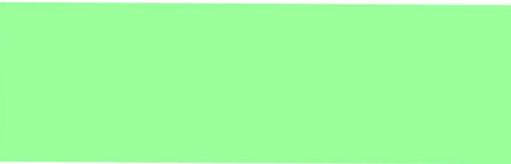


(b)(6)



U.S. Citizenship  
and Immigration  
Services



DATE: JAN 05 2015 OFFICE: VERMONT 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, Vermont 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 a 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, a Connecticut corporation, is an affiliate of the beneficiary's last foreign employer, [REDACTED], located in Hong Kong. Both companies operate in the international shipping industry. The petitioner seeks to employ the beneficiary in the position of Chartering 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, the petitioner asserts that the director overlooked or mischaracterized the majority of the submitted evidence and applied an incorrect legal standard by requiring the petitioner to establish that the beneficiary's possesses "unique" or "extraordinary" knowledge. The petitioner contends that the evidence of record establishes that the beneficiary possesses specialized knowledge of its group's international shipping services and advanced knowledge of its processes and procedures gained through seven years of employment with its foreign affiliates.

## I. THE LAW

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

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training and employment qualifies him/her to perform the intended services in the United States; however the work in the United States need not be the same work which the alien performed abroad.

## II. THE ISSUE ON APPEAL

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

### A. Facts

The petitioner filed the Form I-129 on December 3, 2013. In a letter submitted in support of the petition, the petitioner explained that its corporate group, headquartered in Hong Kong, is a leading

owner and operator of drybulk ships ( ), as well as offshore and harbor tugs and Roll-on and Roll-off freight ferries. The group's fleet has more than 280 vessels, with 2,500 seafaring crew and 350 shore-based staff in 16 offices. The petitioner indicates that it has six employees, achieved total income of \$790,000 in 2012, and is seeking to expand its business.

In a letter dated November 26, 2013, the petitioner's general manager described the duties the beneficiary would perform in her proposed position of Chartering Manager:

[The beneficiary] will be responsible for assisting the General Manager of the [petitioning company] in managing the company's tonnage requirements, including scheduling in/out of tonnage, and coverage of market requirements – with a focus on customer relationships – for existing and potential customers.

Specific duties of the position include, but are not limited to: working in close cooperation with [the petitioner's] chartering teams based in London, Santiago, and Vancouver, as well as the broader [petitioner] group, to develop the company's business within the Atlantic region. The Chartering Manager will hold financial responsibility for overseeing contracts and the conclusion of fixtures and for participating in establishing and sharing freight market views and market information with all concerned parties. She will also participate in developing long-term projects with regional customers with the aim of securing a lasting relationship, providing a degree of long-term cover, increasing barriers to entry for competitors, and providing innovative thinking for expanding business opportunities with the clients. In addition, the Chartering Manager will be responsible for ensuring all cargoes are correctly recorded in a timely manner within [the petitioner's] Voyage Operating System –

The petitioner stated that the position "requires an individual with advanced knowledge of company specific procedures, policies and systems, and of chartering within the segment of the maritime transportation industry." The petitioner explained that the beneficiary is qualified for the position based on her seven years of experience with the petitioner's affiliates in Australia and Hong Kong. The petitioner stated that the beneficiary initially served as an Operations Executive for its Australian affiliate from May 2006 to June 2008, where she gained knowledge of the company's operation of vessels loading and discharging drybulk and breakbulk and was responsible for voyage financial analysis, visiting vessels, and appointing port agents. The petitioner stated that the beneficiary held the position of Chartering Manager from July 2008 to November 2011 based in Australia, and from December 2011 to April 2013 based in Hong Kong. Specifically, the petitioner described the beneficiary's duties abroad as follows:

As Chartering Manager, [the beneficiary] gained knowledge of charter optimization; coordinating regional coverages among multiple offices to overseeing operations of tonnage and non-U.S. based customers; providing daily tonnage information on both internal and external vessels, and coordinating internally and with global brokers and

third party owners; scheduling owned and chartered controlled tonnage efficiently to minimize ballast legs and maximize underlying time charter earnings; providing daily reports for market intelligence on tonnage and cargoes; and planning and implementing a marketing plan for the Group to external cargo customers with the aim of adding further long term contracts of affreightment to support regional market activities. [The beneficiary] created new business opportunities within the shipping industry; managed and maintained accounts; fixed market cargoes; created long and short terms contracts of affreightment; assisted the General Manager with any other matters related to business development; establishing and maintained relationships with brokers and COA partners; and, completed voyage financial analysis from a commercial point of view.

