



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **JAN 22 2014** Office: CALIFORNIA SERVICE CENTER [Redacted]

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

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:

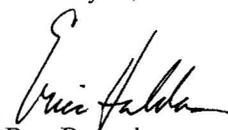
[Redacted]

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, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed the nonimmigrant petition 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 is a California corporation established in 1980 that is engaged in providing aircraft landing gear and aircraft maintenance and overhauling. The petitioner states that it is an affiliate of [REDACTED], located in the Philippines. The petitioner seeks to employ the beneficiary in a specialized knowledge capacity as a senior accounting technician.

The director denied the petition, concluding that the petitioner failed to establish that: (1) the beneficiary's employment abroad was in a position involving specialized knowledge, (2) that the beneficiary possesses specialized knowledge, and (3) that the beneficiary's proposed position in the U.S. would be 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. On appeal, counsel states that the director erred in concluding that the beneficiary does not possess specialized knowledge. Counsel contends that the director mischaracterized and failed to properly consider the evidence submitted on the record.

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 parent, subsidiary, or affiliate of the foreign employer.

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 to be addressed is whether the petitioner established that the beneficiary possesses specialized knowledge and whether she has been employed abroad, and would be employed in the United States, in a position requiring specialized knowledge.

A. Facts

The petitioner states that the foreign employer is one of several majority owned subsidiaries of [REDACTED] a multinational aircraft maintenance, repair and overhaul service company located in Germany. The petitioner states that the foreign entity, located in the Philippines, employs 2,600 mechanics, engineers, and other support personnel. Likewise, counsel asserts that the petitioner is also a [REDACTED] subsidiary with operations in California and London employing 323 employees. The petitioner submitted [REDACTED] 2011 annual report, which indicates that the foreign employer earned revenues of €107 million and that the petitioner generated revenues of €58 million.

In support of the Form I-129 Petition for a Nonimmigrant Worker, the petitioner stated the following with respect to the beneficiary's experience abroad in her capacity as a section manager:

Through her record of service within the [REDACTED], the Beneficiary has acquired extensive knowledge and experience relating to its specialized accounting software, operating systems and methods of reporting. A key job duty of this position is the use of the specialized [REDACTED] software system, [REDACTED] is a central web-based finance reporting system being utilized by the [REDACTED] group to capture different financially related information and make this financial data available for evaluation. All majority-owned [REDACTED] companies are required to prepare financial data reports utilizing this systems in areas including, covering cash positions, cash flow forecasting (including outstanding balances), and foreign currency exposures and advices. The financial data made available via the [REDACTED] system serves as a basis for optimization of the short-term and long-term oriented cash flow forecasting, as well as an efficient financial management system within the [REDACTED] group. The target set for availability of the Cash Flow Report in [REDACTED] is on every 10th day of the month. The beneficiary is an expert with [REDACTED] having work[ed] with this system for nearly 10 years.

The petitioner also stated that the beneficiary has expertise in another web-based application called [REDACTED] also used by [REDACTED] subsidiaries to communicate requested monthly financial and operational figures to the parent company in [REDACTED]. Further, the petitioner asserted that the beneficiary received training in another application IQ Move User, "a central process-oriented, integrated management system, that includes personnel and management, finance management, and risk management used by the [REDACTED] group of companies to integrate its information systems, quality standard and processes." The petitioner explained that the beneficiary "provides key support to the VP-Finance and CFO to enable them to makes decisions on critical issues relating to financial accounts and intern[al] control systems."

The petitioner indicated that, in her proposed position in the United States, the beneficiary would be responsible for training users, including a controller, an accounting supervisor, a financial analyst and an accounts payable clerk, on the [REDACTED] accounting systems. Additionally, the petitioner specified that the beneficiary would document new flows and processes in [REDACTED] related to the petitioner's implementation of the aforementioned accounting systems. The petitioner indicated that the assignment requires expertise in [REDACTED] accounting systems, none of which have been implemented into the petitioner's operations.

The director found the initial evidence submitted by the petitioner insufficient to establish that the beneficiary possesses specialized knowledge or that she has been or would be employed in a capacity requiring specialized knowledge. Consequently, the director issued a request for additional evidence (RFE) listing evidence the petitioner could submit to establish that the foreign entity employs the beneficiary in a position requiring specialized knowledge, including the following: (1) a more detailed description of the beneficiary's duties abroad including the percentage of time required to perform each duty, (2) an explanation of how the beneficiary's knowledge differs from that of other section managers employed by the foreign employer, and (3) an organizational chart including those in the beneficiary's immediate department along with names, job titles, summaries of duties, education levels and salaries for each employee.

Further, the director requested additional evidence to establish that the beneficiary possesses specialized knowledge and suggested that the petitioner submit a description of the specialized knowledge obtained by the beneficiary through education, training and employment. Specifically, the director explained that the petitioner should indicate the amount of time required to acquire the knowledge, indicate whether the knowledge was held by others in the organization, and whether the knowledge could be easily transferred or taught to another individual. The director also asked that the petitioner indicate the total number of employees with the foreign employer who have acquired the same knowledge of the company's proprietary information, documentation demonstrating the specialized training completed by the beneficiary, and a comparison of the company's proprietary products with others in the field.

