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

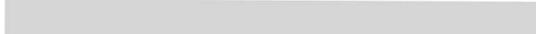


U.S. Citizenship
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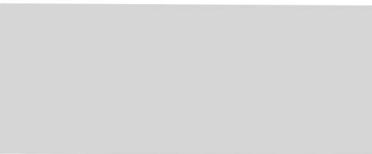
DATE: **MAY 22 2015**

PETITION RECEIPT #: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

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

 Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an L-1B nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, an IT services provider, is a Delaware corporation with a subsidiary, [REDACTED] located in [REDACTED] India. The petitioner seeks to employ the beneficiary in the position of Technical Lead for a period of three years.

The director denied the petition, concluding that the petitioner: (1) failed to establish that the beneficiary possesses specialized knowledge or that she has been and will be employed in a specialized knowledge capacity; and (2) failed to establish that the beneficiary's employment at an unaffiliated employer's facilities would be permissible under section 214(c)(2)(F)(ii) of the Act, as created by the L-1 Visa Reform Act of 2004. The director granted the petitioner's subsequent motion to reconsider and affirmed these findings in a decision dated July 28, 2014.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the matter to our office for review. On appeal, the petitioner asserts that the director did not give due weight to the petitioner's evidence and misapplied policy guidance applicable to adjudication of petitions for L-1B classification.

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

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

II. Specialized Knowledge

The first issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and whether she has been employed abroad, and would be employed in the United States, in a position that requires specialized knowledge.

A. Facts

The petitioner filed the Form I-129 on February 20, 2014. The petitioner stated on the Form I-129 that it has 245 employees in the United States and \$98 million in gross annual income. In a letter submitted in support of the petition, the petitioner stated that it provides technology consulting services with core competencies in the areas of custom application development, web services, privacy and security.

In a letter dated January 30, 2014, the petitioner's CFO and General Counsel, [REDACTED] explained that it is seeking to transfer the beneficiary from its Indian subsidiary to work on the [REDACTED] Project," for the petitioner's client, [REDACTED]. He indicated that the project "requires in-depth

knowledge, understanding and experience" of the product and related processes that the beneficiary already possesses advanced knowledge of the technical complexity of the project which "cannot be readily transferred or taught to another individual in a short span of time." Specifically, [REDACTED] stated:

[The beneficiary] will utilize this specialized knowledge towards Phase II of the [REDACTED] Project, which involves migration of the remaining patients to the [REDACTED] platform and testing by using live data that can be done only from within the U.S., in compliance with the rigorous HIPAA standards for electronic healthcare transactions, and national identifiers through EDI (Electronic Data Interchange), including all necessary administrative, physical and technical safeguards.

[REDACTED] letter also incorporated a chart that provided the following information regarding the beneficiary's proposed duties:

Requirements Gathering and Analysis (20%)

- Attending user requirement meetings to arrive at the system design as part of the [REDACTED] system
- Translate customer business requirements into formal technical requirements and design documents to establish specific solutions
- Responsible for interacting with the Technical consultants & business users at [REDACTED] to understand the business requirements.

Solution Design (25%)

- Attending design review meetings to finalize the design
- Estimation LOE (Level of Effort) for a particular task.
- System analysis and design to integrate [REDACTED] Claim Data with [REDACTED] Claim Dat[a].
- System analysis to identify the impacted modules with reference to the new HIPAA... guidelines.

Design, Coding and Testing (25%)

- Involve in coding of the deliverables in the project, fixing the defects in the work product.
- Creating test cases and system integration testing strategy.
- Testing the software created and would perform regression testing to ensure quality
- Responsible for carrying out User acceptance testing and integration of all the sub-modules in the project and implement software modules using Endeavor

Project Management (20%)

- . . .managing the scope, planning and tracking of the project with special focus on risk controlling aspects.
- Providing project updates to stakeholders.
- Addressing management escalations.
- Addressing Production issues, debugging and identifying issues and solutions.

- Monitoring the [REDACTED] system after major installation, identify any risks/issues and report to Stakeholders immediately with solution.

Team Management (5%)

- Work allocation to the team.
- Attend audit meetings.

