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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

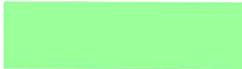


U.S. Citizenship
and Immigration
Services

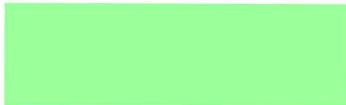


DATE: **MAY 27 2014**

Office: VERMONT SERVICE CENTER

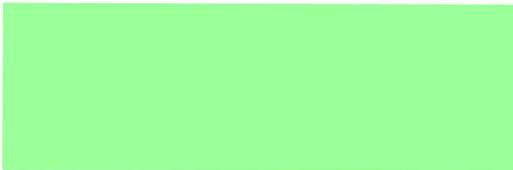
FILE: 

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:

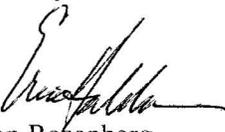


INSTRUCTIONS:

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, 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 extend the beneficiary's status as an L-1B intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Texas limited partnership, states that it is engaged in residential and commercial building. The petitioner asserts that it is the parent company of a subsidiary office located in [REDACTED] China. The petitioner has employed the beneficiary as a steel tile and electric welding specialist since July 10, 2008 and seeks to extend his status until March 31, 2014.¹

The director denied the petition, concluding that the petitioner failed to establish that it has a qualifying relationship with the foreign entity or that the petitioner and the foreign entity are qualifying organizations doing business as defined by the regulations.

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 acknowledges that the petitioner did not adequately explain the relevant company relationships, but claims that the petitioner and its foreign subsidiary are nevertheless qualifying organizations doing business as defined in the regulations. The petitioner submits additional evidence in support of the appeal.

I. The Law

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the U.S. temporarily to continue rendering his or her services to the same employer or a 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:

¹ Pursuant to 8 C.F.R. § 214.2(l)(15)(ii), the total period of stay may not exceed five years for aliens employed in a specialized knowledge capacity.

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, Petition for a Nonimmigrant Worker, shall be accompanied by:

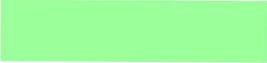
- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including 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 Issues on Appeal

A. Qualifying Relationship

The sole issue addressed by the director was whether the petitioner established that it has a qualifying relationship with the foreign entity.

The pertinent regulations at 8 C.F.R. § 214.2(l)(1)(ii) define the term "qualifying organization" and related terms as follows:



(G) *Qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

- (1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (I)(1)(ii) of this section;
- (2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee[.]

* * *

(I) *Parent* means a firm, corporation, or other legal entity which has subsidiaries.

* * *

(K) *Subsidiary* means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

* * *

(L) *Affiliate* means

- (1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or
- (2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity, . . . [.]

A. Facts

The petitioner states that it is a limited partnership that has been doing business in Texas since 1980. In a submitted in support of the Form I-129, the petitioner explained that the company's general partner is [redacted] Inc., a company that "has earned a reputation as one of the premier residential home builders in the City of Houston." The petitioner indicated in the Form I-129 that it had forty-five employees and that it earned over \$28 million in revenue in 2012.

The petitioner also explained that it expanded its operations to China through the formation of a [REDACTED] on November 30, 2004. The petitioner stated that the foreign office was registered with the People's Republic of China General Administration for Industry and Commerce and that it has been successful at leveraging building techniques and materials from the Chinese market. On the Form I-129, the petitioner stated that the name of the beneficiary's employer abroad was [REDACTED]. The petitioner also indicated that its relationship with this company is the same as it was during his qualifying year of employment abroad.