Furthermore, the director stated that the petitioner should submit the following to establish that it will employ the beneficiary in a specialized knowledge capacity: (1) a detailed description of the beneficiary's duties in the United States and time to be spent on each duty, (2) an explanation of how the beneficiary's duties would be different from those of the petitioner's employees and other similarly employed U.S. workers, (3) any training that will be provided by the beneficiary in the proposed position, and (4) an organizational chart, including the beneficiary's position therein. The director also prominently stated in the RFE that the petitioner's initial evidence failed to compare and contrast the beneficiary's duties with others performing the same type of work both within, and outside, the company.

In response, the petitioner provided a sufficiently detailed and comprehensive duty description of the beneficiary's current position in the Philippines, along with percentages of time she spends on various tasks. The petitioner also provided a comprehensive response to the director's inquiries, providing detailed responses to most of the questions raised in the RFE. The petitioner stated that although the foreign company employs approximately fifty finance professionals, the beneficiary is the most experienced, having worked with the company since 2003. The petitioner indicated that the beneficiary's knowledge is unique based on her past assignment to various finance departments including accounts payable, treasury, and controlling and operational accounting. The petitioner reiterated that the beneficiary has "an advanced level of specialized knowledge regarding certain [REDACTED] specific web-based reporting systems and applications, including [REDACTED]" The petitioner further specified that the beneficiary played a role in the development of the [REDACTED] application and that she had acted as a "process modeler" with respect to its development. The petitioner stated that "there is no employee at either [the foreign company] nor at the [petitioner] who possesses the level and depth of knowledge possessed by the Beneficiary regarding these complex processes and systems and their interaction with multiple financial and accounting functions."

With respect to the specialized nature of the beneficiary's knowledge and her proposed role in the United States, the petitioner stated the following:

Worldwide, there are approximately 50 [REDACTED] companies that are subject to the standardization requirement, and the Petitioner estimates that each such company (depending on size) may have up to 2 or 3 individuals on staff who have reached the level of knowledge held by the Beneficiary, with some of the smaller companies, such as the Petitioner, th[ey] lack this expertise at this level entirely. The

Petitioner requires the Beneficiary's services to ensure the full, efficient and correct implementation and usage of these systems and programs across multiple financial and accounting functions so that the Petitioner can comply with group reporting requirements, as well as managing the transfer of these processes and systems to the Petitioner's current employees, who will ultimately handle these functions independently.

The petitioner further indicated that it would take an entry level employee in the field at least four years to attain the beneficiary's level of knowledge of the company's accounting procedures and applications. The petitioner also stated that the beneficiary had worked on various [REDACTED] to improve the efficiency of company procedures for which she was formally commended and received awards. The petitioner submitted documentation in support of its assertions, including emails, lists of trainings completed and certificates, various PowerPoint presentations and other accounting documentation.

The director ultimately denied the petition, concluding that the petitioner had failed to establish that the beneficiary possesses specialized knowledge or that she has been or would be employed in a capacity requiring specialized knowledge. In denying the petition, the director stated that the petitioner's duties were the same, if not similar, to those listed for an accountant in the Department of Labor's Occupational Outlook Handbook (OOH) thereby suggesting that the beneficiary's knowledge is not sufficiently special or advanced. The director indicated that the petitioner had failed to demonstrate that the beneficiary's knowledge was significantly different from that of similarly placed professionals in the field. The director concluded that the evidence showed that the knowledge was likely easily transferable to another similar employee and that the beneficiary's knowledge of proprietary processes alone is not sufficient to establish that the knowledge is specialized.

On appeal, counsel states that the director erred in denying the petition through mischaracterizing and ignoring the submitted evidence. Counsel asserts that the beneficiary duties are complex and involve knowledge of specialized company systems, processes and procedures, including the aforementioned [REDACTED]. Counsel contends that the director did not properly consider the beneficiary's duties, but inappropriately focused on the OOH explanation for the occupation of accountant and improperly analyzed the beneficiary's knowledge as it relates to the field of aircraft equipment and maintenance. Counsel states that the director failed to discuss much of the documentation submitted, including training information and certificates, emails, and other financial documentation supporting a conclusion that the beneficiary's knowledge is specialized. Counsel emphasizes that the petitioner submitted emails which demonstrate that the beneficiary worked as a "process modeler" in designing the [REDACTED]. Counsel also contends that the beneficiary will train various accounting professionals working for the petitioner in the company's accounting processes and applications, thereby demonstrating the specialized nature of her knowledge.

B. Analysis

Following a review of counsel's assertions and the evidence submitted, the petitioner has not established that the beneficiary possesses specialized knowledge or that she will be employed in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

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.* 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.