Quality Management (5%)

- Managing the various quality aspect of the project as below-
 - Create SDLC . . . documents for [REDACTED] is [REDACTED] enterprise portfolio governing methodology that manages and deploys strategic initiatives) audit. This requires strong knowledge in [REDACTED] processes and working knowledge under multiple projects in Client application.
 - Do . . . Root Cause Analysis for all defects from IBM tool Clear Quest (CQ) and identify/implement appropriate preventive measures.

[REDACTED] stated that the beneficiary's knowledge and professional experience gained "over the past 6 years at [the foreign entity]"¹ are vital to the success of the [REDACTED] project. Specifically, he indicated that the beneficiary's "uncommon knowledge" includes: experience working on more than 100 projects that address gaps on [REDACTED] experience working on more than 10 complex [REDACTED] projects for migration of [REDACTED] patients to [REDACTED]; prior experience implementing projects on Prescription Processing, Claim adjudication, Plan Benefit management, Pricing, Prior Authorization and Eligibility between two systems; and understanding the unique challenges faced by the business and the technical complexity in enhancing the [REDACTED] system. [REDACTED] added that the beneficiary is proficient in [REDACTED] change management process "which involves in-depth knowledge of Endeavor," and stated that "a very small, elite group of employees working with the foreign subsidiary have experience on the [REDACTED] system or the healthcare industry practice group tools, procedures and methodologies." He described the beneficiary as the "only one with rich, relevant experience and extensive knowledge about these tools and procedures which enable her to work on the [REDACTED] Project."

[REDACTED] further stated that the beneficiary has knowledge and significant experience with standard tools as well as software development processes, system design overview, reviews, walkthroughs, inspections, testing and debugging, software maintenance, quality management systems, and database management systems. Several of the listed tools and frameworks were developed by [REDACTED] including the [REDACTED]

[REDACTED] The letter further referenced third-party products and tools such as Endeavor, Intertest, Clear Quest, and Remedy. Finally, he stated that the beneficiary would be assigned to "key projects" such as [REDACTED]

¹ The petitioner stated on the Form I-129 that the beneficiary had been employed by the foreign entity since October 1, 2011, for approximately two years and four months. The record also contains an employment offer dated April 10, 2010 which indicates that the foreign entity hired the beneficiary with a start date of June 18, 2010.

The petitioner also submitted a letter dated January 30, 2014 from [REDACTED] Executive Vice President of its Indian subsidiary. [REDACTED] indicates that the beneficiary has been employed by the foreign entity for almost four years, and "has played an instrumental role in the development of the [REDACTED] project." He notes that the goal of the project has been to develop and migrate client data to the [REDACTED] platform, and that the beneficiary supervises a team of six professionals. He states that the beneficiary "has gained in-depth specialized knowledge of the [the foreign entity's] proprietary development procedures, methodologies and tools, which form an integral part of this project." [REDACTED] letter includes a breakdown of the beneficiary's current role which is similar to that provided for her proposed position, and includes the percentage of time she allocates her responsibilities as follows: requirements gathering and analysis (20%); design, coding and testing (25%); project management (25%); team management (20%); and quality management (10%). Finally, he emphasized that the company's proprietary tools and procedures are strictly available to company employees.

The petitioner provided evidence that the beneficiary has a bachelor of engineering degree in mechatronics engineering, as well as evidence of her professional qualifications from [REDACTED] and the [REDACTED]. In addition, the petitioner provided evidence that the beneficiary has been qualified as a [REDACTED] Trainer by the foreign entity's Health Care Department since February 2013, along with her previous qualifications in [REDACTED] at the basic, advanced and expert levels.

The petitioner's initial evidence also included a copy of the beneficiary's resume, in which she indicates that she has over 8 years of IT experience in design, development and implementation work using Mainframe technologies and associated tools. She indicates that her skills include MVS and Windows operating systems, IBM Mainframe environment, COBOL, JCL and CICS programming languages, VSAM and DB2 databases, Endeavor, Xpeditor, File Aid, and ABEND Aid tools, and the healthcare domain.