The petitioner also submitted a letter from the foreign entity's Director of Human Resources and Administration, [REDACTED] who confirmed the beneficiary's employment and experience gained abroad. Specifically, she stated:

[The beneficiary] gained specialized and advanced knowledge of [the foreign entity's] operating procedures, particularly as they relate to [the petitioner's] procedures and tools. Having dealt directly with [the foreign entity's] clients and accounts, she established contacts while playing an important role in business development for [the company]. Further, [the beneficiary] developed expertise in [REDACTED] and vessel scheduling in different markets, as well as Voyage chartering. [The beneficiary] gained experience in the use and management of [the company's] [REDACTED] operational and risk management systems.

Ms. [REDACTED] stated that the petitioner seeks to transfer the beneficiary to the United States because "it is impractical to find, hire and train a Chartering manager in the U.S. with such specialized knowledge of Chartering to successfully manage customer and tonnage requirements and the development of [REDACTED] business." She explained that "it would take considerable time and expense to train a U.S. based candidate in the inner workings of industry, the company's operating procedures, proprietary systems and tools, and the management of relationships with owners, clients and agents."

The petitioner provided a copy of its organizational chart which indicates that it is staffed by: a general manager; an operations department with a senior operations manager, operations executive and two "trainees, dry bulk"; a chartering department with two chartering managers (including the beneficiary's proposed position); and supporting staff. The petitioner also submitted a document labeled "PB Org Chart 2: Chartering" which identifies international personnel working under the "Director, Chartering, Pacific" and the "Director, [REDACTED] positions based in the United Kingdom. The beneficiary is identified as one of a total of four chartering managers working in Hong Kong. The chart shows at least one chartering manager, senior chartering manager, or chartering executive in the group's offices located in London, Durbin, Santiago, Japan, Beijing,

Vancouver, New Zealand, and Stamford, Connecticut. The organizational chart for the chartering organization also includes 11 general manager positions.

The director issued a request for additional evidence (RFE) on December 12, 2013. The director advised the petitioner that the initial evidence did not establish that the beneficiary possesses, or that the position of Chartering Manager requires, knowledge of the company's processes and procedures that is advanced or specialized in relation to other employees. The director advised the petitioner that it could submit additional evidence, such as a letter describing the beneficiary's training or experience with the foreign entity; information regarding how long it takes to train on the tools, methods and procedures utilized; the number of workers possessing similar or equivalent knowledge; and documentation of the beneficiary's completion of training. The director also asked that the petitioner explain how the knowledge required for the position is different from that required for similar positions in the industry; state the product, service tool, research, process or procedure the beneficiary uses that requires specialized knowledge; explain how the beneficiary's knowledge is advanced within the organization; and state the minimum time required to obtain the required knowledge.

In response to the RFE, the petitioner submitted two additional letters from Ms. [REDACTED]. She provided a chart detailing the percentage of time the beneficiary spent on each of her job duties as Chartering Manager based in Hong Kong, and the specialized knowledge required to perform each duty. Briefly, the chart indicated that the beneficiary allocated 15% of her time to creating new business opportunities and assisting her general manager with business development; 20% of her time managing and maintaining accounts; 50% of her time fixing market cargoes based on daily discussion with regular market brokers, regular and new accounts, the bunkering department, and other sources; 10% of her time creating long and short term Contracts of Affreightment (COA) and establishing and maintaining relationships with brokers and COA partners; and 5% of her time to completing voyage financial analysis from a commercial point of view.

