specialty grain merchant involves specialized knowledge. However, in examining the beneficiary's job duties abroad, it has not been established that the beneficiary's position abroad involves specialized knowledge.

The description of the beneficiary's duties abroad is the same as her proposed duties in the United States. The fact that the beneficiary has worked at the foreign entity for three years and received a certificate from the Forum for International Trade Training does not constitute specialized or advanced knowledge. The petitioner also claims that the beneficiary's role as the sole person responsible for its organic certification program demonstrates that she possesses specialized knowledge and that her position abroad involves specialized knowledge, but the petitioner has failed to provide sufficient evidence to establish that the beneficiary's level of knowledge is specialized or advanced.

Therefore, although the petitioner asserts that the beneficiary's positions in the United States and abroad require specialized knowledge, the petitioner has not sufficiently articulated or documented its claims. Other than submitting a description of the beneficiary's current and proposed job duties and a certificate designating her as a "Certified International Trade Professional," the petitioner has not identified any aspect of the beneficiary's position which involves knowledge of the petitioning organization's product, service, research, equipment, techniques, management, or other interests that rises to a level that is special or advanced. The petitioner has not submitted any evidence of the knowledge and expertise required for the beneficiary's position that would differentiate that employment from the same or similar position at other employers within the industry. The petitioner's claim that the knowledge is proprietary, in reference to its organic certification program, must be accompanied by evidence establishing that the beneficiary possesses knowledge that is different from what is generally possessed in the industry; any claimed proprietary knowledge must still be "special" or "advanced." Again, simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge, otherwise meeting the definitions would simply be a matter of reiterating the regulations. See *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990).

The AAO acknowledges the petitioner's reliance on a 1994 legacy Immigration and Naturalization Service policy memorandum. See Memorandum of James A. Puleo, Acting Exec. Assoc. Comm., INS, "Interpretation of Special Knowledge," (March 9, 1994). However, the Puleo memorandum concluded with a note about the burden of proof and evidentiary requirements for the L-1B classification:

From a practical point of view, the mere fact that a petitioner alleges that an alien's knowledge is somehow different does not, in and of itself, establish that the alien possesses specialized knowledge. The petitioner bears the burden of establishing through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in the alien's field of endeavor. Likewise, a petitioner's assertion that the alien possesses an advanced level of knowledge of the processes and procedures of the company must be supported by evidence describing and setting apart that knowledge from the elementary or basic knowledge possessed by others. It is the weight and type of evidence, which establishes whether or not the beneficiary possesses specialized knowledge.

Puleo Memorandum at p.4.

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

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

### III. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. ^ 1361. Here the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.