



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: MAR 04 2014 Office: CALIFORNIA SERVICE CENTER FILE: [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:

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,

  
for 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 AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an L-1B nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a California corporation, states that it operates as a software product development and consultancy services provider. 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 Specialized Solutions Engineer, for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish 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.

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 beneficiary is the petitioner's only employee possessing the unique and advanced knowledge required to perform the duties of the U.S. position. 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 filed the Form I-129, Petition for a Nonimmigrant Worker, on July 17, 2012. The petitioner indicated on the Form I-129 that it operates as a software product development and consultancy services provider with 242 current U.S. employees and a gross annual income of \$51 million. The petitioner stated that the beneficiary will be working as a Specialized Solutions Engineer. In support of the petition, the petitioner submitted a letter describing the beneficiary's proposed duties as follows:

As a Specialized Solutions Engineer, he will work and execute [REDACTED] projects where his duties will include, though not be limited to, the following[;]

- Replace paper based routing systems with real-time web based solutions
- Provide complete visibility into all assets at all times in a central, secure environment, creating "a single version of the truth"
- Introduce the "digital" job bag, and manage all elements of the Client's digital assets: version control, label control, size, structure, graphics, text, etc.
- Provide for a Centralized, globally accessible content management system
- Help in gaining enterprise-wide visibility into the status activities and tracks process metrics
- Enable light touch integration with existing Product Master Data system via webservices
- Infuse a widespread adoption of the solution due to intuitive interface
- Deliver as a secure, hosted solution on the Cloud
- Design & Development of Customer Workflows
- Understand the Client's business processes and use this information for rendering effective business solutions through [REDACTED]
- The analyzed and gathered data will be then 'fit to business', keeping in mind the product features
- Resolve Production Issues resulting from myriad production environments
- End User Training

The petitioner's letter went on to describe the beneficiary's claimed specialized knowledge as follows:

Indeed, [the beneficiary] belongs to that very small minority of our employees (0.62%) who has knowledge of the [REDACTED] solution and has implemented numerous Consumer Packaged Goods (CPG) industry projects. It is this small minority of employees like [the beneficiary] who are actually part of the subsequent enhancement and customization teams and who undergo industry specific special training programs (in addition to the [REDACTED] training program), and who are thus are growth dividers [sic].

[The beneficiary] has unique and advanced knowledge of our intellectual property and is a [REDACTED] Proprietary Solutions Expert within our organization, not merely on account of the training that he underwent but equally so, on account of the various projects he worked on using this specialized solution.

\* \* \*

. . . There are currently only 2 other employees in the US from amongst our global workforce of 6500 who have this knowledge.

His advanced knowledge and technical skills of the Company's trademarked [REDACTED] are not capable of being substituted. Having worked on the [REDACTED] Solution extensively we believe [the beneficiary] has the necessary advanced skills to execute and customize the projects as per client's given specifics.

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

[The beneficiary] joined [the foreign entity] in India in July 2005 as a Solutions Engineer and has been a key player in our specialized design and solutions division. [The beneficiary] holds a Masters and Bachelors in Computer Applications and has nine years of experience in delivering secure, business effective technical solutions in the IT industry. He is proficient in a wide array of programming concepts, tools and technologies including Appian (Core Java, XML, XSD), Savvion (Skill Test, JUnit) and Windows and Unix database fundamentals.

He has vast experience in [the petitioner's] [REDACTED] – a purpose-built, modular solution for all elements of brand and packaging development and production. [REDACTED] captures industry best practices and allows brand managers to learn from previous launches and campaigns across all brands. [REDACTED] is owned and trademarked to [the petitioner] and only very few in our Company have knowledge of this Solution.

\* \* \*

[The beneficiary] was selected to undergo this advanced training in [REDACTED] and successfully completed the training program. He is now a [REDACTED] Proprietary Solutions Expert within our organization, not merely on account of the training that he underwent but equally so, on account of the various projects he worked on using this specialized solution. He has since designed and implemented business process workflow solutions, specification management solutions, and artwork management solutions for many of our clients, [REDACTED] being chief among them; where he has successfully used the PaxPro Solution.

\* \* \*

His duties are different from other team members as they focus around his advance knowledge of PaxPro. [The beneficiary's] unique knowledge of our PaxPro Solution would not be known to others in the industry as this is a Solution that is owned and trademarked to us. Indeed, even within our Company only 0.62% of our work force have knowledge of the Solution and its implementation dynamics.

\* \* \*

2. He is uniquely qualified to contribute to our US company's knowledge of foreign operating conditions having worked as a Solutions Engineer (Specialized Projects) with the parent Company's design and solutions division for almost 7 years. He has also gained complete knowledge of the high quality operating conditions, quality standards and the global delivery model followed

by the [petitioner's] group and has successfully followed these in the delivery of various design and solution projects.

