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**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF E-R-A-E-, CO.

DATE: AUG. 30, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an oil and petrochemical company, seeks to amend the Beneficiary's temporary employment as its "raw material tactical operations coordinator" under the L-1B nonimmigrant classification for intracompany transferees.¹ See Immigration and Nationality Act (the Act) § 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner had not established that the Beneficiary possesses specialized knowledge or that she has been employed abroad, and would be employed in the United States, in a position requiring specialized knowledge.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director did not apply the appropriate standard when adjudicating the petition. The Petitioner claims that the Director did not properly apply the regulatory and statutory definitions and U.S. Citizenship and Immigration Services' (USCIS) policy on the interpretation of specialized knowledge. The Petitioner avers that since the Beneficiary is presently in L-1B status, USCIS must also consider this factor in its adjudication of this matter. The Petitioner maintains that it has established that the petition should be approved under the preponderance of the evidence standard.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the Beneficiary's application for

¹ The Beneficiary entered the United States under the Petitioner's Blanket L petition. From May 2015 to June 2015, the Beneficiary worked for the Petitioner in [REDACTED] Virginia. The Beneficiary will work in [REDACTED] Texas under this amended petition.

admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the Beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

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

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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 issue in this matter 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.²

1. Evidence of Record

The Petitioner filed the Form I-129 on October 7, 2015. On the Form I-129, the Petitioner indicated that its parent company has over 75,000 employees and \$420.8 billion in gross annual income. The Petitioner identified the Beneficiary's foreign employer as [REDACTED] its affiliate.³

In a letter dated September 24, 2015, the Petitioner stated that it "is the oldest and largest research organization within [the organization's] corporate structure, and is dedicated to conducting basic and applied research in those areas of science relevant to petroleum products and processing, synthetic fuels processing and solutions to energy needs." The Petitioner asserted that the Beneficiary, in the proffered position, will "utilize[] her specialized knowledge of [its] proprietary [REDACTED] and [its] [REDACTED] custom model to provide daily operations support to the [REDACTED] team, with a focus on how current changes in crude oil relates and qualities impact the refineries and supply organizations." The Petitioner added that the Beneficiary will continue to perform the following duties (paraphrased and bullet points added):

- Ensures assay and re-assay decisions reflect highest value opportunities to the business organization;
- Tracks quality changes of its global crude run volume on a monthly basis and provides recommendations for [REDACTED] updates;
- Reviews crude intelligence and [REDACTED] generated by the sites;
- Considers changes to the economic incentive using the NEW Generalized Economic Model;
- Draws upon her specialized knowledge of the company's proprietary [REDACTED] and [REDACTED] custom model to conduct quarterly crude quality reviews in each of the four regions, and conducts monthly site performance reviews to steward site creation statistics and drive improvement;

² The Petitioner submitted documentation to support the L-1B petition, including evidence of the Beneficiary's education, her experience with the foreign employer, the proffered position, and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

³ The record here does not include any information on the nature of [REDACTED]. An Internet search reveals that it provides corporate support services to the subsidiaries of [REDACTED].

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- Participates in regional supply optimization reviews, prepares and presents summaries of regional activities, and participates in regional crude meetings to follow up on feedstock quality issues;
- Determines the appropriate assay technology to employ per the assay decision tree;
- Provides consulting services and conducts special studies pertaining to crude quality; and
- Provides daily oversight to the [REDACTED] work activities and tracks [REDACTED] program budgets and reports the status to the [REDACTED]

The Petitioner noted that the Beneficiary held the position of process and equipment health monitoring engineer with the foreign entity from November 2011 until her transfer to the United States in May 2015. The Petitioner indicated that in the foreign position, the Beneficiary used her specialized knowledge of its proprietary [REDACTED] program and [REDACTED] customized model to provide guidance and expertise in the areas of deployment and sustainment of process equipment health monitoring applications built on Visual Basic and [REDACTED] platforms. The Petitioner indicated further that the Beneficiary “collected information from site contacts and developed models for application, while installing applications online, and connecting to plant historian input and output tags”; “performed preliminary validation of application results and participated in technical reviews of application and monitored application status”; and, interfaced with its technology specialists and highlighted potential deviations from experience bands and previous applications.

The Petitioner also noted that the Beneficiary used her knowledge of its [REDACTED] program and [REDACTED] custom model to propose improvements to technology, scope, and deployment practices to improve value, cost, and efficiency, and that she maintained documentation and expertise on the development work process and provided periodic stewardship of deployment activities and the application status.