In order to establish eligibility, the petitioner must show that the individual's prior year of employment abroad was in a position involving specialized knowledge. 8 C.F.R. § 214.2(l)(3)(iii). 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. In the present case, the petitioner's claims are based on the second prong of the statutory definition, asserting that the beneficiary has advanced knowledge of the company's accounting and financial reporting processes and procedures.

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. 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.

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 matter, the petitioner has not provided sufficient supporting documentation to establish whether the beneficiary holds specialized or advanced knowledge of the company's processes or procedures. The petitioner provided extensive documentation related to the beneficiary's experience with the [REDACTED] and [REDACTED] accounting applications. However, the emails and other supporting documentation submitted by the petitioner fail to demonstrate, as asserted by the petitioner, that the beneficiary's knowledge of the aforementioned applications is advanced or specialized. In fact, the email correspondence submitted by the petitioner indicates that the accounting applications are being widely used in the organization and that training is being provided to many other users. For instance, the petitioner submitted a [REDACTED]

process documentation which suggest the wide use of this accounting system. The wide knowledge of this application is further confirmed by submitted emails demonstrating the beneficiary's colleagues regularly entering reports into this system. Indeed, the petitioner states that reports are entered into [REDACTED] by the parent company's approximately 50 affiliates and subsidiaries around the world on a monthly basis. Additionally, the submitted emails demonstrate that the [REDACTED] application is used by many employees in the greater corporate structure and that training on the use of this application has been provided to over 2,500 employees in the company.

The submitted documentation also fails to corroborate the petitioner's assertion that the beneficiary was involved in the development of the [REDACTED] application, but merely demonstrates that the beneficiary used this application, as others in the organization, to document accounting procedures and processes. As such, the petitioner has not corroborated its assertion that the beneficiary holds advanced or special knowledge of [REDACTED]. In fact, the petitioner has submitted substantial documentation that the beneficiary is heavily engaged in many other tasks outside of the aforementioned accounting applications.

Due to the apparent extensive use of these accounting applications throughout the company, a specific comparison of a beneficiary's knowledge against that of others holding comparable positions within the company is critical to determining whether such knowledge is special or advanced. The director was well aware of the importance of this analysis when she suggested that the petitioner submit evidence relevant to differentiating the beneficiary's knowledge from others within the company or the industry.

However, the petitioner did not provide sufficient explanation and supporting documentation necessary to compare the beneficiary's knowledge to that of her peers within, and outside, the foreign employer and petitioner. The petitioner did not sufficiently explain, and document, how the beneficiary's knowledge was different from other professionals within the company, beyond stating that the beneficiary was the only one holding her level of knowledge within the foreign company and noting that she had worked in three distinct departments within the accounting group. The petitioner did not explain how this experience differentiated her from the five other section managers working in her department, the six managers and supervisors above her in the organizational hierarchy, the more than thirty financial department employees below her in the submitted organizational hierarchy, or the employees working in the financial departments of the 50 other group companies who utilize the same accounting and financial reporting systems.

Although the petitioner did submit sufficient supporting documentation to demonstrate that the foreign employer has specialized training programs for its employees, and that the beneficiary completed formalized training related to the relevant accounting applications, the petitioner provided no support for its assertion that only two or three others in each subsidiary likely hold similar knowledge. A petitioner must submit sufficient documentary evidence to establish that such knowledge is special and advanced within the organization or the industry. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Further, with respect to the U.S. position, the petitioner has consistently stated that its own financial department staff members do not have the required training in [REDACTED] group-wide financial systems. The petitioner did not explain what reporting systems it currently uses or how that system differs from those used

by its parent company and affiliates worldwide. Nevertheless, the record establishes that the petitioner's financial data is in fact reported and consolidated into its parent company's annual report. The petitioner has not provided specific information regarding the training the beneficiary would provide or estimated how long it would take to train the U.S. users on the [REDACTED] and other systems.

Further, any proprietary qualities of the petitioner's process or product alone do not establish that any knowledge of this process is "specialized." Rather, the petitioner must establish that qualities of the company's process or product require its employees to have knowledge beyond what is common in the company or the industry, such that the knowledge can be considered "special" or "advanced." The AAO does not dispute that the beneficiary is a skilled and experienced employee who has been, and will be, a valuable asset to the company and that she is undoubtedly knowledgeable and experienced in the accounting processes and applications of the company.

However, as noted, the petitioner has failed to provide meaningful explanations of the training, experience and knowledge of the beneficiary's colleagues both within, and outside, the company's organization. Although the petitioner repeatedly states that the beneficiary's knowledge of the petitioner's accounting applications is special and advanced, the record suggests that the knowledge is widely held within the organization and the petitioner has not submitted sufficient independent and objective evidence to establish that the beneficiary's knowledge is beyond that of those similarly placed providing accounting and finance employees in the company or similarly-employed workers in the industry. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

Based on the foregoing, the petitioner has not demonstrated that the beneficiary possesses specialized knowledge or that she has been or would be employed in a specialized knowledge capacity. For this reason, the appeal will be dismissed.

III. Conclusion

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.