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



U.S. Citizenship  
and Immigration  
Services

DATE: **OCT 03 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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg

Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center ("the director"), 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 Form I-129, Petition for a Nonimmigrant Worker (Form I-129) to classify the beneficiary as an intracompany transferee in a specialized knowledge capacity 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, an Illinois limited liability company, is an affiliate of the beneficiary's current employer, [REDACTED] located in [REDACTED]. The petitioner seeks to employ the beneficiary in the position of Regional Transfer Pricing Manager for a period of three years.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she has been employed abroad, or would be employed in the United States, in a position requiring specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, counsel for the petitioner asserts that the director's decision appears to be based on a cursory review of the petitioner's initial evidence and wholly ignores the petitioner's response to the director's request for evidence (RFE). Counsel asserts that the petitioner established the beneficiary's eligibility for the requested classification by a preponderance of the evidence. The petitioner submits a brief from counsel and a copy of its RFE response 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:

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

### A. Facts

The petitioner, an Illinois limited liability company, is a subsidiary of a leading steel and mining company with headquarters in [REDACTED]. The petitioner's group operates in 60 countries and employs 245,000 people worldwide, with \$84 billion in revenues in 2012. The group employs 17,000 people in the United States, with revenues of \$12.5 billion. The petitioner indicates that it

was established to provide financial services to the group, including responsibility for directly or indirectly facilitating financing for the group's many entities. In a letter in support of the petition, the petitioner further described its activities as follows:

[T]he treasury function also manages intercompany transactions, ensuring appropriate documentation, leveraging advantageous tax strategies, and ensuring that [the group's] related companies keep "arms length" conditions in facilitating transfer of goods or intangibles between entities. To meet the requirements of local tax authorities, the Group must establish rules, principles, and methodologies for pricing and documentation. The goal of the Treasury function in this area is to guarantee a uniform approach to the determination of transfer prices for intercompany financial transactions as well as to provide a conceptual framework and to set standards for documenting intercompany financial transactions pricing.

The activities of [the petitioner] are both complex and essential for the financial well-being of the Group. We must have highly trained and experienced [company] financial professionals carrying out these important functions.

The petitioner explained that it recently created a Treasury Center for the Americas at its [redacted] office and emphasized that this office's financial department does not have experience in the area of treasury management or transfer pricing. The petitioner stated that the treasury function "requires finance professionals who are deeply familiar with [the company's] Treasury policies and goals, especially transfer pricing and tax specialists who understand the complex transfer pricing procedures developed by the company." The petitioner expressed a need to staff the new U.S. Treasury Center with employees from its European offices who possess the necessary knowledge and experience.

The petitioner stated that the beneficiary will assist in the creation of the U.S. Treasury Center (UTC) according to the company's established procedural guidelines, and will apply her "specialized knowledge of proprietary Company policies and practices and in-depth expertise with transfer pricing strategies." The petitioner further described the beneficiary's proposed duties as follows:

As Regional Transfer Pricing Manager, [the beneficiary] will work on all aspects of intercompany pricing arrangements between related business entities, including the cross-border transfer of intellectual property, tangible goods and services, and both national and international financial transactions. This includes performing the following:

- Position transfer pricing as a strategic tool for tax optimization and tax risk management;
- Translate tax planning into pragmatic transfer pricing solutions;
- Identification, assessment and optimization of intercompany transactions;
- Research and draft technical memoranda to support tax strategies;