The Petitioner noted further that the Beneficiary drew upon her knowledge of the [REDACTED] program and the [REDACTED] custom model to implement changes to configurations and tags. The Petitioner indicated that the Beneficiary was relied upon to monitor deployment applications, investigate issues with application performance and results, and update applications. The Petitioner stated that the Beneficiary also communicated with the user base to understand and track that applications were used and added value to the project, verified that plans were in place for application maintenance, solicited feedback on how applications could be improved, assisted with application use, trained new users on Monitoring Toolset technology, and maintained documentation on the sustainment work process.

The Petitioner indicated that the Beneficiary earned the U.S. equivalent of a bachelor of science degree in chemical engineering and reiterated that she began her employment with its worldwide operations in November 2011.

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The record also included the Beneficiary's resume in which she indicated that while at the foreign entity, she developed monitoring applications and models, deployed applications, created flowsheet models, led meetings to discuss status and improvement opportunities, acted as the sustainment team lead, and coordinated model validation meetings. Specifically, the Beneficiary's resume states that she developed "next generation [process health monitoring] Pipestill monitoring applications in parallel" using [REDACTED] "deployed 3 heat exchanger applications" and was responsible for "sustaining all [REDACTED] heat exchanger applications globally"; and "developed [REDACTED] process flowsheet model for the pipestill unit on [REDACTED] from existing [REDACTED] application." The Beneficiary stated that she was "[c]ompetent in [REDACTED] and Real Time Sequence" and she was "[f]amiliar with Persimmon, [REDACTED] and [REDACTED]. The Beneficiary's resume does not mention the Petitioner's [REDACTED] program nor does it contain any other references to [REDACTED] or detail any prior experience with raw material characterization.

In a letter submitted in response to the Director's request for evidence (RFE), the Petitioner asserted that "[v]ery few individuals possess [the Beneficiary's] specialized knowledge of the products, techniques, research and equipment needed in her function" and reiterated that she gained this knowledge by "learning and utilizing our proprietary [REDACTED] Program and our [REDACTED] [sic] [REDACTED] custom model." The Petitioner noted that the Beneficiary received specific training on [REDACTED] Manufacturing Economics, [REDACTED] and [REDACTED]. The Petitioner also paraphrased and expanded its earlier description of the Beneficiary's proposed duties in the United States indicating her duties include:

- Tracking quality changes of [REDACTED] global crude run and providing recommendations for assay [sic] updates[.]
- Reviewing [REDACTED] generated by the site[.]
- Conducting monthly site [REDACTED] performance review to steward [REDACTED] creation and drive performance[.]
- Reviewing crude intelligence [REDACTED] and Refinery Operating Experience) for assay updates.
- Working closely with the refining and supply (R&S) [REDACTED] to develop assay strategies to meet R&S business needs.

The Petitioner also provided a November 20, 2015, letter from the Beneficiary's foreign employer outlining her training while employed at the foreign entity which included (paraphrased):

1. [REDACTED] one week of training exposing the Beneficiary to global network members and technologies pertaining to crude flexibility and exposure and experience with refinery/site crude acquisition.
2. Manufacturing Economics: one week of training on the planning and economics of switching crude runs and capital investment in a refinery.
3. Refining Economics: one week of training involving the processing of crude oil into fuels and other products.

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4. [REDACTED] one week of training targeting the usage of [REDACTED] for tracking quality changes in crude, along with the utilization of blend tools to predict changing quality of crudes.
5. [REDACTED] one week of training focusing on using [REDACTED] to predict and characterize [REDACTED]
6. [REDACTED] Course: one week of training focusing on the deployment of custom models.

The foreign entity also provided a similar narrative of the Beneficiary's duties and experience which had been previously submitted by the Petitioner. The foreign entity stated that the Beneficiary performed the following duties (bullet points added and paraphrased):

- Gained expertise and experience in the process and modeling of crude oil distillation equipment and heat exchanger monitoring applications.
- Was responsible for the development and deployment of Research and Development Process and Equipment Health tools.
- Led the Process and Equipment Health group in ensuring the sustainability of the applications and in driving improvements for value delivery.
- Engaged with refinery site contacts frequently to collect necessary information for application and model development, installed applications online and conducted training to site users.
- Performed preliminary validation of application results, and participated in technical reviews for the monitoring of application status, a pre-sustainment step.
- Interfaced with the [Petitioner's] CEO technology specialists to highlight potential deviations from experience band and previous applications.
- Proposed improvements to the technology, scope and deployment practices to improve efficiency, value, and costs.
- Translated the sites' functional needs into tool specification.
- Implemented the testing of tools and the validation phases and mentored new engineers in tool deployment.
- Coordinated meetings to interface with other groups and site contracts for synergy, and conducted weekly meetings with different groups to discuss progress, status, and areas needing improvement.