The director later issued a request for evidence, stating that the petitioner had submitted insufficient evidence to establish that it has a qualifying relationship with the foreign entity. Specifically, the director requested that the petitioner provide additional evidence to demonstrate the ownership and control of the foreign entity, including but not limited to a detailed list of owners, meeting minutes of the company, articles of organization or partnership, bylaws, or amendments to these documents, evidence of capital contributions, income tax returns, or other evidence of ownership in the foreign entity. Likewise, the director noted that the petitioner had failed to submit evidence to demonstrate its ownership and requested that the petitioner submit similar evidence relevant to demonstrate ownership in the entity. Furthermore, the director also indicated that the petitioner had failed to submit sufficient evidence to establish that the foreign entity or the petitioner were doing business, as required to establish these entities as qualifying organizations. As such, the director instructed the petitioner to submit evidence to demonstrate that the foreign entity was currently doing business, including but not limited any annual reports, foreign tax documentation, audited financial statements, purchase orders, invoices, or other such documentation reflecting the regular provision of goods and/or services. Similarly, the director requested evidence to establish that the petitioner was doing business, such as federal or state income tax returns, audited financial statements, major sales invoices, export or import documentation, bank statements, contracts with vendors and suppliers, or loan and credit agreements.

In response, the petitioner reiterated that the beneficiary had been an employee of its "subsidiary office in [REDACTED] China" established in 2004. The petitioner stated that the foreign entity was 100% owned by the petitioner and that the subsidiary abroad "has the same name as the U.S. entity." The petitioner asserted that it is doing business in the greater Houston area and submitted several pages of the screenshots of independent webpages listing information about the petitioner following a search of the company's name on the internet. The petitioner indicated that it is does business under the name [REDACTED] as well as through some of its "subsidiary companies/partners," including [REDACTED] Ltd. and [REDACTED]. The petitioner submitted a 2011 IRS Form 1065 U.S. Return of Partnership Income for [REDACTED] Ltd. specifying that this company earned over \$5 million in revenue, but it did not include the accompanying schedules K-1 or other evidence of this company's ownership.

The petitioner also submitted evidence related to two different foreign entities. This evidence included an internet profile for a Chinese company called [REDACTED] Ltd." The profile noted that the company was engaged in the sale of electrical machinery and related parts. The petitioner further submitted a "Registration Certificate of Foreign

Enterprises Permanent Office in China" dated January 31, 2009. The registration certificate stated that the name of the office was [REDACTED] Ltd." and that the "name of the head office" was [REDACTED] Inc. located in Houston, TX. The certificate provided that the entity was created in November 2004 and that a total investment of \$1,200,000 was provided by [REDACTED]

As noted, the director ultimately denied the petition, finding that the petitioner failed to establish that it has a qualifying relationship with the foreign entity or that the petitioner and the foreign entity were doing business as defined by the regulations. The director noted that the Chinese company registration certificate had expired in 2010 and that the stated foreign company name [REDACTED] Ltd." was inconsistent with the foreign entity name identified on the Form I-129. Further, the director also pointed out that the submitted IRS Form 1065 U.S. Return of Partnership Income was for [REDACTED] Ltd. and not the petitioner. The director observed that the petitioner had failed to submit requested evidence to demonstrate that it was doing business, such as tax or financial documentation.

On appeal, counsel states that the petitioner "did not provide proper and adequate explanation on the qualifying corporate relationship between the US companies of [REDACTED] Ltd., [REDACTED] and [REDACTED] Ltd.' in Houston, Texas and [REDACTED] in China." The petitioner explains that it does business as [REDACTED] and notes that [REDACTED] is its subsidiary. In support of this assertion, the petitioner submits a certificate of limited partnership and an agreement of limited partnership from 1996 indicating that 99% of the petitioner is owned by "limited partner" [REDACTED] Ltd. and that 1% of the petitioner is owned by "general partner" [REDACTED] Inc. The terms of the agreement indicate that [REDACTED] Inc., the general partner, has wide ranging control over the management of the petitioner and that the limited partner, [REDACTED], holds only limited control.

