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



U.S. Citizenship
and Immigration
Services

DATE: **JUN 02 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:

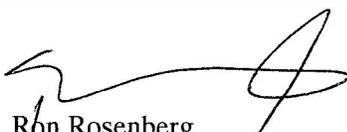
[REDACTED]

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 petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office on appeal. We will dismiss the appeal.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, seeking to qualify the beneficiary as an L-1B nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Texas corporation established in [REDACTED] operates in the restaurant industry. The petitioner states that it is an affiliate of the beneficiary's foreign employer [REDACTED] located in Indonesia. The petitioner currently employs the beneficiary as an executive chef and seeks to extend his L-1B status for a period of three years.¹

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that she has been or will be employed 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 our office for review. On appeal, the petitioner contends that the director's decision was "boilerplate and generic," not supported by adequate analysis and improperly based on the petitioner's failure to provide evidence not requested in the request for evidence (RFE).

I. THE LAW

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

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

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.

¹ Consistent with 8 C.F.R. § 214.2(l)(15)(ii), an extension of stay may only be authorized in increments of up to two years.

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

II. THE ISSUE ON APPEAL

The sole issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge as a result of his foreign employment and whether he will be employed in the United States in a specialized knowledge capacity.

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.

A. Facts and Procedural History

The petitioner filed the Form I-129 on July 30, 2013. The petitioner states that it is a subsidiary of [REDACTED] a holding company with interests in the restaurant, travel, money changer, business management and consulting businesses in [REDACTED] India, and the United States. The petitioner indicated that the beneficiary's former foreign employer, its affiliate, operates two "specialty Indian cuisine restaurants" in [REDACTED]. The petitioner explained that it purchased and renovated a restaurant in [REDACTED] "to bring [REDACTED] unique blend of hospitality and culture" to the U.S. marketplace.

The petitioner explained the beneficiary's position as executive chef of its [redacted] restaurant as follows:

[The beneficiary] will continue to be responsible for running the day to day operations of the restaurant, the development of the menus and catering program, providing continuous assessments of the company's performance through indicators, and making periodic updates to the Board of Directors of [the petitioner and the foreign entity] regarding [the petitioner's] US performance. It is essential that the Executive Chef understand the local and global marketplace, as he will drive the marketing strategy via the restaurant's success in the local area. This will be used to develop further business planning in order to expand to other markets in the US. It is expected that [the beneficiary] will continue to determine and formulate policies and provide the overall direction of the restaurant; plan, direct, and coordinate operational activities at the highest level with the help of subordinate employees.

The petitioner stated that the beneficiary possesses specialized knowledge of the company and its products and services which is key to its continued success. The petitioner stated that the beneficiary "is a well-known chef who has carved worldwide experience into his resume" and that he "brings a distinctive Indian taste to his classic Indian food menu." The petitioner further explained the beneficiary's experience as follows:

[The beneficiary] long joined [the company] since [redacted]. After working in five star hotels in [redacted], his vast worldwide experience of more than two decades in the culinary industry has equipped him with unsurpassed skill and experience, which he often showcases in his unique curry and tandoori foods. He has done several TV shows and food festivals. His food is of high standards and he has mastered the authentic recipes to deliver high quality and delicious foods to [the company's] customers.

The petitioner articulated that the beneficiary "is well qualified" since he "possesses the specialized knowledge of [redacted] product and service, in addition to having mastered the techniques required to produce the highly specialized product." The petitioner stated that the beneficiary has unique knowledge of international markets given his various positions in different countries abroad. The petitioner indicated that the beneficiary has over twenty nine years of experience. In addition, the petitioner stated that it wishes to train staff in the United States "to the same level of specialized knowledge" as that of the beneficiary and that the extension of the beneficiary's status will allow him to "identify, recruit and then train potential replacements."

The petitioner indicated that the beneficiary's knowledge is unique due to his knowledge of classic Indian menu items combined with "extensive expertise and experience in the industry" which is "uncommon and set apart from the elementary or basic knowledge possessed by others." The petitioner asserted that this knowledge and experience is not commonly held in the industry and that it "cannot be readily or easily obtained." Further, the petitioner indicated that Indian food "is very complex to cook" noting that "some recipes have almost 32 kinds of spices and herbs," and that the company has "chefs with vast experience,

knowledge, and international exposure to help us deliver the right quality and taste of this highly specialized food." The petitioner emphasized that the beneficiary's "food is of high standards and he has mastered the authentic recipes to deliver high quality and delicious foods to [REDACTED] customers."