Ms. [REDACTED] indicated that the specialized knowledge required to perform these duties includes: detailed knowledge of all businesses and companies in respective countries that would enable her to establish contact with and successfully begin relationships with said companies; detailed knowledge of daily activity of the freight market and the change in supply and demand; knowledge of the futures market, the bunker market, the various freight market indices and the relevant commodity prices; detailed knowledge of internal programs used to calculate freight rates; knowledge of port regulations, regulations concerning the draft of vessels, and Key Performance Indicators; contract and negotiation procedures; and knowledge of voyage financial analysis using [REDACTED] a system implemented by the foreign entity in 2009 or 2010 and customized to meet the needs of the petitioner's group.

Ms. [REDACTED] further described the specialized knowledge required as follows:

The Chartering Manager requires highly specialized knowledge of [the foreign entity's] operating procedures, particularly as they relate to Chartering, operating

philosophy as well as technical knowledge pertaining to the shipping industry and [the foreign entity's] procedures and tools. Having dealt directly with [the foreign entity's] clients and accounts, she established contacts while playing an important role in business development for [the foreign entity]. Further [the beneficiary] developed expertise in [redacted] and vessel scheduling in different markets, as well as Voyage chartering. [redacted] knowledge is relevant to negotiating a certain type of commercial contract of affreightment. Vessel scheduling knowledge is required to help a chartering manager determine which vessel is best suited to perform a particular contract depending on its current position, current cargo, weather predictions for the current voyage, the type/age/size of the vessel, its reliability and other factors.

[The beneficiary] gained experience in the use and management of [the company's] [redacted] operational and risk management systems. The [redacted] operational and risk management system is the bedrock [of] our voyage management processes, which leads on to helping us determine the financial viability of each voyage before we fix it and the financial performance of each voyage after it has been completed. The chartering manager must use this system to input every financial and operational parameter of an intended voyage in order to determine the viability of any piece of business before it is fixed. The [redacted] system is customized for [the petitioner's group].

Ms. [redacted] further explained that when the beneficiary initially commenced employment as an Operations Executive with its Australian affiliate, she completed the company's "highly selective trainee program." She stated that the company receives hundreds of applications annually in order to fill no more than 10 spaces in this three-month program, which "provides a good understanding of how the [petitioner's] group functions as a whole, equipping them with the proven ability to return to their regional offices to work in their specific area and begin to function independently with the help of various business systems and software." In addition, Ms. [redacted] specified that trainees spend time in the various divisions of the Hong Kong office so that they become familiar with headquarters activities, experience life on board vessels to observing loading, lashing and unloading; shadow boarding officers; spend time in drydocks and newbuilding yards, and benefit from training sessions with law firms and P&I clubs as well as in-house seminars and training programs.

Ms. [redacted] letter included a chart outlining the training topics which include [redacted] business orientation, chartering and broker channels, introduction to [redacted] Shipping, introduction to [redacted] Operational Management, marine and safety briefing, insurance and marine law briefing, vessel design and construction, crewing presentation, asset management, administrative policies, IT training, corporate values, HR orientation, corporate governance, corporate identity and communications, investor relations, life as a ship agent, Voyage Operating System [redacted], an onboard experience, and interaction with ship staff. The petitioner indicated that the trainees receive 8 weeks of training in the use of [redacted] followed by 8 weeks for practical training.

In a separate letter dated March 4, 2014, Ms. [REDACTED] provided a more detailed description of the beneficiary's proposed duties as a Chartering Manager based in the U.S. and the amount of time it would take to train another employee to perform such duties. For example, the petitioner stated that the beneficiary will allocate 15% of her time to assisting the general manager with managing the company's tonnage requirements for existing and potential customers. It explained that it would take an individual at least six years of training and work experience in the industry and keeping up to date with all market news and media related to dry bulk shipping and the company's clients. The petitioner also stated, in the case of all listed areas of responsibility, that only four employees, out of a total of 13 Chartering Managers employed by the company worldwide, possess the knowledge to perform these tasks.

