

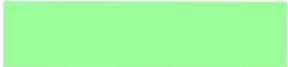
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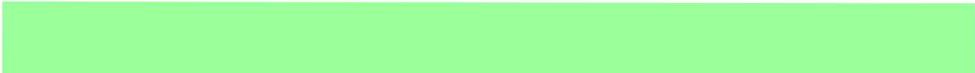
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



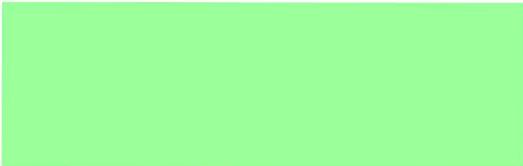
DATE: **JAN 23 2014** Office: VERMONT SERVICE CENTER FILE: 

IN RE: 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:

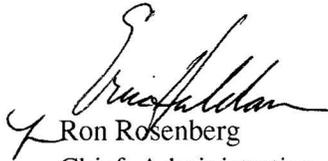


INSTRUCTIONS:

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, Vermont 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 nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a New Jersey corporation, states that it engages in specialized software development and computer consultancy. The petitioner claims to be a subsidiary of [REDACTED] located in India. The petitioner seeks to transfer the beneficiary to the United States to serve in a specialized knowledge capacity, as a technical analyst, 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 he would be employed in the United States in a capacity 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 erred in deciding that the petitioner did not establish that the beneficiary had specialized knowledge and would be employed in a position involving specialized knowledge." Counsel submits a brief 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 engages in specialized software development and computer consultancy, with three current employees and a gross annual income of \$950,000. The Form I-129 indicates that the petitioner will employ the beneficiary as a technical analyst. In support of the petition, the petitioner submitted a letter describing the beneficiary's proposed duties as follows:

We have an immediate need to transfer [the beneficiary] to our U.S. subsidiary as Technical Analyst to use his specialized knowledge of our Policy Management Product Application, called [REDACTED] to support and customize its installation for our insurance company clients.

* * *

[The petitioner's] [REDACTED] Product is a Policy Management solution for Insurance Companies and is used by many US Property and Casualty Insurance Companies, including [REDACTED] in Miami, FL and [REDACTED] in [REDACTED]

SC. [The petitioner] carries out the customizations and support of these US Installations from its New Jersey office.

* * *

[The petitioner] needs a Technical Analyst who intimately understands the Product and its technology and has in-depth knowledge on business processes. This is essential in order to support and customize the product installations based on the client requirements. The Product is a well-structured but highly complex application technically as well as functionally and only persons having in-depth knowledge can do customization or integration of it.

* * *

[The petitioner] would like [the beneficiary] to join as a Technical Analyst for support and implementation of the Product Suite. His responsibilities will include support of the Customers, continuous customizations of the product as per client requirements, study of the newer product trends, suggest product development directions, and define new features for the product and direct developers to implement these features.

The petitioner's letter went on to describe the specialized knowledge required to perform the proposed duties at the U.S. company:

The knowledge and skills required for the product customization and support at [the petitioner] are very specific and [the beneficiary] is uniquely equipped with these skills. He is well versed with the product architecture and technologies and has more than 4 years of solid experience of leading teams of developers to design, develop, test and implement the Product.

The petitioner's letter also described the beneficiary's specialized knowledge and foreign employment as follows:

[The beneficiary] joined [the foreign entity] in August 2008 as Project Lead and subsequently was promoted to Project Manager. Over the last 4 years, [the beneficiary] has been a key member of the core architecture team that architected, designed and developed the Policy Management Product Application.

* * *

[The beneficiary] has more than 12 years of experience with specialized skills on our product and on Microsoft Technologies and he is also a Microsoft Certified Professional. His rich experience includes software design and development, business process reengineering, technology training and business development. He has uncanny business acumen and leadership qualities.

The petitioner also submitted a letter from the foreign entity describing the specialized knowledge required to perform the proposed duties at the U.S. company:

[REDACTED] product suite development te[a]m in India has around 27 members in total that includes various roles. Out of this team, there is a core team of around 16 persons who are deeply involved in the architecture of the product.