The petitioner submitted evidence relevant to the operation of its restaurants in Indonesia, including a power point presentation listing other members of the beneficiary's former team abroad. The presentation reflected that the company employed four other culinary "experts," including a chef specializing in "curry and Tandoor," another focusing on "curry and Muglai" with "vast experience working in a five star hotel in India," one specializing in "South Indian" who also formerly worked in "five star hotels," and another specializing in "Rajasthani dishes and sweets." The listing of foreign employees indicated that the beneficiary specialized in "North Indian" food. A list of "key team members" further reflected various other employees focused on the management of restaurants, all holding extensive international experience. The petitioner provided an organizational chart indicating that the beneficiary would oversee three unnamed chefs and two "cook helpers."

In addition, the petitioner submitted: a printed advertisement relevant to one of its restaurants in Indonesia that refers to the beneficiary as its "professional chef"; an undated article from the [REDACTED] describing local Indian cuisine (but with no apparent reference to the beneficiary); and a website print-out specific to one of the foreign entity's restaurants in Indonesia identifying the beneficiary as the head chef with special ability with Northern Indian cuisine.

The director later issued a request for evidence (RFE) indicating that the petitioner had submitted insufficient evidence to establish that the beneficiary had acted in a specialized knowledge capacity with the foreign entity, noting that it did not establish how the beneficiary possesses specialized knowledge obtained directly from his employment with the foreign entity. As such, the director requested that the petitioner submit the beneficiary's personnel records and an organizational chart listing the beneficiary's department, including the names, titles, job duties, education levels and salaries for each of the beneficiary's colleagues. In addition, the director asked that the petitioner provide a letter from the foreign entity explaining how the beneficiary's knowledge was different from that required for other similar positions in the industry; the products and services the beneficiary uses; how the foreign entity's products are services are "special," why someone else in the field could not perform the beneficiary's duties, and a statements as to the minimum time required to obtain the beneficiary's level of knowledge and significant assignments completed by the beneficiary. Likewise, the director requested that the petitioner provide a similar letter elaborating on the same issues above with respect to the beneficiary's U.S. employment.

In response, the petitioner submitted the requested support letters and largely reiterated the beneficiary's previously asserted experience and knowledge. For instance, the foreign entity stated the following with respect to the beneficiary's asserted specialized knowledge:

For the past year, the Beneficiary has been serving as Executive Chef based on his approved L1-B status. He possesses specialized knowledge of the company product and its application in international markets in addition to possessing an advanced level of

knowledge of processes and procedures of the company. His activities as a liaison with the US clientele as well as with the executive of the parent company allow him to serve as an advisor to owners with respect to the operations of the company. His specialized knowledge of [REDACTED] product and service, in addition to having mastered the techniques required to produce the highly specialized product. His work experience in various international markets ensures that he will be able to oversee the proper application in international markets. Further he is best suited due to his 25+ years experience in the food industry, 7 which have been with [REDACTED] to ensure the proper implementation of [REDACTED] processes and procedures at the location in the US. His knowledge is different from and surpasses the ordinary or usual knowledge of an employee in the particular field and has been gained through his significant prior experience with [REDACTED]

The petitioner explained that it "creates a unique blend of hospitality and culture, whereby authentic Indian food is served with ethnicity," including both North and South Indian food. The petitioner stated that the company's two restaurants in Indonesia offer "authentic Indian dishes made with fresh, hand-picked spices that are flown in directly from India," and that it currently employs six expatriate chefs at its two Jakarta locations. Otherwise, the petitioner reiterated the beneficiary's proposed duties in the United States. The beneficiary's duties were mostly relevant to the operation of the restaurant, rather than his specific knowledge of Indian cuisine, and restated the same assertions with respect to his previous experience.

The director denied the petition, concluding that the evidence did not establish that the beneficiary had been or would be employed in a capacity requiring specialized knowledge. The director determined that the petitioner did not establish that the beneficiary gained his asserted specialized knowledge during his employment with the foreign entity. Further, the director found that the petitioner did not demonstrate that the beneficiary's knowledge is different or uncommon in comparison to other similarly-employed chefs in the petitioner's industry.

On appeal, the petitioner emphasizes that USCIS previously approved the beneficiary's petition in July 2012 and asserts that this prior approval should be given deference. The petitioner states that the director's decision is "boilerplate and generic" and based upon the petitioner's failure to submit evidence of training on the part of the beneficiary that was not requested in the RFE. The petitioner contends that the beneficiary has specialized knowledge of the company's products and services. The petitioner further states that USCIS acted in error by not "streamlining the immigration process" consistent with an "Entrepreneurs in Residence Initiative" announced by former USCIS Director Alejandro Mayorkas in 2011.