With respect to her experience serving the petitioner's client, [REDACTED] (formerly [REDACTED]), she indicates that she has worked with this client as a Team Lead from June 2012 to the present as an employee of the petitioner's subsidiary. She states that she previously worked for [REDACTED]. From April 2007 until December 2009, during which time she was assigned to work for [REDACTED] as a team member on its [REDACTED] project. She describes [REDACTED] as "a mainframe system which deals with Mail prescription entry in [REDACTED] that "has its own mainframe screens for prescription entry and has servers to support java/web front ends."

The petitioner also provided a PowerPoint document that provides an overview of the business flow for [REDACTED] and two project design specification documents that were authored by the beneficiary and copyrighted by the client, [REDACTED] for the [REDACTED] project.

Finally, the petitioner provided a copy of the "Master Agreement for Staff Augmentation and Application Development Services" between it and [REDACTED] which is dated April 26, 2009, along with a "Statement of Work #1" between the petitioner and [REDACTED] (as successor to

[REDACTED], which is dated January 10, 2013 with an end date in February 2013. The petitioner did not provide a current Statement of Work.

On March 4, 2014, the petitioner issued a request for evidence (RFE) in which she advised the petitioner that the initial evidence did not adequately explain the basis of the beneficiary's specialized knowledge or distinguish her from other company employees who also possess knowledge of the company's internal tools and procedures. The director provided a list of suggested evidence that would assist in establishing that the beneficiary's knowledge is special or advanced and that her current and proposed positions require specialized knowledge as defined in the statute and regulations. The director also requested evidence relevant to the beneficiary's offsite work at the [REDACTED] worksite, including a contract, work order, statement or work or work order specific to the beneficiary's assignment.²

In response, the petitioner asserted that the RFE "categorically dismisses all of the evidence submitted with the initial petition as 'insufficient,' yet requested documented that was already provided." The petitioner emphasized that it already provided evidence of the beneficiary's training in the [REDACTED] platform, including evidence that she is a certified trainer. The petitioner stated that few employees have training in the platform and that the beneficiary is the only employee of the foreign entity who has been certified as a trainer. In addition, the petitioner emphasized the the [REDACTED] is proprietary to the company and that only its employees with specialized knowledge of this product are qualified for assignment to the project.

The petitioner's response to the RFE included evidence that the beneficiary served as instructor for a five-day course titled [REDACTED] in September 2013. The petitioner also provided a letter dated March 27, 2014 from [REDACTED] IT Director for [REDACTED], who stated that, under its agreement with the petitioner, the petitioner has selected the beneficiary to serve as an IT Architect to [REDACTED] at its [REDACTED] New Jersey office. [REDACTED] stated that the beneficiary has been "a part of [REDACTED] team for more than six years and her experience with [REDACTED] applications would contribute to resolving issues on time." The petitioner also re-submitted its initial evidence.

The director denied the petition on April 29, 2014 concluding that the petitioner did not distinguish the beneficiary's knowledge as special or advanced, or establish that her current and proposed positions require specialized knowledge.

The petitioner subsequently filed a combined motion to reopen and reconsider, in which it asserted that the director misapplied the preponderance of the evidence standard and ignored compelling evidence that the beneficiary is qualified as an L-1B specialized knowledge worker. Specifically, the petitioner

² The petitioner marked "no" on the Form I-129 Supplement L where asked to indicate if the beneficiary would be primarily placed at the worksite of an unaffiliated employer. The director stated in the RFE that the petitioner indicated that the beneficiary *would* be stationed primarily at the worksite of the unaffiliated employer. However, the petitioner raised no objection to this request and its response to the RFE reflects that the beneficiary will in fact be stationed primarily at the unaffiliated employer's [REDACTED] New Jersey worksite.

emphasized that the evidence established that the beneficiary "has received unique and advanced training in the petitioner's proprietary [REDACTED] product; that the beneficiary possesses specialized knowledge of that same product; and that her placement in the U.S. requires her specialized knowledge of that product." The petitioner asserted that because [REDACTED] is the petitioner's proprietary product, the beneficiary's knowledge is necessarily different from what is generally found in the industry. Further, the petitioner asserted that the beneficiary's role as a Certified Trainer in the product establishes that she has completed the entire training program for the platform and holds an advanced level of knowledge.