- Coordinate with related parties and various departments within [the company], including Business Unites, Corporate Tax (HQ), Legal, Treasury, General Accounting, and Performance Management and Shared Service Center, to understand transfer pricing relationships and agree on correct transfer pricing approach;
- Manage the intercompany agreement process, including review and draft of intercompany agreements for comment and approval in collaboration with various departments, based on the agreed approach;
- Manage compliance with transfer pricing policies and regulations, including preparation of contemporaneous documentation and planning/coordination of function and risk interviews;
- Assist in applying transfer pricing in the context of tax financial reporting, including reporting of uncertain tax positions, as needed;
- Improve governance and controls over transfer pricing and manage related risks;
- Maintain relationships with outside service providers and oversee external projects;
- Monitor legislative and regulatory developments related to transfer pricing that may impact the company's tax positions and/or compliance requirements;
- Manage the tax controversy process as it relates to transfer pricing matters including responses to tax authority inquiries, as needed;
- Provide financial analysis and reports as well as respond to queries from Management, Corporate Tax, and Business Units; and
- Work with regional and global colleagues with the development of regional and/or global transfer pricing strategies and/or procedures.

The petitioner indicated that the beneficiary has been employed as a Transfer Pricing Specialist for its affiliate in [REDACTED] since September 2011, where she performs the following duties:

- Preparing and updating transfer pricing documentation;
  - Corporate service fees
  - Insurance flows
  - Purchasing fees
  - ArcelorMittal Sourcing
  - Branding fees
- Designing and updating transfer pricing policies;
  - Group transfer pricing policy
  - Group transfer pricing procedure
  - Group transfer pricing policy for financial transactions
  - ArcelorMittal Sourcing transfer pricing policy
- Designing and implementing tax risk management strategies;
  - GTMS
  - Link 360
  - Transactional map tool

- Legal entity risk map
- Country risk map
- Managing relationships with outside service providers and overseeing external projects
  - Sourcing
  - Branding fees
  - Financial transactions
- Designing, performing, and implementing economic analysis for different intercompany transactions;
- Supporting preparation of technical memoranda to defend [company] tax strategies;
- Identifying, assessing, and optimizing intercompany transactions on an operational level; and
- Coordinating with related parties and [company] departments to understand and implement proper transfer pricing approaches.

In an effort to explain the nature of the beneficiary's "specialized knowledge of the company's proprietary tax and transfer pricing policies and strategies," the petitioner explained that "[a] transfer price is the price set for transactions between divisions of a company, typically between controlled or related legal entities." The petitioner further stated:

Management of transfer pricing within a large corporate structure such as [the petitioner's group] requires specialized knowledge of the Company's transfer pricing policies, as well as relevant education and work experience. Strong knowledge of tax regimes, advantageous tax strategies and a background in intercompany financial transactions are required for the role of Transfer Pricing Specialist.

The petitioner stated that the beneficiary is well-qualified for the offered position based on her education and experience, and provided evidence that she has the equivalent of a [redacted] an MBA, and a Master of Legal Studies with a specialization in corporate finance from an accredited United States university. The petitioner indicated that the beneficiary was employed as a Consultant with [redacted] in Spain from September 2008 until May 2010, where she prepared and developed transfer pricing documentation, performed tax planning at the national and international level, designed and implemented tax efficient structures, and advised on arbitration procedures and business restructuring. The petitioner stated that the beneficiary was employed as an assistant manager at [redacted] in Spain from May 2010 to August 2011, where she provided multinational enterprises with advising on tax issues, prepared and developed transfer pricing documentation, and offered corporate taxpayer assistance in transfer pricing audits and mutual agreements conflicts.

The petitioner explained that during her 24 months of experience with its foreign affiliate, the beneficiary has gained "in depth experience with the company's transfer pricing policies, strategies and processes" and has completed "various courses in tax actualization" offered by the foreign entity in 2011 and 2012. The petitioner stated that, by virtue of her training and experience, she has

acquired a detailed understanding of the group's global business chain and intragroup transactions, and "advanced, specialized knowledge," through the following:

- Analyzing credit rating methodologies of the three leading credit rating agencies, identifying consequences, and proposing solutions on the application of such methodologies for intragroup financial transactions;
- Performing and reviewing credit rating analysis, in particular using the software [REDACTED];
- Designing and implementing the new transfer pricing policy for financial transactions;
- Attending all internal Credit Committee meetings;
- Developing in-depth knowledge of the financial transactions of the groups for which she is responsible, enabling her to implement a new transfer pricing policy for these transactions;
- Gaining proficiency with and knowledge of the global purchasing platform ([REDACTED]), required for her to design and implement transfer pricing policies.
- Working with the license agreements and payments for use of the [company] trademark and other intangibles, providing her the knowledge to prepare documentation of the structure and design/implement future modifications to these agreements and pricing.