There are 4 key modules in the [REDACTED] product suite – Policy Administration, real Time Rating/rater, claims Management and Billing Management. The [REDACTED] core team covers all these modules and their interaction with each other.

As a process, [the company] has comprehensive trainings for each person that works on [REDACTED] product suite on various areas of specialization. Each resource is screen thoroughly before assigning a particular module and in addition during the course of the implementation the person needs to go through series of mandatory exercises to ensure that he/she is performing well to the task and meeting the standards laid.

The knowledge about the architecture and the business logic of the product is very specific and proprietary to [the petitioner] and can be gained by the members who are part of the core product development team in India.

During the implementation of the product at a Customer location, the client specific requirements need to be understood and mapped with the business logic of the product in order to work out the feasibility of customization as well as integration of the product with other Customer applications. In order to do this the knowledge about the [REDACTED] architecture and business logic is a MUST.

The foreign entity's letter also described the beneficiary's specialized knowledge and foreign employment as follows:

[The beneficiary] has worked extensively on the claims Management and Billing Management Modules that serve as an integration point for the [REDACTED] product suite application and various Third-party comparative raters. This application module constitutes of high level architectural approach and technical implementations using the latest advance Techniques.

[The beneficiary] is technically highly competent and holds a strong understanding of the functional side of it. He has been working on these modules as part of the core [REDACTED] development team for more than 4 years now and has worked a lot in associate with various Customers and Business Analyst at client sides [sic].

The petitioner submitted the beneficiary's resume listing his roles and responsibilities with respect to [REDACTED] (Support and Maintenance), [REDACTED] (Product Enhancement – Campaign Management), and two [REDACTED] client implementation/integration projects, as well as several other un-related projects. The resume does not include any dates. The petitioner also submitted the beneficiary's certificates indicating that he has

received the following training and certificates: Microsoft Certified Professional, Mastering with Microsoft Visual Basic 5.0, Mastering Microsoft Visual Basic 5.0 Fundamentals, and Data Structures (a 26-hour course).

The director issued a request for evidence ("RFE"). The director requested that the petitioner provide, *inter alia*, the following: (1) evidence that the beneficiary possesses specialized knowledge; and (2) evidence of the proposed specialized knowledge position in the United States. Specifically, the director requested that the petitioner: identify all software, tools and methodologies implemented in the customer environment; provide a list of proposed duties that require specialized knowledge; identify how long it takes to train an employee to use the specific tools, methods and procedures; specify how many workers possesses this knowledge and are similarly employed by the organization; explain how the beneficiary's training differs from the core training provided to other employees; and submit a record from the human resources department detailing the manner in which the beneficiary has gained his specialized knowledge, including documentation regarding the particular training courses he completed.

In response to the RFE, the petitioner submitted a letter providing the same explanation regarding the specialized knowledge required for the U.S. position as it provided in its initial letter. The petitioner also provided the same description of the beneficiary's specialized knowledge and foreign employment, except that the petitioner substituted the "claims Management and Billing Management Modules" with the "Policy Administration and Real Time Rating Modules." The petitioner went on to describe its need for the beneficiary in the United States as follows:

[REDACTED] product suite development team in India has around 27 members in total that perform various roles. Out of this team, there is a core team of around 16 persons who are deeply involved in the architecture of the products. This team is based out of [the petitioner's] Development Center in [REDACTED], India.

There are 4 key modules in the [REDACTED] product suite – Policy Administration, Real Time Rating/Rater, Claims Management and Billing Management. The [REDACTED] core team covers all these modules and their interaction with each other.

* * *

Since [REDACTED] product suite is a vast application we do not use one resource on multiple modules. They are trained specifically on the modules that have been assigned to them. This training, though is the merely the starting point for the resource.

* * *

[The beneficiary] has worked extensively on the Policy Administration and Real Time Rating Modules that serves as an integration point for the [REDACTED] product suite application and various Third-party comparative raters. This application module constitutes of high level architectural approach and technical implementations using the latest advanced Java Techniques.