3. He is a key employee of the Petitioner's design and solutions division and has 9 years of total domain experience. His specific leadership role in the development of additional features and enhancement of the proprietary [redacted] Solution and; the implementation of prestigious [redacted] projects has been highly beneficial to us, in an extremely competitive and difficult IT economy.
5. His duties are advanced and different from those performed by other team members. He will be only one of three members of the onsite team to have the advanced knowledge of this solution and his presence is essential so that none of the projects run the risk of being unsuccessful.
6. His specialized knowledge of the [redacted] Solution could only have been gained through his training and subsequent execution and implementation of the various [redacted] projects in the [redacted] industry; as well as his years of progressive professional experience with the [petitioner].

He possesses unique knowledge of a product, which cannot be easily transferred or taught to another individual. This is because [the beneficiary] is part of the very small minority (0.62%) that has been trained on [redacted] and uses this Solution for the [redacted] industry.

7. In the US he will be one of only 3 employees (from amongst our global workforce of – 6500) to have this advanced level of expertise and knowledge of the [redacted] Solution and hence clearly [the beneficiary's] knowledge is narrowly held within the company and would not be known at all to others within the industry at large.

The director issued a request for additional evidence ("RFE") instructing the petitioner to submit, *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, the petitioner elaborated upon the initial description by submitting a lengthy explanation of the beneficiary's duties and claimed specialized knowledge that included examples of his involvement in the implementation of the [redacted] system for two specific clients. The petitioner provided a breakdown of duties specific to the beneficiary's role within the project and the roles of other team members. The petitioner stated that the beneficiary will be employed in a very similar position at the U.S. company as he was employed abroad, and therefore, both positions involve specialized knowledge.

The petitioner indicated that the beneficiary is one of two individuals within the 101 individuals in the [redacted] business unit (of 6,500 total employees) who has received advanced training on the [redacted] system and is in a position to design and build custom solutions to match customers' requirements with the [redacted] features. The petitioner stated that it would be extremely difficult to find another employee who possesses the requisite combination of technical expertise, familiarity with its proprietary products and systems, and application to real clients.

In response to the RFE, the petitioner described the beneficiary's training as follows:

The training that is given to the Solution Architects is completely different and is advanced as compared to all others. This Advanced Training Program that was completed by [the beneficiary] has been attached . . . .

The Advanced Training course was a full time program and held over a period of 18 days. It was completed by [the beneficiary] from June 7<sup>th</sup> – June 30<sup>th</sup> 2010. The training was provided by an employee of our Company who was sent by us to Paxonix Inc, prior to its acquisition, for purposes of knowledge transfer.

\* \* \*

We respectfully submit that as explained earlier, when comparing [the beneficiary's] advanced duties from those performed by his other team members, it becomes apparent that without completing this advance training program, the project team members did not have sufficient knowledge and experience of [redacted] to be able to customize and design the solution for the customer such that it met all the customer's business requirements.

\* \* \*

[The beneficiary] will not be providing any training of [redacted] in the US, other than the normal end user training to the customer once the system has been implemented. The unique and advanced knowledge he holds of the [redacted] Solution cannot be imparted through mere on-the-job training. As already certified he was provided with advanced & full-time training that was held over 18 days to the exclusion of all other productive work by the trainer and trainee. Without this training, it is not possible for a person to build and customize [redacted] so as to match the customer's specific business requirements and concerns. This advanced training can only be provided at our Training Center in India, to select employees as and when the need arises. As certified earlier, to date only 2 people have been selected for and have completed this advanced training program.

The petitioner submitted training plan spreadsheets including session descriptions and duration times. The "[redacted] Team: Induction Training Plan" is 11 days long over a three week period. The "[redacted] Software Engineer Training Plan" is 10 days long over a two week period. The "[redacted] QA Induction Training Plan" is also 10 days long over a two week period. The "[redacted] Solution

Architect Advanced Training Plan" is 18 days long over a four week period. The petitioner submitted a copy of the beneficiary's training certificate indicating that he completed the [REDACTED] Advanced Training from June 7 through June 30, 2010. The petitioner also submitted a letter from the general manager of human resources stating the following about the [REDACTED] training:

Advanced Training is also necessary for the Solution Designers & Solution Architects. This training is key to being able to architect and design customized [REDACTED] solutions that can match a customer's specific business requirements.

The Advanced Training Program is a full time program that extends over 18 days. The Training includes Classroom lectures, assignments and hands on practical training. Both the Trainer and the Trainee are exclusively assigned to this program to the exclusion of all other productive work for this period.

The Trainer for the Advanced Training Program was Ms. [REDACTED] who received a complete knowledge transfer from the original [REDACTED] prior to the acquisition of this business by our Company.

To-date Ms. [REDACTED] has held this Advanced Training Program twice. I certify that only 2 highly skilled software architects have completed this training to date.

[The beneficiary] (Trained from June 7-June 30, 2010)  
Mr. [REDACTED] (Trained from April 11-May 5, 2011)

Upon completion of this Training these employees are certified as being [REDACTED] Solution Design Experts' and are now equipped to design and architect customized [REDACTED] solutions.