The petitioner indicated that the beneficiary will allocate another 20% of her time to working closely with chartering teams based in London, Santiago and Vancouver, as well as in the broader group, to develop the company's [REDACTED] business within the Atlantic region. The petitioner stated that "it would take an individual at least six years of training and work experience in the [REDACTED] business within the [petitioner's group]" to perform this duty and that the beneficiary is one of four employees in the group with the necessary knowledge.

The petitioner stated that an additional 50% of the beneficiary's time would be allocated to "financial responsibility for overseeing contracts and the conclusion of fixtures and for participating in establishing and sharing freight market views and market information with all concerned parties." The petitioner indicated that this area of responsibility requires knowledge of the daily activity of the freight market and regular changes in supply and demand, as well as knowledge of the future market, the bunker market, various freight market indices, relevant commodity prices, internal programs used to calculate freight rates, and knowledge of port regulations around the world. The petitioner indicated that these duties require completion of an internal training program and at least two years of commercial operations experience, studying with the [REDACTED] and years of experience in the industry.

The petitioner submitted evidence of the beneficiary's election as a member of the [REDACTED] [REDACTED], following her completion of qualifying examinations in 2011. The examinations required included Introduction to Shipping, Legal Principles of Shipping Business, Economics of Sea Transport and International Trade, Shipping Business and three additional subjects.

The director denied the petition on March 14, 2014, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she was or would be employed in a capacity requiring specialized knowledge. The director found that the petitioner had not demonstrated how the Chartering Manager position requires knowledge that is special or advanced in comparison to that held by others holding similar positions in the petitioner's industry. Further, the director found that the petitioner did not explain how its systems, operational policies and procedures are differentiated from those used by other dry bulk shippers.

On appeal, the petitioner asserts that the director's decision is contrary to the standards for specialized knowledge set forth in the regulations and in agency policy memoranda. See Memorandum of Fujie Ohata, Assoc. Comm'r, Service Center Operations, INS, Interpretation of Specialized Knowledge (December 20, 2002); Memorandum of Fujie Ohata, Director, Service Center Operations, USCIS, *Interpretation of Specialized Knowledge for Chefs and Specialty Cooks Seeking L-1B Status*, (September 9, 2004). Citing the 2004 memorandum, the petitioner asserts that "an important factor for L-1B purposes is the degree to which the alien's knowledge contributes to the uninterrupted operation of the specific business for which the alien's services are sought."

The petitioner emphasizes that the petitioner's dry bulk shipping business involves dangerous and complex work requiring crews of up to 30 people. The petitioner also notes that the company transports raw materials and industrial materials that can be corrosive or abrasive which can present additional dangers and threaten ships and lives. In addition, the petitioner emphasizes that maritime laws and international shipping regulations overlap and require "diligent attention and adherence." The petitioner states:

Chartering Managers manage and execute tasks associated with equipping, operating and deploying [the company's] large vessels. They analyze transport and cargo markets, develop market-oriented offers, plan and take care of the transport of goods by sea, calculate costs and determine results, organize clearance and dispatch of ocean-going vessels, handle ship and cargo-related legal and safety documents, handle damage and insurance cases and execute business transactions in English.

\* \* \*

The Chartering manager positions with [the foreign and U.S. entities] involved extensive knowledge and understanding of [the group's] operating procedures and tools in dry bulk shipping.

\* \* \*

[The beneficiary] gained specialized knowledge of [the company's] dry cargo (the type of cargo can determine how the cargo is transported and what port to transport it to) and advanced knowledge of [the company's] internal operating procedures and processes in the dry bulk arena, particularly as they related to Chartering, as well as technical knowledge pertaining to the dry bulk shipping industry and [the petitioner's] particular customer base, regional and cultural requirements.

The petitioner asserts that the beneficiary possesses special knowledge not generally found in the industry "as she has client specific, raw material specific and company specific advanced knowledge in processes, procedures and business intelligence, including market research." In addition, the petitioner claims that the beneficiary's knowledge can only be gained through employment with the

petitioner" as "her employer deals only in specific markets and has cultivated certain sectors in the dry bulk shipping segment."