In support of the petition, the petitioner provided an organizational chart for the foreign entity's tax and insurance division, which is headed by a vice president. The chart depicts the beneficiary as one of four employees who report to the Manager, Transfer Pricing, who in turn reports to the vice president. The beneficiary is one of two transfer pricing specialists, while the other members of her immediate department include a transfer pricing manager and a transfer pricing/risk management manager.

On October 25, 2013, the director issued a request for additional evidence. The director acknowledged the evidence submitted at the time of filing, and explained that such evidence was insufficient to establish that the beneficiary possesses specialized knowledge or that she has been or would be employed in a capacity requiring specialized knowledge. In this regard, the director acknowledged that the petitioner submitted a lengthy description of the beneficiary's duties, but emphasized that the initial evidence did not clearly show that the performance of the current or proposed duties requires application of special or advanced knowledge, or compare and contrast the beneficiary's knowledge with that generally possessed within the company and by similarly employed workers in the petitioner's industry. The director provided a list of suggested evidence the petitioner could submit to establish eligibility and to corroborate its claims that the beneficiary possesses, and that her proposed position requires, specialized knowledge.

In response to the RFE, the petitioner provided a letter from [REDACTED] Head of Tax operations at its parent company's headquarters, which provided additional information regarding transfer pricing. Mr. [REDACTED] explained stated:

[The petitioner's group] has developed a set of complex and company-specific Transfer Pricing policies to coordinate and account for our global intercompany transactions ("ICT"). Prices in transactions between related parties (in the case of [the petitioner's group], these are all legal entities for which global parent company [REDACTED] owns more than 50% or otherwise has managerial control) will materialize in taxable income or tax deductible expenses and therefore impact the tax result.

Tax authorities in (almost) all jurisdictions pay strong attention to Transfer Pricing, and many of them have put specific tax regulations in place for taxpayers to comply with. . . .

With regard to the function within [the petitioner's group], Transfer Pricing refers to the definition and documentation of transfer prices (i.e. detailed written description of the ICTs and the transfer prices applied in specific Transfer Pricing reports and collection/preparation of evidence for the conclusions stated in the Transfer Pricing reports). The term "Transfer Pricing Management" covers the organization, execution and supervision of the process of the above-mentioned definition and documentation. In addition, it covers all tasks related to the preparation of negotiations with tax authorities on Transfer Pricing (so called Advanced Pricing Agreements) and support in tax audits. It also includes the provision of training to [company] employees and support to the Head of Tax in defining the Transfer Pricing strategy of [the petitioner's] group. (The definition of a transfer price, in particular providing a formalized, comprehensive guidance on a type of transaction to be applied on a recurrent basis, is called "setting up a Transfer Pricing Policy").

The petitioner indicated that its group's subsidiaries execute more than 20,000 ICTs annually with a total value of \$80 billion, with approximately one dollar of internal sales for every dollar of external sales.

The petitioner provided additional information regarding the members of the [REDACTED] based transfer pricing team. The petitioner stated that in comparison to the beneficiary, one of the employees has much less work experience, one has the same level of experience, but has concentrated on European countries, and one is leading the team as the head of transfer pricing. The petitioner emphasized that the [REDACTED] team is responsible for all countries and all types of ICTs, and that each member of the team has a regional responsibility and a responsibility for certain types of transactions, thus their duties do not overlap. The petitioner indicated that the beneficiary is the transfer pricing specialist for the Americas.