Counsel states that [REDACTED] Ltd. (aka [REDACTED] Ltd.)" is a wholly owned "overseas branch" of the petitioner doing business in a regular, systematic, and continuous basis since its establishment in 2004. In support of this assertion, counsel submits an "income statement" for [REDACTED] Ltd." for the 2012 fiscal year indicating that the company earned over \$800,000 in revenue. The petitioner also provides a Chinese "Business Entity Business License" dated December 31, 2011 for [REDACTED] Ltd.," which shows that this company was established in China on November 3, 2009. This document indicates that the entity had "paid-up capital" of \$99,998 and listed the company type as "limited liability company" and "foreign joint venture." The scope of the business was stated to be "service outsourcing, construction technology research and development, computer software development and sales."

B. Analysis

Following a review of the petitioner's assertions and the evidence submitted, the petitioner has not established that it has a qualifying relationship with the foreign entity.

As discussed above, the petitioner was requested by the director in the RFE to submit evidence to demonstrate ownership in the petitioner, including a detailed list of owners, meeting minutes of the company reflecting ownership, articles of organization or partnership, bylaws, or relevant amendments to these documents, evidence of capital contributions, income tax returns, or other evidence of ownership in the petitioner. Likewise, the petitioner was requested to submit, to the extent possible, the same evidence for the foreign employer. However, the petitioner did not submit any of this evidence in response to the director's request, and now provides on appeal a certificate of limited partnership and an agreement of limited partnership indicating ownership and control of the petitioner.

The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The 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).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, we need not and does not consider the sufficiency of the evidence submitted on appeal. As such, the petitioner has failed to demonstrate ownership in the petitioner, and for this reason, it cannot be determined whether it has a qualifying relationship with any foreign entity.

Further, the petitioner indicates that it has a qualifying relationship with the foreign entity that employed the beneficiary prior to his transfer to the United States, but has not provided evidence to support this claim. The petitioner has identified a number of different names for its claimed Chinese subsidiary, but has not clearly established the ownership of any of these entities or provided evidence that there is currently a qualifying organization outside the United States.

In support of the petition, the petitioner referred to the beneficiary's foreign employer as its "[redacted]" and identified the subsidiary as "[redacted]"; "[redacted]" Later, in response to the RFE, the petitioner submitted an internet profile for "[redacted] Ltd" which stated that the company was focused on the sale of electronics and related parts, as opposed to the provision of construction services as elsewhere asserted on the record. At the same time, the petitioner submitted a Chinese company registration certificate, which had expired in 2010, stating that the foreign entity company name was "[redacted] Ltd."

Now, on appeal, counsel states that the foreign entity is named "[redacted] Ltd." and also known as "[redacted] Ltd." The petitioner submits unaudited financial statements for "[redacted] Ltd. and a Chinese

Business Entity Business License dated December 31, 2011 stating that the company was established on November 3, 2009. However, there is no evidence that the foreign entity identified on the Form I-129 ever existed, nor is there evidence that [REDACTED] Ltd." and [REDACTED] Ltd." are the same entity, given that one is a branch office established in November 2004 and one is a limited liability company established in 2009. In sum, the various discrepancies with respect to the beneficiary's former foreign employer frustrate any conclusion that the petitioner and the beneficiary's former foreign employer are under common ownership and control. 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. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Indeed, with respect to [REDACTED] Ltd., which is stated to be a limited liability company, the petitioner has not submitted any supporting evidence requested by the director meant to establish ownership in this company, such as a detailed list of owners, meeting minutes of the company, articles of organization or partnership, bylaws, or relevant amendments to these documents, evidence of capital contributions, foreign tax documents, or other evidence of ownership in the foreign entity. Again, 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). Therefore, without a definitive statement as to ownership in the foreign entity, sufficiently supported by documentary evidence, it cannot be concluded that the petitioner has a qualifying relationship with any foreign entity.

Furthermore, the petitioner has not demonstrated that the petitioner or the foreign entity are doing business as required by the regulations. See 8 C.F.R. § 214.2(l)(1)(ii)(G)(2). The term "doing business" is defined in the regulations as "the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad." 8 C.F.R. § 214.2(l)(1)(ii)(H). As previously discussed, the director requested in the RFE that the petitioner submit additional evidence to demonstrate that the petitioner and the foreign entity were doing business in a regular, systematic, and continuous fashion. In each case, the petitioner submitted little of the evidence suggested by the director. Once again, 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).