The petitioner explained that it has previously employed technical analysts in L-1B status to support the [redacted] product for U.S. customers, and indicated that the current resource has requested a transfer back to India. The petitioner further stated:

So there was an urgent need to have a replacement to support various [redacted] customers on Policy Administration and Rating Modules and hence it was decided to bring over [the beneficiary] from India Entity [sic] to replace

[The beneficiary] would be performing the [redacted] Support tasks for the Policy Administration and Rating Modules which were previously being done by These tasks cannot be performed by any other person in [the petitioner] due to the reasons described above.

It is business critical for the petitioner to obtain [the] beneficiary[']s services. Over the last month, that [the petitioner] did not have support person for Policy Administration and Rater, it has faced problems in supporting its major US customers These customers have raised serious concerns on level of support that could be provided to them.

The petitioner submitted a document titled, "Actions and Duties to be performed by [the beneficiary]," listing the following:

1. [redacted] Support

- Understanding the Support Request by interacting with the Customer
- Evaluate whether the support request actually needs change in the platform or whether it is a training issue.
- Provide training to the end user in case it is a training issue
- Do a thorough impact analysis of the support request and Create a[n] impact analysis document
- Make the changes to the customer environment after taking approval from the Product Team on the impact analysis
- Testing of the changes done in the customer environment
- Getting User Acceptance Testing on the changes
- Closing the Support Request and supporting the customer on the warranty period for the Support Request

2. [redacted] Implementation Support

- Understand the existing processes at Client organization related to Policy Administration, Underwriting, Claims Processing, Rating and Billing Modules
- Giving demos of the [redacted] platform to various Client Personnel and Stakeholders to explain the processes in [redacted] Platform
- Undertaking the Gap Analysis to document the customizations needed in [redacted] platform for the specific implementation
- Undertake feasibility analysis on various user requirements

- Support the implementation team in carrying out the changes specific to an implementation
- Implement the solution at the client location
- Getting user acceptance on the implemented solution

3. [REDACTED] Product Maintenance

- Review the market trends and user requirements to propose the enhancements that can be part of the base [REDACTED] Platform
- Firm up the requirements and business needs for future [REDACTED] enhancements/product features by discussing with various user groups
- Beta testing of the new [REDACTED] features at various client locations in actual business scenarios

The petitioner submitted a document titled, "Software, Tools and Methodologies Utilized for [REDACTED]" listing various third-party software and tools used to support [REDACTED]. The petitioner specified that an employee supporting [REDACTED] must be experienced in the following technologies and will use them daily: CL, ILE-RPG, CLLE, WCF, WPF, Silverlight, C#, DB2/400, SQL Server 2008, IBM and Apache Web Servers, VSS, SOA-based architecture, Web Services, HTML, JavaScript, AJAX, XML, CSS, SQL Reporting Services and Crystal Reports.

The petitioner also submitted a document titled, "Proposed Duties which require Specialized Knowledge / Why Specialized Knowledge Required," listing each of the beneficiary's duties as described above and explaining that performing said duties requires a technical analyst who understands all of the functionality of [REDACTED] in detail in order to determine what needs to be done to support the customer.

The petitioner submitted a document titled, "Specialized Training of Beneficiary," describing the beneficiary's specialized knowledge as follows:

The [REDACTED] Technical Analyst needs to have a very strong and intimate knowledge about all components of the [petitioner's] [REDACTED] Product Suite.

This knowledge can only be acquired through a combination of training as well as actual working with the [REDACTED] Product Development Team. This takes 3 years of continuous accumulation of knowledge by working on product development and customer implementations.

* * *

[The petitioner] has well defined trainings that team members need to undertake and pass before they are put into development team.

[The beneficiary] completed three such extensive trainings in 2008-2009 and since then he has been part of the core [REDACTED] development team. He has extensively worked on [REDACTED] development, [REDACTED] implementations and [REDACTED] enhancements.

The petitioner included three training certificates issued by the foreign entity indicating that the beneficiary completed "[REDACTED] – Base Platform" training from September 8 to 27, 2008, "[REDACTED] – Policy Administration" training from November 18 to 22, 2008, and "[REDACTED] – Real Time Rating" training from January 13 to 24, 2009.