Mr. [REDACTED] stated that, in addition to the corporate team based in Luxembourg, its group employs local Transfer Pricing Managers in Canada and the United States. He explained that the U.S. Transfer Pricing Manager has less work experience than the beneficiary and possesses no knowledge about the petitioner's group, as he had only a few weeks of employment with the company. Mr. [REDACTED] stated that one of the beneficiary's tasks has involved managing the region of North and South America from [REDACTED]

Mr. [REDACTED] acknowledged that there are transfer pricing professionals working for other companies and for consulting firms. However, he stated that such professionals would require one to two years of intensive training in order to attain the same level of understanding of its group's internal Transfer Pricing policies. Mr. [REDACTED] explained that the group maintains a complex Transfer Pricing structure due to the nature of its industry. He concluded that "a higher level of experience outside [the petitioner] would not help, because the Transfer Pricing policies are individualized for [the petitioner's] specific types of transactions."

Mr. [REDACTED] stated that the required knowledge of its transfer pricing policies can be obtained only at the headquarters level in [REDACTED]. With regard to the beneficiary's training, he stated:

I trained her, gradually allocating more and more areas of expertise to her, starting with the less demanding ones and thereafter graduating to more complex cases. A first period of explanation by the training manager includes study of existing materials, then on the job work supporting the training manager, then on the job "walking alone" with the training manager in the background, then finally performing the job autonomously. This progression took [the beneficiary] two years. She is now considered to be one of the three most advanced Transfer Pricing professionals within the group and the leading expert on the group's transfer pricing policies in the Americas.

The petitioner indicated that it had recently hired a U.S. tax professional as a Transfer Pricing Manager who would be working on Transfer Pricing issues related to the petitioner's U.S. operations. The petitioner explained that he has previous experience in Transfer Pricing, but no knowledge of company-specific Transfer Pricing policies and protocols. Further, the petitioner emphasized that the beneficiary possesses greater knowledge of non-U.S. Transfer Pricing issues, and would have a different geographical responsibility. Specifically, the petitioner stated that the beneficiary will focus on regional project management and strategy throughout the entire Americas while the manager will ensure that the company complies with U.S. transfer pricing and tax rules.

The petitioner submitted the resume for its recently-hired transfer pricing manager, and a copy of the job posting for his position. He has four years of experience as a transfer pricing senior analyst with [REDACTED] and two years as a Global Transfer Pricing Senior Analyst with [REDACTED] prior to joining the petitioning company. The petitioner submitted a copy of the job posting for the recently-filled position of Transfer Pricing Manager and the duties listed are identical to the duties provided for the beneficiary's proposed position. The job posting indicates that the

position requires five years of transfer pricing experience, thorough knowledge of economic analysis of complex global tax and finance issues faced by multinational corporations.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she has been employed abroad or would be employed in the United States in a position requiring specialized knowledge. In denying the petition, the director acknowledged the petitioner's claim that the beneficiary possesses specialized knowledge of the company's transfer pricing policies, but found that the record did not establish that her current or proposed positions require her to possess knowledge that is significantly different from that generally possessed by other similarly employed workers. The director noted that if such company-specific knowledge can be readily transferred to other financial professionals with prior transfer pricing experience, "this is an indicator that that the knowledge in question is not special or advanced."

On appeal, counsel for the petitioner asserts that the director failed to consider the petitioner's response to the RFE. Counsel emphasizes that "the sole reason the company seeks to transfer her to the U.S. is for her to utilize the specialized knowledge she has gained with respect to our unique transfer pricing policies and processes and apply those to our business in the Americas." Counsel asserts that the a major part of the beneficiary's current role is to define new corporate transfer pricing strategies based on the company's business needs, a function which clearly "requires specialized, advanced knowledge of [the petitioner's] one-of-a-kind approach to these complex financial transactions and plans."