B. Analysis

Following a review of the totality of the evidence submitted, the petitioner has not established that the beneficiary possesses specialized knowledge or that he has been or 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's prior year of employment abroad was 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 and the proffered position satisfy 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 has not provided sufficient explanation of the beneficiary's specialized knowledge. The petitioner states that the petitioner holds specialized knowledge of the company's products and services, industry standards, and the company's "unique blend of hospitality and culture," but fails specifically describe the products, techniques, or processes mastered by the beneficiary. The petitioner does not identify any specific examples of these products, procedures or processes, explain them in detail, or submit supporting evidence to substantiate that the beneficiary or the company holds this 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)). 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.

To the extent the petitioner provides specific evidence relevant to the beneficiary's knowledge and experience, this evidence suggests that the beneficiary's knowledge is widely held within the industry. The beneficiary's resume indicates that he began working in Indian cuisine as far back as [REDACTED] including employment at numerous other "five-star hotels" in [REDACTED]. Therefore, the evidence indicates that a substantial portion of the beneficiary's knowledge of Indian cuisine was gained outside his eight years of employment with the foreign entity. Based on the evidence on the record, the beneficiary performed similar duties and worked with similar techniques and recipes for years prior to commencing employment with the foreign entity. Further, it is unclear whether he acquired any special or advanced knowledge specific to the petitioner's group of companies since joining the foreign entity, as the petitioner has failed to explain how the beneficiary's knowledge obtained while employed with the foreign entity and petitioner sets him apart from those employed in similar positions elsewhere in the industry.

Despite the petitioner's assertions on appeal, the director requested that the petitioner articulate the minimum time required to obtain the beneficiary's specialized knowledge, "including training and actual experience accrued after the completion of training." Inherent in this request, is the submission of evidence setting forth any training or knowledge the beneficiary gained while employed with the foreign entity. However, the petitioner failed to provide this evidence and vaguely concludes that the beneficiary's knowledge is specialized without any detailed explanation as to how or why it is different or uncommon in the industry. In addition, the petitioner failed to articulate why another similarly experienced culinary professional could not perform the beneficiary's duties, as requested by the director. In fact, the vast majority of the beneficiary's duties are consistent with the operation of any restaurant serving any type of cuisine, including "maximizing the productivity of kitchen staff," "making contacts with potential clients," "maintaining safety standards," "ensuring dishes arrive on schedule," and "ensuring the ordering of supplies." It is unclear from the evidence presented how these processes are any different from those employed by companies or professionals similarly placed in the restaurant industry. 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, in sum, the evidence submitted on the record indicates that the beneficiary's knowledge is more likely than not typical among similarly experienced chefs of Indian cuisine.

Furthermore, the petitioner has not provided information that compares the beneficiary with similarly employed workers within or outside the company as necessary to demonstrate that his knowledge is uncommon or noteworthy. The petitioner's claim that the beneficiary holds complex knowledge of Indian cooking techniques is insufficient to demonstrate that the beneficiary's knowledge is special or advanced. The knowledge must be distinguished, noteworthy, or uncommon when compared to his colleagues within the company or those similarly placed elsewhere in the industry. The director requested that the petitioner submit various forms of evidence relevant to distinguishing the beneficiary's knowledge as special or advanced when compared other similarly placed professionals. Specifically, the director asked the petitioner to submit an explanation of how the beneficiary's knowledge was different from others employed in similar positions in the industry. The director further requested a foreign organizational chart explaining the job duties,

education, and salaries of the members of the beneficiary's immediate department. However, the petitioner's response to the RFE included none of this evidence relevant to comparing the beneficiary against similarly employed workers, and therefore, it has failed to establish that his knowledge is special or advanced. 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 states that the foreign entity employs several other chefs qualified in Indian cuisine, including others offered as having many years of experience in "five-star hotels," similar to the beneficiary. The petitioner failed to articulate how the beneficiary's knowledge is uncommon or distinguished when compared to these colleagues or how he developed special or advanced knowledge in relation to his colleagues, thereby further suggesting that the cooking techniques and knowledge employed by the beneficiary are common in the industry. Again, claiming that the beneficiary has knowledge of complex recipes or cooking processes is not sufficient to establish that he possesses specialized knowledge. The petitioner has the burden to establish that the knowledge is either special or advanced. The petitioner submits "articles" meant to demonstrate the unique nature of the beneficiary's knowledge. However, this evidence is not persuasive as it merely reflects marketing materials disseminated by the foreign entity and does not specify how the beneficiary's knowledge is uncommon when compared to similarly placed professionals in the industry, many of whom undoubtedly manage their own restaurants as executive chefs. In the current matter, the petitioner has not provided sufficient evidence to differentiate the beneficiary's 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. at 165.