Indeed, the petitioner failed to submit any relevant tax documentation, but instead submitted an IRS Form 1065 for [REDACTED] Ltd., an entity whose relationship with the petitioner is not clearly explained or established. The evidence submitted by the petitioner indicates that [REDACTED] Ltd. is owned by another unidentified company, [REDACTED] LLC, and an individual owner. As such, the tax documentation submitted is of little probative value and provides little insight into verifying whether the petitioner is doing business. Additionally, the petitioner did not submit any other supporting documentation to support its regular transaction of goods and services, such as purchase orders, invoices, contracts, or other documentation undoubtedly incidental to the

sale of homes, which the petitioner states that it regularly completes. 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)). Therefore, the petitioner has failed to establish that the petitioner does business as necessary to demonstrate it is a qualifying organization.

Likewise, the petitioner has not submitted adequate evidence to demonstrate that any of the foreign entities identified on the record are doing business. In fact, on appeal, the petitioner has identified a different foreign entity, [REDACTED] Ltd., stated to have been formed as a limited liability company with approximately \$100 in capital in November 2009, whereas it previously identified a foreign entity formed with \$1,200,000 in capital in 2004. A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). Regardless, beyond the discrepancies in the record regarding the name of the claimed related entity abroad, the petitioner has submitted little evidence that any of these entities are doing business as defined by the regulations.

In conclusion, the petitioner has failed to consistently articulate and document the identity of the beneficiary's foreign employer, and it has not provided sufficient evidence to establish that it has a foreign branch, affiliate, subsidiary or parent that is currently doing business. As such, the petitioner has not demonstrated that it has a qualifying relationship with a foreign entity. For this reason, the appeal will be dismissed.

B. Specialized Knowledge

Beyond the decision of the director, the record does not contain sufficient evidence to establish that the beneficiary has been or will be employed in a position that requires specialized knowledge, as required at section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15).

In support of the petition, the petitioner stated that its relationship with a foreign entity in China "yielded great results" in "the development of our Steel Tile and Electric Welding methods." Consistent with this claimed expertise, the petitioner explained the beneficiary's employment with the foreign entity:

[The beneficiary] began his employment with our [REDACTED] subsidiary office in July of 2006. He had over twenty (20) years of experience in the construction industry prior to joining our subsidiary office. In the two years with our [REDACTED] office prior to his temporary transfer to the U.S., he worked exclusively as a Steel Tile and Electrical Welding Specialist where he mastered the use of techniques which involves the assembly of color and steel tile and electric welding. He also mastered the use of the techniques which involves the steel structure profession that can be sub-divided into light steel structures, high-level steel structures, housing steel structures, spatial steel structures, and bridge steel structures; he worked with steel tiles that were produced with suppression

molding, using high gradient multi-step tiling; he made the tiling cascade with three dimensional molding. In the electric welding area, he mastered flat welding, spot welding, continuous welding, and other welding methods.

The petitioner indicated that the beneficiary had gained expertise in the company's proprietary steel tile and electrical welding techniques, and therefore that he was transferred to the United States due to this knowledge. The petitioner further stated that the beneficiary worked on projects in both in the United States and abroad using techniques unique to the company, including "working with steel tiles that are produced with suppression molding, using high gradient multi-step tiling; making the tiling cascade with three dimensional modeling," resembling "old world roof tiling." The petitioner noted that the beneficiary "may" train others pursuant to his position in the United States.