The foreign entity asserted that the Beneficiary "utilized her specialized knowledge of our products, research, equipment[,] and techniques to perform her duties."

The Director denied the petition, determining that the Petitioner had not submitted documentary evidence of the Beneficiary's one year of employment abroad in the three years preceding her admission to the United States. The Director also found that the Petitioner had not established how knowledge of its [REDACTED] custom model, methodologies and procedures is unusual or that the Beneficiary's training at the foreign entity resulted in specialized knowledge. The Director also pointed out that the Beneficiary's involvement in the development and deployment

of specific tools was not clear. The Director determined that the Petitioner had not differentiated the Beneficiary's employment abroad from employment in similar positions within the industry or within the company. The Director further determined that the record did not include sufficient probative evidence establishing that the foreign position or the proffered position required specialized knowledge of the Petitioner's tools, processes and methodologies, beyond familiarity with them and knowledge that is commonly held within its organization and in the industry.

On appeal, the Petitioner emphasizes that it submitted sufficient evidence to demonstrate eligibility by a preponderance of the evidence. The Petitioner notes that it is one of the largest publicly traded companies in the world and for the Director to assert that its statements made under penalty of perjury cannot be accorded the presumption of being accurate is contrary to the preponderance of evidence standard.

The Petitioner asserts that using the Director's interpretation of the applicable regulations any company with more than two employees working in a specialized knowledge capacity would not be able to use the L-1B visa category. The Petitioner claims that the Beneficiary is well qualified to continue the specialized knowledge position due to her years of experience and training abroad and that very few individuals possess her specialized knowledge of the products, techniques, research, and equipment needed in the proffered position. The Petitioner also submits documentary evidence of the Beneficiary's employment abroad for the year preceding her entry to the United States in L-1B status.

B. Analysis

As the Petitioner emphasized on appeal, it 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.*

Upon review of the petition and the evidence of record, including the Petitioner's appeal, we find that the Petitioner submitted sufficient evidence to demonstrate that the Beneficiary was employed by the foreign entity for more than one year in the three years preceding her admission to the United States. The record does not establish, however, that the Beneficiary possesses specialized knowledge or that she has been employed abroad and 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. *See* 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. 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 a 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 a beneficiary’s specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary’s knowledge. The petitioner should also describe how such knowledge is typically gained within the organization, and explain how and when a given 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. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary’s knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. 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.

When determining whether a beneficiary has special knowledge, we look to the petitioner’s descriptions of this knowledge, including any internal tools, systems, and methodologies that are specific to it. We also consider the weight and type of evidence submitted in support of its claims.

As a preliminary matter, we acknowledge the Petitioner’s emphasis on its stature as one of the largest publicly traded companies in the world, and its suggestion that its statements made under penalty of perjury should be accorded “the presumption of being accurate.” However, there is a distinction between a finding that the Petitioner’s statements alone are insufficient to establish eligibility and a finding that the Petitioner’s statements are inaccurate or lacking in credibility.

We have considered the Petitioner’s reference to USCIS policy on the adjudication of L-1B petitions and in particular USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), <https://www.uscis.gov/laws/policy-memoranda>, and the Petitioner’s implicit assertion that USCIS doubts the credibility of its statements. As explained in the memorandum, USCIS is able to adjudicate L-1B petitions most effectively when a petitioner “explains in detail the specific nature of the industry or field involved, the nature of the petitioning organization’s products or services, the nature of the specialized knowledge required to perform the beneficiary’s duties, and the need for the beneficiary’s specialized knowledge.” We also note that a petitioner’s statement may be persuasive evidence if it is detailed, specific, and credible.

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Here, we do not doubt that the Petitioner's statements are credible, however, we are unable to effectively adjudicate this petition because it did not provide sufficient specific detail regarding the Beneficiary's specialized knowledge, her position abroad and her proposed position in the United States. As the record lacked sufficient detail to convey an understanding of these essential elements, the Director requested further evidence. While the Petitioner maintains that the Director's request was unduly burdensome, we note that the initial evidence, which included a three-page letter, the Beneficiary's resume, and an annual report, did not explain, in layman's terms, the nature of the Beneficiary's claimed specialized knowledge, nor did it include sufficient evidence explaining how the Beneficiary gained her specialized knowledge, and the difficulty the Petitioner would have in imparting her knowledge to others. Additionally, the Petitioner did not adequately explain how the Beneficiary's prior employment with the foreign entity qualifies her to perform the intended services in the United States. Again, it is not the Petitioner's credibility we question, but the lack of substantive evidence in the record establishing the essential elements of this complex visa classification.