The petitioner submitted additional evidence on motion including a training report generated by human resources which indicates that four employees, including the beneficiary, attended "[REDACTED] training which commenced in December 2011 and involved 15 days of theory and 60 days of hands-on training in a live project setting. The report indicates that two employees, including the beneficiary, completed this training and were certified at the "expert" level on March 9, 2012. The petitioner also submitted a [REDACTED] authored in October 2010 by the petitioning company. The guidelines provide an overview of the basic, advanced and expert training levels and the associated skills and technologies associated with each level. There are multiple references to the client, [REDACTED] in the document.

The petitioner also indicated that it was providing additional evidence that the [REDACTED] platform is designed by and proprietary to the petitioner and being sold to the client, [REDACTED]. This evidence consists of an "[REDACTED] business flow document dated April 2, 2012.

On July 28, 2014, the director issued a decision affirming the denial of the petition. The director acknowledged that the [REDACTED] platform is proprietary to the petitioner but found it reasonable to conclude that other IT consulting companies have developed their own tools to achieve the same or similar results, such that knowledge of the petitioner's system alone is insufficient to establish specialized knowledge. The director found that the petitioner had not established that the [REDACTED] platform is highly complex or sophisticated relative to similar products, or supported its claim that it has a "unique product in the industry." Further, the director concluded that the petitioner had not established why the claimed specialized knowledge is required for the proposed technical lead position.

On appeal, the petitioner asserts that the director overlooked evidence of the beneficiary's advanced knowledge of the [REDACTED] platform and its related processes, including evidence that she is one of only four employees who have received Expert level training in the platform and the only employee who has achieved the professional qualification of Certified Trainer for the [REDACTED] platform. The petitioner provides further explanation as to why the beneficiary's duties require advanced knowledge of the [REDACTED] platform.

In addition, the petitioner asserts that the petitioner has provided evidence that the [REDACTED] product is significantly different from other product offerings. The petitioner emphasizes that the [REDACTED] industry is a niche industry with fewer than 100 companies currently operating. The petitioner emphasizes that three of the top five [REDACTED] companies, including

are its clients, and they account for over three-quarters of the entire market. The petitioner states that it dominates this sector of the IT industry and has special expertise in providing services to clients, services which include its "proprietary platform." The petitioner asserts that the director incorrectly assumed that other companies provide similar services and claims that, since the petitioner dominates its market "the only reasonable conclusion is that there are no competitors with products that perform comparably to the petitioner's." In support of the appeal, the petitioner provides partial copies of its Information Technology service agreements with two other companies in the industry, as well as articles about these companies.

B. Analysis

Upon review, the petitioner has not established that the beneficiary possesses specialized knowledge or that she has been and will be employed in a position that requires specialized knowledge.

In order to establish eligibility, the petitioner must show that the individual has been and 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.

We 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.

The petitioner asserts that the petitioner possesses special and advanced knowledge of the platform and claims this is a proprietary product that the petitioner offers to its clients in the industry. The petitioner further claims that its platform has no real competitor in the industry, as it

dominates the IT services industry for this health industry segment. The current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the beneficiary's knowledge be proprietary. 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.

However, upon review of the record in its entirety, the evidence does not establish that [REDACTED] is the petitioner's proprietary product. Rather, the evidence reflects that [REDACTED] is a product developed by its client, [REDACTED] which is currently supported and enhanced by the petitioning company.

The petitioner provided a copy of its Master Agreement with [REDACTED] which is dated April 26, 2009 and appears to be the initial agreement between these companies. However, the beneficiary states in her resume that she worked on the [REDACTED] project as an application developer employed by [REDACTED] India from April 2007 until December 2009. This evidence undermines the petitioner's claim that [REDACTED] is its proprietary product that it sold to [REDACTED] as well as its claim that only employees of the petitioner's group have access to the [REDACTED] system.

Other evidence in the record supports a conclusion that [REDACTED] is in fact [REDACTED] platform. The project documents the beneficiary authored are copyrighted by [REDACTED] not by the petitioner. Further, the letter from [REDACTED] IT director indicates that the beneficiary has been part of the client's Front End Pharmacy team for six years (a period which appears to include the time she spent working on the [REDACTED] platform while with [REDACTED]) and emphasizes her experience with [REDACTED] applications as being valuable to the client.