In addition, counsel maintains that the petitioner clearly contrasted the beneficiary's knowledge and duties with those of other transfer pricing specialists within the company and companies outside the organization, who do not have access to the petitioner's transfer pricing policies and strategies. Counsel asserts that the director did not consider that the beneficiary's knowledge of the petitioner's unique transactions, policies and procedures was derived from one-on-one training that is not available outside the company's global headquarters. Further counsel reiterates the petitioner's statement that "it took [the beneficiary] two years to gain sufficient knowledge to perform her tasks autonomously and to be able to develop transfer pricing policies and strategies on her own."

#### B. Analysis

Upon review, the petitioner has not established that the beneficiary possesses specialized knowledge or that she has been employed abroad, or would be employed in the United States, in a specialized knowledge capacity 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. All employees can be said to possess unique skill or experience to some degree; the petitioner must establish that qualities of its processes or products require this employee to have knowledge beyond what is common in the industry.

Turning to the question of whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in a capacity requiring specialized knowledge, upon review, the petitioner has not demonstrated that this employee possesses knowledge that may be deemed "special" or "advanced" under the statutory definition at section 214(c)(2)(B) of the Act, or that the petitioner will employ the beneficiary in a capacity requiring specialized knowledge. In the present case, the petitioner's claims are based on a claim that the beneficiary possesses special or advanced knowledge of the company's internal transfer pricing policies and their application in international markets.

In examining the beneficiary's specialized knowledge and whether the offered position requires specialized knowledge, we 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.*

At the time of filing, the petitioner submitted a detailed description of the duties the beneficiary would perform in the proposed role of Regional Transfer Pricing Manager and stated that the duties could only be performed by an employee who can "understand the complex transfer pricing procedures

developed by the company." The petitioner expressed a need to staff the new U.S. Treasury Center with employees from its European offices who possess the necessary company knowledge and experience, but has consistently failed to describe the company's internal procedures or indicate why how such procedures qualify as "special" or "advanced." The petitioner readily acknowledged the other companies employ transfer pricing specialists, that financial consulting companies also offer transfer pricing services to multinational corporations, and that the transfer pricing positions within the company require knowledge that is considered general in the field, such as knowledge of "tax regimes, advantageous tax strategies, and a background in intracompany financial transactions." Therefore, simply stating that the company has developed its own policies and procedures internally is insufficient to establish how knowledge of those policies and procedures alone would amount to possession of specialized knowledge. 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)). Without additional explanation, the record does not demonstrate that the company's internal procedures and policies with respect to transfer pricing are so complex that they could not be readily learned by an experienced financial professional in this field.

Nevertheless, the petitioner repeatedly emphasized that the position absolutely requires prior experience within the petitioner's organization and not simply prior experience with complex transfer pricing transactions. However, it provided evidence that it hired an employee with no previous company experience to perform exactly the same job duties as the beneficiary. The job description submitted for the newly hired Transfer Pricing Manager is identical to U.S. job description submitted for the beneficiary at the time of filing. That job posting indicates that the requirements for the position are five years of transfer pricing experience and advanced education in a finance-related field. While the petitioner maintains that the beneficiary and the newly-hired manager will have completely different areas of responsibility, it has not explained why the job duties for both positions as stated in the record are identical. 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). It is reasonable to believe that the newly hired manager will be able to perform the duties of the position for which he is hired. Therefore, the petitioner has not supported its claim that the U.S. treasury function must be staffed only by financial professionals who are already familiar with the company's transfer pricing and tax strategies and policies.

The record also contains conflicting information regarding the nature of the training the beneficiary underwent with the foreign entity and her level of responsibility. At the time of filing, the petitioner stated that the beneficiary has been responsible for preparing and updating transfer pricing documentation, designing and updating transfer pricing policies, designing and implementing tax risk management strategies, managing relationships with outside service providers, performing economic analysis for intercompany transactions, support preparation of technical memoranda to defend tax strategies, optimizing intercompany transactions, and coordinating with internal company departments. These duties are similar to those she performed with previous employers as a consultant providing

transfer pricing services to multinational companies. The petitioner explained that she gained "in depth experience with the company's transfer pricing policies, strategies and processes" and has completed "various courses in tax actualization" offered by the foreign entity in 2011 and 2012, but did not identify the courses or provided evidence of their completion.