The director denied the petition on February 14, 2013, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he would be employed in the United States in a capacity requiring specialized knowledge. In denying the petition, the director observed that the beneficiary's use of the petitioner's proprietary tools and methods is merely incidental to the duties of the U.S. position as the stated purpose of the beneficiary's assigned project is to develop and maintain the clients' systems. The director further observed that the record indicates that the beneficiary will be primarily engaged in work on the client systems and on third party services and not limited to utilizing processes that are specific to the petitioner. The director found that the petitioner did not provide documentary evidence to establish that the listed tools and processes used by the beneficiary are specific to the petitioner or that the beneficiary's familiarity with those tools verifies that he possesses specialized knowledge.

On appeal, counsel for the petitioner contends that the U.S. position requires specialized knowledge because the [REDACTED] product itself is unique and proprietary in how it utilizes the third-party tools and processes and the beneficiary has to use these tools and processes in order to properly integrate the [REDACTED] product with the clients' systems. Counsel further contends that the beneficiary is not developing client systems, but rather integrating and customizing the [REDACTED] product with the client systems, as well as presenting the technical aspects of the product to potential clients and reviewing market trends and user requirements to propose enhancements to the product. Counsel states that "as one of the key members involved in the development of the product, [the beneficiary's] knowledge is uncommon and noteworthy. The detailed knowledge of [REDACTED] that he gained by his involvement in developing the product cannot be easily transferred or taught."

B. Analysis

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

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts or prongs. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge,

describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge. Once the petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence, which establishes whether or not the beneficiary actually possesses specialized knowledge. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

In the present case, the petitioner's claims are based on the first prong of the statutory definition. Specifically, the petitioner asserts that the beneficiary has special knowledge of its proprietary [REDACTED] product suite.

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(1)(3)(ii). The petitioner must submit a detailed job description of the services to be performed sufficient to establish specialized knowledge. *Id.*

As a preliminary matter, the petitioner correctly notes that the director erred by stating that the beneficiary would merely be maintaining "client systems." Rather, the record reflects that the beneficiary would be responsible for integrating, maintaining and supporting the petitioner's own [REDACTED] product, which is sold or licensed to its property and casualty insurance industry clients.

The petitioner indicates that only an individual who has been part of the [REDACTED] core development team possesses the specialized knowledge required to perform the duties of the proposed position. Therefore, one of the critical questions before the AAO is whether the petitioner has supported its claim that the beneficiary's knowledge of the [REDACTED] product alone constitutes specialized knowledge.

The petitioner in this matter has not provided sufficient probative evidence establishing the nature of the claimed specialized knowledge. The crux of the petitioner's claim is that its [REDACTED] software is proprietary and the beneficiary's experience in working with this software has resulted in the beneficiary's specialized and advanced knowledge. The petitioner's claim that the knowledge is proprietary 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."

The petitioner indicated that the beneficiary joined the foreign entity's "core development team" for [REDACTED] after completing "extensive trainings in 2008-2009." The petitioner has documented the beneficiary's completion of one three-week foundation course in the [REDACTED]-Base Platform, a five-day training course in the [REDACTED] Policy Administration module, and a ten-day training course in [REDACTED] Real Time Rating. Based on this evidence, the petitioner has not established that the beneficiary has completed "extensive

trainings." Although requested by the director, the petitioner did not provide information regarding the content of the training or the number of staff who are similarly trained. Further, although the petitioner stated that the "core development team" completes more extensive training compared to others working with the product, and thus possesses advanced knowledge in comparison, the petitioner did not further elaborate with respect to the training provided to other employees assigned to support [REDACTED]. 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)). Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

In addition, while the petitioner claims that the beneficiary has been "a key member of the core architecture team that architected, designed, and developed" [REDACTED] the fact that he completed a training course on the product immediately after being hired suggests that the product already existed at that time and was not developed in whole or in part by the beneficiary. It appears that the product undergoes ongoing enhancements and customizations to meet industry and customer requirements, but the record does not support a finding that the beneficiary was involved in its initial development or design of its core architecture. The petitioner did not delineate the team or department assigned to the [REDACTED] product in support of its claim that the beneficiary leads or is a member of the "core development team" or "core architecture team."