In the RFE, the director requested additional evidence to verify that the beneficiary was employed abroad for at least one year out of three years prior to his entry into the United States, including the beneficiary's pay, personnel and training records, and a letter from the beneficiary's supervisor explaining his experience with the foreign entity. Further, the director requested that the petitioner submit additional evidence to demonstrate that the beneficiary acted abroad, and would act in the United States in a specialized knowledge capacity, including but not limited to: (1) organizational charts for the U.S. and foreign entities listing all employees in the beneficiary's immediate department by name and job title with a summary of their duties; (2) letters from authorized representatives of the U.S. and foreign entities describing the beneficiary's specialized knowledge and explaining how his knowledge was different from that for similar positions in the industry, the minimum time it would take to obtain the knowledge, and significant assignments completed by the beneficiary; (3) the beneficiary's employment history, including training courses completed by him, their duration, and certificates of completion, where applicable; and (4) a description of how many other workers employed by the company hold knowledge similar to that possessed by the beneficiary.

In response to the director's specific requests regarding the beneficiary's specialized knowledge, the petitioner merely stated that United States Citizenship and Immigration Service (USCIS) had previously approved the beneficiary's initial L-1B nonimmigrant visa and a subsequent two year extension, and requested that it now grant the current one year extension to "allow him to complete the projects he is involved with." The petitioner also submitted a foreign organizational chart indicating that the beneficiary was a member of the "material and finished products export department," which included six other employees. The foreign employer stated that fellow department member [REDACTED] was "is in charge of cabinet design, purchasing roof materials and installation," that [REDACTED] and [REDACTED] worked in "cabinet, countertop and tile designing and production areas," and that [REDACTED] and [REDACTED] were "responsible for communication with the mills and shipment of production." Lastly, the chart indicated that the beneficiary worked with "fence installation, iron balcony and electric welding."

Following a review of the petitioner's assertions and the evidence submitted, the petitioner has not established that the beneficiary possesses specialized knowledge or that he 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 had at least one prior year of employment abroad 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's knowledge satisfies either prong of the definition.

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 provided almost none of the evidence requested by the director relevant to demonstrating that the beneficiary holds specialized knowledge, but merely relied on prior approvals granting the beneficiary L-1B status. As noted above, the regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. *See* 8 C.F.R. § 214.2(l)(3)(viii). The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The 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).

Here, the petitioner has submitted no evidence to demonstrate that the beneficiary's knowledge is special or advanced. The petitioner failed to submit letters from authorized representatives of the U.S. and foreign entities describing the beneficiary's specialized knowledge. The petitioner has not explained how his knowledge is different from others similarly placed in the industry or offered a comparison of the beneficiary against similarly placed workers both within and outside the company. The petitioner has not articulated the minimum time it would take for another to obtain the beneficiary's knowledge, or described significant assignments completed by the beneficiary. Indeed, although the beneficiary is stated to have been working with the petitioner since 2008, no details or documentation related to his employment in the United States are provided. Likewise, although the petitioner stated that the beneficiary had over twenty years of experience in construction prior to working for the foreign entity, the beneficiary has not provided details regarding this employment, the knowledge gained in previous positions, or documentary evidence to support his asserted twenty years of experience. The petitioner has not articulated any training completed by the beneficiary or stated how long it would take another employee to gain the knowledge of the beneficiary, nor substantiated this with documentation. In fact, a job advertisement for the beneficiary's position in the United States indicates that the position only requires a high school diploma and no other discernable job requirements, such as the beneficiary's claimed extensive experience in metal work. 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)). Therefore, the evidence submitted fails to establish that the beneficiary was employed, or will be employed in a qualifying specialized knowledge capacity.

As noted, in lieu of submitting the specific evidence of the director, the petitioner states that USCIS has previously approved two other L-1B nonimmigrant petitions for the beneficiary, and as such, deference should be afforded to these prior approvals. The director's decision does not indicate whether he reviewed the prior approvals of the other nonimmigrant petitions. 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 has approved previous nonimmigrant petitions on behalf of the beneficiary, the AAO is not 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). Additionally, 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 the previous nonimmigrant petitions were approved based on the same unsupported and contradictory assertions that are contained in the current record, the approval 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 not be reasonable 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).

In conclusion, the petitioner has not established that the beneficiary has been or will be employed in a position that requires specialized knowledge, as required at section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15). For this additional reason, the petition cannot be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F.Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004)(noting that the AAO reviews appeals on a *de novo* basis).

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.