Based on the lack of evidence in the record regarding the specialized knowledge to be utilized by the beneficiary that is specific to the petitioning organization, we have no basis for comparing the petitioner's and foreign entity's restaurants from any other Indian restaurants, and cannot conclude that a chef working for the petitioner's organization would require specific knowledge of the foreign entity's processes and procedures. The record does not describe the complexity of the company's recipes or its food preparation process in a manner which would differentiate it from any other Indian restaurant offering the same authentic ethnic cuisine. The petitioner does not indicate what particular skills or knowledge are required to prepare food according to its standards or adequately explain why any experienced Indian chef could not be trained to prepare the same type of cuisine in the same manner. The skills needed to prepare a certain type of cuisine are typically acquired through a period of hands-on training, but they are nevertheless common in the petitioner's industry and specific specialty. Even if the beneficiary gained experience preparing North Indian cuisine while employed by the foreign entity, the fact that knowledge may be closely held within a company, without more, would be insufficient to establish that the knowledge is specialized. Standing alone, a beneficiary's knowledge of minor variations in style of manner of operations cannot be considered "specialized." See Memorandum from Fujie O. Ohata, Dir., Service Center Operations, USCIS, *Interpretation of Specialized Knowledge for Chefs and Specialty Cooks seeking L-1B Status* (September 9, 2004)("Ohata memorandum").

It appears that the beneficiary's prior professional experience in Indian cuisine qualified him to fulfill a role in the petitioner's organization and any company-specific or closely held knowledge he holds was transferred

without any significant period of formal or on-the-job training. As indicated in the Ohata memorandum, a chef will not be considered to possess specialized knowledge simply because he or she has knowledge of a "particular type of ethnic cooking [that may] represent the culmination of centuries of cooking practice." *See id.*

On appeal, the petitioner emphasizes that the beneficiary's previous L-1B petition was approved in July 2012 and that this prior approval should be given deference as there have been no material changes to the facts presented. We acknowledge that USCIS previously approved a nonimmigrant petition filed on behalf of the beneficiary. In matters relating to an extension of nonimmigrant visa petition validity involving the same petitioner, beneficiary, and underlying facts, USCIS will generally give some deference to a prior determination of eligibility. However, the mere fact that USCIS, by mistake or oversight, approved a visa petition on one occasion does not create an automatic entitlement to the approval of a subsequent petition for renewal of that visa. *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 148 (1st Cir. 2007); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 597 (Comm. 1988). 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).

In the present matter, the director reviewed the record of proceeding and concluded that the petitioner was ineligible for an extension of the nonimmigrant visa petition's validity based on the petitioner's failure to establish eligibility. In both the request for evidence and the final denial, the director clearly articulated the objective statutory and regulatory requirements and applied them to the case at hand. If the previous petition was approved based on the same minimal evidence of the beneficiary's eligibility, the approval would constitute gross error on the part of the director. Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, we would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001). The prior approval does not preclude USCIS from denying an extension of the original visa based on reassessment of petitioner's qualifications. *Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004).

On appeal, the petitioner offers an "Entrepreneurs in Residence Initiative" press release from former Secretary of the Department of Homeland Security Napolitano and former USCIS Director Mayorkas dated August 2, 2011 as legal precedent ignored by the director in the present case. The petitioner suggests that the press release establishes a precedent for more lenient adjudication of L-1B petitions and notes that USCIS has failed to "streamline the immigration process" pursuant to the initiative described in the press release. The petitioner has misinterpreted the intent of the referenced press release. The release discusses the provision of more information regarding certain business-based nonimmigrant classifications through published "Frequently Asked Questions" via the USCIS website and other related educational and streamlining efforts. The press release does not discuss any modification to regulations, policy or precedent used to adjudicate L-1B, or any other, nonimmigrant petitions. The announcement makes only passing reference to additional training for USCIS officers relevant to L-1B nonimmigrant intra-company transferees and there is no

expressed intent to modify existing law. Indeed, the initiative specifically indicates intent to "comply with all current Federal statutes and regulations." As such, the petitioner has not supported its claim that this wholly unrelated agency press release be treated as binding precedent in this case. Regardless, even if the press release was found analogous here, information on agency websites does not constitute final agency action reviewable under the Administrative Procedures Act and does not create legally enforceable entitlements. See *Air Brake Systems, Inc. v. Mineta*, 357 F.3d 632, 646 (6th Cir.2004).

In conclusion, the petitioner has failed to provide a sufficient explanation of the beneficiary's specialized knowledge. Although the petitioner repeatedly states that the beneficiary's knowledge is special and advanced, the record fails to demonstrate that this knowledge is special compared to that possessed by other similarly-employed workers in the industry or advanced as compared to similarly-employed workers in the company. While the beneficiary clearly possesses the skills and professional experience required for the position, the evidence does not distinguish him as an employee with specialized knowledge.

Based on the foregoing, the petitioner has not demonstrated that the beneficiary possesses specialized knowledge or that he has been or would be employed in a specialized knowledge capacity. For this reason, the appeal will be dismissed.

III. CONCLUSION

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.