Further, the petitioner states that the beneficiary's knowledge cannot be easily transferred or taught to another individual within the shipping industry because she has knowledge of the shipping needs of the petitioner's clientele. In this regard, the petitioner explains that its "business processes, procedures, technology and tools used in dry bulk shipping is different or uncommon because of the clientele's shipping needs." Finally, the petitioner states that the beneficiary's knowledge is different from that generally found in the shipping industry "because of the type of employer she works for in the shipping industry ( [REDACTED] the regional experience she gained overseas, "the type of dry bulk goods she handles for clients which requires knowledge of the particular industry and the business processes including market research and business intelligence unique to [the petitioning company]."

#### 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 systems, operational policies and procedures applicable to its dry bulk shipping activities.

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(1)(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 has performed and would perform as Chartering Manager. The petitioner expressed a need to staff the U.S. position with a Chartering Manager who has advanced knowledge of company specific procedures, policies and systems" as well as experience with chartering within the [redacted] and [redacted] segment of the maritime transportation industry. However, the petitioner consistently failed to describe the company's internal processes or procedures or to adequately explain how the beneficiary's knowledge of such procedures qualifies as "special" or "advanced" either within the company or within the dry bulk shipping industry.

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)).

On appeal, the petitioner once again refers to "company specific advanced knowledge in processes, procedures and business intelligence." It attempts to differentiate its processes by noting that the "business processes, technology and tools used in dry bulk shipping [are] different or uncommon because of the clientele's shipping needs." The petitioner further states that the beneficiary's

knowledge is different from that generally found in the industry because she works for a company that deals in dry bulk [REDACTED] shipping, and because the type of dry bulk goods she handles for clients requires knowledge of the particular industry. Taken together, and without further explanation from the petitioner, these statements suggest that the company's business processes are dictated by its type of cargo and the industry in which it operates, and are not materially different from those used by its competitors in the dry bulk shipping industry. Accordingly, the record reflects that the position of chartering manager requires advanced knowledge of the petitioner's specific industry, more so than advanced knowledge specific to the company. Without additional explanation, the record does not demonstrate that the company's internal procedures and policies with respect to dry bulk shipping are so complex that they could not be readily learned by an experienced professional in the beneficiary's field.

The petitioner also emphasizes that the beneficiary possesses "raw material specific" knowledge that is uncommon in the industry and emphasizes that the petitioner's dry bulk shipping activities involve dangerous work for their large crews, as well as raw materials and industrial materials which pose additional threats to ships. However, the petitioner did not adequately explain why this cargo-specific knowledge qualifies as uncommon, as the petitioner does not indicate that its [REDACTED] vessels transport cargo not handled by other dry bulk shippers operating the same types of vessels. While the record indicates that different maritime laws and international regulations apply to different types of cargo, there is inadequate support for a finding that knowledge of such regulations and laws constitutes specialized knowledge within the company or within the industry. For example, on appeal, the petitioner indicates that the beneficiary's knowledge can only be gained within its organization because the company "deals only in specific markets and has cultivated certain sectors in the dry bulk shipping segment." This statement indicates that the petitioner has chosen to specialize in certain markets and sectors, but does not establish that the company is exclusively handling certain dry bulk cargo or has exclusive dry bulk shipping rights within a certain geographic region. The petitioner did not adequately support its claim that any market- or sector-specific knowledge the beneficiary possesses can only be obtained within its international organization.

Further, while the petitioner emphasized that the beneficiary was hired by its foreign affiliate through a competitive training program, the record does not establish that she received extensive or advanced training that would lead to specialized knowledge. The petitioner indicated that the three-month training program included introductory and general topics such as dry bulk business orientation, an introduction to dry bulk shipping, marine and safety issues, insurance and marine law, vessel construction, asset management, and crewing. The training may have been uncommon in that it provided an overview of all aspects of the petitioner's shipping business, but the record does not establish that the beneficiary has undergone any additional training since completing this introductory traineeship, which she entered having no prior exposure to the shipping industry.