In response to the RFE, the petitioner stated that the beneficiary actually completed two years of one-on-one on-the-job training and that she has been effectively managing the transfer pricing functions for the Americas from [REDACTED] notwithstanding Mr. [REDACTED] statement that it took two years of supervised training for the beneficiary to fully and autonomously perform the duties of the transfer pricing specialist position. This information appears to be at odds with the petitioner's earlier claims regarding the beneficiary's training and level of responsibility. Further, if the beneficiary was considered to be in training for two years, it is unclear at what point she is considered to have acquired her claimed specialized knowledge. The beneficiary had been employed with the foreign entity for two years at the time of filing and the petitioner must establish that at least one year of her foreign employment was in a specialized knowledge capacity. Due to the uncertainty in the record regarding the nature and duration of her training and the amount of time needed to acquire the claimed advanced knowledge of the company's transfer pricing policies and strategies, it is unclear whether the beneficiary's foreign employment was in a qualifying capacity.

On appeal, the petitioner emphasizes that the director overlooked the petitioner's statements that the beneficiary not only applies the company's transfer pricing strategies and policies, but also develops such policies and strategies. The petitioner asserts that this responsibility "requires specialized, advanced knowledge of [the petitioner's] one-of-a-kind approach to these complex financial transactions," and states that "our transfer pricing policies are individualized for [the petitioner's] specific types of transactions." Again, the petitioner's claims fail on an evidentiary basis as it simply claims that its approach to transfer pricing is "one-of-a-kind" rather than explaining why the approach is so different that an experienced transfer pricing specialist would require two years of on-the-job training to fully participate in the company's transfer pricing activities.

The current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the beneficiary's knowledge be proprietary. *Cf.* 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988). However, the petitioner might satisfy the current standard by establishing that the beneficiary's purported specialized knowledge is proprietary, as long as the petitioner demonstrates that the knowledge is either "special" or "advanced." By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard. Therefore, unsupported assertions that the company has developed internal policies or procedures, or that the company's operations are unusually complex, are not sufficient to support a finding that knowledge of such policies and familiarity with such operations amounts to specialized knowledge. 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)).

In addition, the petitioner also emphasizes that the beneficiary's experience is unique within the company because the responsibilities of the other transfer pricing specialists in North America and abroad do not overlap with hers. However, the petitioner has not explained any significant differences in strategies and policies based on geography or further elaborated as to how the beneficiary's knowledge is different from that of other similarly-employed workers within the company, such that it would qualify as advanced. As noted, the record indicates that the beneficiary and a newly hired U.S. employee with no prior experience have identical proposed job duties, and the petitioner has not supported its claim that the beneficiary's role requires advanced company knowledge while the other role is "junior" and can be performed by an employee with no prior company experience.

Other than its assertions that the beneficiary is one of a select few individuals with specialized knowledge of transfer pricing policies and strategies for the Americas, the petitioner has not adequately demonstrated how the beneficiary possesses a level of knowledge that is specialized or advanced. The petitioner has not submitted any evidence of the specific knowledge and expertise required for the beneficiary's position abroad and in the United States that would differentiate that employment from the position of transfer pricing specialist within the company or at other employers within the industry.

Therefore, although the petitioner asserts that the beneficiary's positions in the United States and abroad require specialized knowledge, the petitioner has not sufficiently articulated or documented its claims. The petitioner's claim that the knowledge is proprietary, in reference to its internal strategies and policies, must be accompanied by evidence establishing that the beneficiary possesses knowledge that is different from what is generally possessed in the industry; any claimed proprietary knowledge must still be "special" or "advanced." Again, simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

The record establishes that the beneficiary is a highly educated financial professional and who certainly meets the stated requirements for the offered position. However, 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 or that she has been employed abroad or would be employed in the United States in a specialized knowledge capacity. *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.