The director denied the petition on September 18, 2012, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he has been employed abroad or would be employed in the United States in a position requiring specialized knowledge. In denying the petition, the director stated that it appeared that the beneficiary performed the same or similar duties as other workers in a similar position in the field, and as such, insufficient evidence was presented to establish that the position of specialized solutions engineer involves a special or advanced level of knowledge in the information technology field or related occupations.

On appeal, counsel for the petitioner contends that the beneficiary meets the statutory and regulatory definitions of "specialized knowledge" in that it is more likely than not that the beneficiary possesses advanced knowledge or expertise of its products, processes, and procedures. Counsel further asserts that the petitioner has provided sufficient evidence to establish that the beneficiary's knowledge is also different, uncommon, and advanced within the organization itself. Counsel clarifies the beneficiary's duties at the foreign entity and proposed duties in the U.S. by emphasizing that such duties are carried out within the context of the [REDACTED] system. Counsel further emphasizes that the beneficiary is one of two individuals throughout the organization who has received advanced training and is able to design and build custom solutions to match customers' requirements using the

features. Counsel states that this level of advanced and specialized knowledge is not easily transferrable to other individuals as the beneficiary's experience in applying his knowledge and training in the preceding 22 months is the most important aspect of his specialized knowledge.

### B. Analysis

Upon review, counsel's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge and has been employed abroad, and will be employed in the United States in a position requiring specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The 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 both prongs of the statutory definition. Specifically, the petitioner states the beneficiary has expert knowledge of its proprietary and trademarked product and the skills to design and implement the system in order to match customer requirements.

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 indicates that only an individual who has received the [REDACTED] advanced training 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 training and 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 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 petitioner stated that the beneficiary joined the foreign entity's "[REDACTED] business unit" in May 2010, and after completing the advanced training program in June 2010, became the "Lead Solution Architect" for two projects, which suggests an elevated level of technical responsibilities, despite the fact that he had no prior exposure or documented experience with the petitioner's product.<sup>1</sup>

The petitioner has documented the beneficiary's completion of one 18-day advanced training course in the [REDACTED] product. Based on this evidence, the petitioner has not established that the beneficiary completed extensive training before assuming a lead technical role on [REDACTED] projects. The petitioner indicated that the beneficiary is one of only two individuals in the company who have received the [REDACTED] advanced training, and thus possesses specialized or advanced knowledge that is not widely known and enables him to "match the customer's specific requirements with [REDACTED] features." However, the duration of the [REDACTED] advanced training course is only 18 days. Thus, the petitioner has not supported its claim that that it cannot reasonably train another individual within the company to perform the tasks of the beneficiary's proposed position.

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

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<sup>1</sup> The petitioner submitted an organizational chart for the foreign entity which indicates that the beneficiary, as senior team lead, is senior to four software engineers.

others within the company working on the same product or others who work with similar software products designed for the consumer packaged goods industry. Additionally, given the 18-day advanced training course and the fact that the beneficiary became the senior team lead immediately after completing the course, it is reasonable to expect that the petitioner can provide the same 18-day advanced training course to a current employee working within the [REDACTED] business unit to perform the same tasks of the beneficiary's position.

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 description of the beneficiary's current and proposed job duties and an explanation of how those duties require knowledge of [REDACTED] the petitioner has not identified any aspect of the beneficiary's position 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. In fact, the evidence submitted, including a detailed overview of the [REDACTED] product, indicates that [REDACTED] is significantly based on third-party technology, specifically, the [REDACTED]. For example, the [REDACTED] overview indicates that the forms engine, process designer/IDE, process models/engine, rules engine, document management, reporting/analytics engine, dashboards, search engine, channel extensions, process extensions, call webservices, process model webservices, and many other application extensions incorporated into [REDACTED]. The [REDACTED] of the [REDACTED] product are "the components developed by [the petitioner] deployed outside [REDACTED] and appear to form a much smaller portion of the overall product. Notably, the beneficiary refers to [REDACTED] as an "[REDACTED] platform" on his resume.

Moreover, the petitioner does not claim that an employee would require any specific duration of education or experience to receive the advanced training. On appeal, the petitioner simply states that "the selected trainee must first establish to the [business unit] head that his abilities and skills in product engineering and solution designing are of the highest level." As such, 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 18-day 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. Again, 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).

Finally, there are inconsistencies in the record with respect to the beneficiary's job title. Although the petitioner indicates that the beneficiary completed the training to become a "solutions architect," it clearly stated at the time of filing that he has been employed abroad and would be employed in the United States as a "solutions engineer." Based on the information the petitioner provided, these appear to be two distinct positions within the company, and the petitioner's interchangeable use of the job titles makes it difficult for the AAO to ascertain which role the beneficiary holds. 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).

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 has been employed abroad, and will be employed in the United States in a position requiring specialized knowledge. *See* Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

### III. CONCLUSION

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.