The petitioner indicates that the beneficiary's role includes extensive use of [REDACTED] operational and risk management systems, and states that this knowledge is specialized because the company uses a customized version of this third-party solution, which is developed specifically for management of

chartering, operations, financials and risk in the petitioner's industry. Other than stating that the petitioner uses a customized version of this software, the petitioner did not explain how the use of [REDACTED] requires knowledge that is different or uncommon within the beneficiary's field. The petitioner describes the system as "the bedrock" of its voyage management process, and explains that the Chartering Manager "must use this system to input every financial and operational parameter of an intended voyage." The petitioner has not submitted adequate explanation or evidence to support a conclusion that knowledge of this system, which is likely widely used in the petitioner's industry, qualifies as specialized knowledge.

Moreover, the record does not indicate the amount or type of training its employees undergo in order to become proficient in [REDACTED] in support of its claim that the customized version it uses requires knowledge of voyage management systems beyond what would normally be held in the beneficiary's field. The petitioner indicates that the beneficiary's initial training program included 8 weeks of training in [REDACTED] Voyage Operating System and that the company started using [REDACTED] in 2009 or 2010. The petitioner did not further explain the significance of the [REDACTED] training or indicate that the beneficiary continues to use that system.

Finally, the petitioner indicates that the beneficiary's specialized knowledge includes knowledge of the petitioner's internal business intelligence and market research, as well as her familiarity with the petitioner's customer base, and her existing relationships with customers and agents. While this internal company knowledge and customer relationships are undoubtedly valuable, the petitioner did not explain how the knowledge qualifies as either "special" or "advanced." By itself, simply claiming that knowledge, such as business intelligence, is closely held, or that knowledge, such as client-specific knowledge, can only be developed through on the job experience with the company, is insufficient to satisfy the statutory standard for specialized knowledge. The petitioner did not explain why its business intelligence and market research information are so complex that this knowledge could not be transferred to an otherwise qualified chartering specialist in the petitioner's field, or why customer-specific knowledge could not be similarly shared. 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)).

Based on the foregoing discussion, the petitioner has not established that the beneficiary possesses special knowledge that it is uncommon or different from what is generally held by similarly employed workers in the dry bulk shipping industry. The record does support a finding that the Chartering Manager position is complex and requires a wide-range of knowledge; however, in order to establish that the beneficiary's knowledge is special, the petitioner must establish that its chartering managers are required to apply knowledge that is somehow demonstrably different from that possessed by others in the field. Here, it appears the petitioner attempted to distinguish the company's specialization in dry bulk shipping from the shipping industry in general, rather than comparing the beneficiary's role to that of other chartering staff employed within the dry bulk shipping sector.

The petitioner has also claimed that the beneficiary possesses advanced knowledge of company processes and procedures based on her employment as a chartering manager, and it further distinguishes her as one of only four chartering managers who are qualified to fill the position opening in the United States. However, other than its assertions that the beneficiary is one of a select few individuals with specialized knowledge of dry bulk shipping policies and procedures, the petitioner has not adequately demonstrated how the beneficiary possesses a level of knowledge that is specialized or advanced within the company. The petitioner emphasized that the beneficiary was promoted to the position of chartering manager after only two years in an operations position, but it did not explain how her knowledge is advanced compared to other chartering managers or other chartering employees within the group. 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 her knowledge, role or responsibilities as advanced within the petitioner's group.

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. We acknowledge the petitioner's claim that the director's decision was contrary to agency guidance set forth in the above-referenced 2002 and 2004 Ohata memoranda, in that the director did not consider "the degree to which the alien's knowledge contributes to the uninterrupted operation of the specific business for which the alien's services are sought." While we do not question that chartering managers play a key role within the petitioner's shipping business, the petitioner must still establish that the beneficiary's knowledge is either special or advanced, consistent with the statutory definition. As noted in the 2002 Ohata memorandum, "the petitioner bears the burden of establishing through the submission of probative evidence that the alien's specialized knowledge is distinguished by some unusual qualification and not generally known by practitioners in the alien's industry," while a "petitioner's assertion that the alien possesses an advanced level of knowledge must be supported by evidence describing and setting apart the knowledge from elementary knowledge possessed by others."

The record establishes that the beneficiary is an experienced shipping 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.