The petitioner indicates that it is a combination of the beneficiary's formal training and project experience which provided him with his claimed specialized knowledge. However, the record indicates that the beneficiary was hired as a "project lead" which suggests an elevated level of technical responsibilities, despite the fact that he had no prior exposure to the petitioner's product or any documented experience in the insurance domain.¹ Further, other than describing [REDACTED] as proprietary, the petitioner did not explain how it differs from similar solutions offered by other software companies servicing the insurance industry. The petitioner describes its product as "leading" and "advanced" but has not identified any aspect of it that could not be readily taught to a software professional with experience in the insurance industry domain and the relevant skills in third-party technologies.

The petitioner did not provide the information needed to make a comparison between the beneficiary's training and experience and that possessed by others or within the industry as a whole, nor did it provide information that would establish that knowledge of its [REDACTED] product alone constitutes specialized knowledge. Therefore, while the record establishes that the beneficiary possesses the knowledge and skills required to maintain, enhance, and support the product, the petitioner does not establish that this knowledge is significantly different from that possessed by others within the company working on the same product or others who work with similar software products designed for the insurance industry.

Although the petitioner asserts that the beneficiary's position in the United States requires specialized knowledge, the petitioner has not sufficiently articulated or documented its claims. Other than submitting a general description of the beneficiary's current and proposed job duties and a brief explanation of how those duties require knowledge of [REDACTED] the petitioner has not identified any aspect of the beneficiary's position

¹ The petitioner submitted a generalized organizational chart for the foreign entity which indicates that project leads are senior to technical specialists, module leads, programmer analysts, senior software engineers, and software engineers.

which involves knowledge that rises to a level that is special or advanced. Specifically, the petitioner has not demonstrated what aspects of implementing and maintaining its proprietary software would require knowledge that is particularly complex or different from what is commonly held by experienced software professionals with the same skills in third-party technologies.

Moreover, the petitioner's claim that an employee would require three years of experience to perform the duties described is not established in the record. As noted above, the beneficiary was hired as a project lead with no prior experience with the petitioner's products or claimed experience in the insurance domain, and appears to have been quickly promoted to project manager. Again, going on the record without supporting documentary evidence is insufficient to meet the burden of proof. *Id.* The petitioner in this matter has not described what specific knowledge of the [REDACTED] product could not be conveyed to similarly experienced software professionals over the course of the five to six weeks of training completed by the beneficiary.

Overall, the evidence does not reflect how the knowledge and experience required for the beneficiary's position would differentiate that position from similar positions at other employers within the industry. The petitioner's claim that the knowledge is proprietary 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." 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).

Further, 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 is uniquely equipped with the knowledge and skills required for product customization and support as he has more than four years of solid experience leading teams on [REDACTED] products. However, the petitioner has provided some inconsistent information throughout the record. In support of the petition, the petitioner indicated that the beneficiary "has worked extensively on the claims Management and Billing Management Modules." In response to the RFE, the petitioner changed the above language and stated that the beneficiary "has worked extensively on the Policy Administration and Real Time Rating Modules" and that he would be supporting these specific modules in the United States. The internal training certificates provided for the beneficiary indicate that he has received training on the basic [REDACTED] product, the policy administration module, and the real time rating module. The record does not indicate that the beneficiary has received specific training on the claims management or billing management modules. Further, his resume indicates no prior on-the-job experience supporting the Policy Administration and Real Time Rating Modules. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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.*

The AAO acknowledges counsel's assertion that USCIS has approved other L-1B petitions that had been previously filed by the petitioning organization based on similar evidence with respect to the specialized knowledge position. Each nonimmigrant petition filing is a separate proceeding with a separate record and a separate burden of proof. In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii).

If previous nonimmigrant petitions were approved based on the same unsupported assertions that are contained in the current record, the approvals would constitute material and gross error on the part of the director. The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988). As discussed above, the petitioner submitted insufficient evidence in support of its claims that the beneficiary possesses specialized knowledge.

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001). Despite any number of previously approved petitions, USCIS does not have any authority to confer an immigration benefit when the petitioner fails to meet its burden of proof in a subsequent petition. *See* section 291 of the Act.

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

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.