Finally, the beneficiary's actual duties and the petitioner's initial description of the [REDACTED] project indicated that this project involves enhancing a client system, rather than customizing or implementing the petitioner's own proprietary product to meet the client's needs. In describing the project at the time of filing, the petitioner stated that [REDACTED] application portfolio has grown over time through acquisition and now constitutes a complex [REDACTED]. The petitioner did not state that it developed [REDACTED] as a product offering for clients in the [REDACTED] industry and sold it to [REDACTED]. The record does not contain evidence that the petitioner developed the system, such as statements of work related to any [REDACTED] project which would identify the product or service deliverables, or other evidence to support the petitioner's subsequent claim that the system is the petitioner's proprietary product.

The petitioner provided a list of tools the beneficiary is required to use and indicated that they are not available on the open market, but almost all of the tools were identified as proprietary to [REDACTED] such as [REDACTED] which is described as [REDACTED] enterprise portfolio governing methodology. Other tools listed are third-party tools such as Clear Quest, Remedy, Platinum, File Master Plus and Endeavor. The project also

requires experience in an IBM Mainframe environment, including MVS, COBOL, JCL, CICS, VSAM and DB2. None of these tools and technologies are claimed to be specific to the petitioning company.

In addition, the petitioner's training guidelines for [REDACTED] refer to the system only in the context of [REDACTED]. The document provides the following background: "Through various mergers and acquisitions over the past several years, [REDACTED] is now comprised of [REDACTED] having [REDACTED] like [REDACTED] . . . etc. by which orders can be entered/changed in [REDACTED] system and also through [REDACTED] where [REDACTED] have already tied up with local pharmacy to dispense drugs."

Overall, the evidence supports a conclusion that [REDACTED] is [REDACTED] platform and not the petitioner's. Therefore, the petitioner's claim that the beneficiary qualifies for the benefit sought on the basis of her proprietary knowledge of the petitioner's proprietary product is not persuasive.

While it is possible that the [REDACTED] project will require knowledge of products, tools, processes or methodologies specific to the petitioner, the petitioner has not clearly identified such knowledge. The petitioner initially stated that the beneficiary was one of a small, elite group of employees who have experience on the [REDACTED] system or the healthcare industry practice group tools, procedures and methodologies. The petitioner did not describe or document these practice group tools, procedures and methodologies or otherwise claim that the beneficiary has knowledge specific to its company, as opposed to knowledge related to [REDACTED] platform. Further, the petitioner did not describe the scope of its healthcare practice, its structure or its staffing levels, or explain what is required to be considered part of the referenced "elite group of employees." The petitioner claims to dominate the IT industry in providing services to certain niche markets in the healthcare industry, thus its claim that knowledge of its healthcare group procedures and methodologies is rare within the company has not been adequately explained. To the extent that the petitioner claimed that the beneficiary possesses an advanced level of knowledge of the company's processes and procedures relative to healthcare industry projects, this claim is not adequately supported. 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)).

The petitioner did provide evidence that it has set training benchmarks for persons assigned to work with [REDACTED] platform, that it likely provides some level of training in the client's platform to persons assigned to work on the project, and that ten months of experience with the platform would be required to reach the "expert" level. The petitioner provided evidence that the beneficiary has been certified as a [REDACTED] trainer after completing the company's basic, advanced and expert training modules. However, this evidence is insufficient to establish the beneficiary's eligibility as a specialized knowledge worker.

First, the petitioner has not established that the beneficiary's knowledge of [REDACTED] platform represents special knowledge of the petitioner's "product, service, research, equipment, techniques, management or other interests and its application in international markets," as the knowledge relates to the client's system and technology and not to the petitioning company. The petitioner's client even

went so far as to indicate that it considers the beneficiary to be part of its own "[REDACTED]" team for a period of six years, despite the fact that she has worked for the petitioner's subsidiary for less than four years. As discussed above, the record reflects that the beneficiary initially gained knowledge of the [REDACTED] platform while employed by an unrelated employer, thus suggesting that the petitioner is not the only IT service provider assisting the client with support and ongoing updates to this platform.

The beneficiary's familiarity with the client's systems and project requirements, while valuable to the petitioner, cannot be considered knowledge specific to the petitioning organization and cannot form the basis of a determination that he possesses specialized knowledge. All information technology consultants within the petitioning organization would reasonably be familiar with its internal processes and methodologies for carrying out client projects and also be familiar with the customer requirements on projects on which they have worked. Similarly, most employees would also possess project-specific knowledge relative to one or more international clients. The fact that other workers may not have the same level of experience with the petitioner's methodologies as applied to one component of a specific client project, or the same level of knowledge of a client's own internal products, services or processes is not enough to establish the beneficiary as an employee possessing specialized knowledge.

Further, while the beneficiary may in fact possess advanced knowledge of the client's platform, the petitioner has not supported its claim that she is the only trainer within the petitioning company or one of only two professionals who have been certified as "experts" in the system. The petitioner provided evidence that the beneficiary was enrolled in "expert" training with three other individuals beginning in December 2011 and that two of them passed the course. The record does not support a finding that this was the only expert training course that the company ever provided. Further, the petitioner did not explain who provided the [REDACTED] training to the beneficiary beginning in 2010 if she became the company's only qualified trainer in 2013.

Regardless, as discussed, advanced knowledge of the client's [REDACTED] platform, while valuable to the petitioner in terms of fulfilling its contract with [REDACTED] does not qualify as specialized knowledge as defined by the statute and regulations because it relates primarily to the unaffiliated employer's system and the above-referenced third-party tools and IBM mainframe technologies. While we do not dispute that the time the beneficiary spent working with the client allowed the beneficiary to become familiar with the client's internal systems, requirements and processes, the petitioner has failed to demonstrate that the beneficiary possesses, or that her duties require, any special or advanced body of knowledge that is specific to the petitioning company and that is not commonly possessed by others within the petitioning entity's healthcare group.

In sum, while the beneficiary may indeed have advanced knowledge of the client's [REDACTED] platform, the petitioner has not identified any aspect of the beneficiary's position which involves special knowledge of the petitioning organization's product, service, research, equipment, techniques, management, or other interests, or advanced knowledge of the petitioner's own processes or procedures.

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the

beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.*

For the reasons discussed above, the evidence submitted fails to establish by a preponderance of the evidence that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity with the petitioner in the United States. See section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

C. L-1 Visa Reform Act

The remaining issue addressed by the director is whether the beneficiary's proposed L-1B employment is in compliance with the terms of the L-1 Visa Reform Act.

If a specialized knowledge beneficiary will be primarily stationed at the worksite of an unaffiliated employer, the statute mandates that the petitioner establish both: (1) that the beneficiary will be controlled and supervised principally by the petitioner, and (2) that the placement is related to the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary. Section 214(c)(2)(F) of the Act.

These two questions of fact must be established for the record by documentary evidence. Neither the unsupported assertions of counsel or the employer will suffice to establish eligibility. *Matter of Soffici*, 22 I&N Dec. at 165; *Matter of Obaigbena*, 19 I&N Dec. at 534.

If the petitioner fails to establish *both* of these elements, the beneficiary will be deemed ineligible for classification as an L-1B intracompany transferee. As with all nonimmigrant petitions, the petitioner bears the burden of proving eligibility. Section 291 of the Act, 8 U.S.C. § 1361; *see also* 8 C.F.R. § 103.2(b)(1).

Here, for the reasons discussed above, the petitioner has not established that the beneficiary's assignment at [REDACTED] worksite requires specialized knowledge specific to the petitioning employer. Accordingly, the petitioner has failed to meet its burden of establishing that the beneficiary's placement is related to the provision of a product or service for which specialized knowledge specific to the petitioner is necessary. The client's letter indicates that it requires the beneficiary's services as an IT architect, that she has been a member of the client's [REDACTED] team, and that it requires her knowledge of its own applications.

Further, the petitioner has not provided a statement of work specific to the beneficiary's project outlining how and by whom the petitioner's off-site employees will be supervised, or outlining the specific services or deliverables to be provided. Again, 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

For these additional reasons, the appeal will be dismissed.

III. Conclusion

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.