More specifically, the Petitioner asserts that the Beneficiary has special knowledge of the company's proprietary [REDACTED] Program and [REDACTED] custom model. Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, a petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry. The Petitioner, however, does not provide a detailed explanation of its [REDACTED] Program or its customization of the third-party [REDACTED] software, in layman's terms. Nor does the Petitioner explain how its proprietary version differs significantly from other programs that are able to analyze unknown crudes as blends of assayed reference crudes, or provide any documentation related to the claimed specialized knowledge.

Further, the Petitioner also does not explain the length of time it takes to train an experienced chemical or petroleum engineer on the use of this software. We note here, for example, that the Beneficiary in this matter received only one week of training on the [REDACTED] which raises further questions on whether the Petitioner's [REDACTED] program is proprietary or whether it is the [REDACTED] that the Petitioner claims is proprietary. Similarly, the Petitioner notes that its [REDACTED] model has been customized. However, again, the Petitioner does not detail how and when the program was customized or explain the components and use of the program in layman's terms. The Petitioner has not described any special skills needed to use the customized version of this program or how it differs from the widely available [REDACTED] software. We also note that the Beneficiary received only one week of training on the [REDACTED]. She states in her resume that she is merely "familiar with" this software and does not indicate that she used it in any of her assignments with the foreign entity as a process and equipment health monitoring engineer.

Without detailed information on the [REDACTED] program (or the [REDACTED] or the customized [REDACTED] and the required training to effectively use these programs, we cannot conclude that knowledge of the programs could be considered distinct or uncommon within the

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Petitioner's industry. Based on the minimal information and evidence submitted regarding the [REDACTED] program and the [REDACTED] custom model and their training requirements, it appears more likely than not that a qualified engineer may require only limited training and a basic level of familiarity to use the technology, and that knowledge of this technology could be readily transferred to another engineer already working in the Petitioner's industry.

To emphasize, the Petitioner here does not articulate how the Beneficiary's six weeks of training would form a basis for specialized knowledge. The Petitioner has not identified when the Beneficiary received her six weeks of training or explained how she used the training in her position abroad, or whether she received the training in preparation for her transfer to the proposed position in the United States. We note that, while the Beneficiary's training may relate to her proposed duties in the United States, her detailed resume shows no prior work experience with raw materials characterization, the Petitioner's [REDACTED] program, [REDACTED] or [REDACTED] despite the Petitioner's claim that she gained her specialized knowledge in these technologies while employed abroad as a process and equipment health monitoring engineer. Therefore, the limited documentation submitted in support of the Petitioner's statements does not corroborate its claim that the Beneficiary has extensive experience in these technologies or in this sector of its business.

The Petitioner also does not identify how any of the Beneficiary's six weeks of training is different from training received by other employees. It appears that the internal systems and tools used by the petitioning organization are reasonably used company-wide by employees working in this industry. We also reiterate the Director's finding that the Petitioner does not explain, expand upon, or describe the specific tools, models, or applications that the Beneficiary developed or deployed. The record is simply deficient in this regard. While the Beneficiary reports on her resume that she was involved in developing processes and models that were deployed companywide, these processes and models are related to the process and equipment health sector, specifically related to distillation equipment and heat exchange monitoring applications, and have not been shown to relate to the [REDACTED] and raw material characterization work she will perform in the United States. We cannot conclude that the Beneficiary created or implemented specific models, applications, or tools that she would be using in her proposed position with the Petitioner. Therefore, even if we determined that the Beneficiary had gained specialized knowledge as a result of her experience in developing process and equipment health monitoring applications and models, we could not determine that such knowledge is required for the U.S. position.

We have reviewed the Petitioner's claim that the Beneficiary gained specialized knowledge of its products, research, equipment, and techniques while employed by its foreign affiliate. However, the Petitioner does not explain how the Beneficiary's day-to-day work experience using its unspecified research and techniques resulted in her specialized knowledge. We recognize that the Beneficiary has gained insight into and familiarity with the petitioning organization's products, equipment, and internal processes during her tenure at the foreign entity. But the Petitioner has not established that the Beneficiary's work experience while employed as a process and equipment health monitoring engineer resulted in knowledge that is distinct, noteworthy, or uncommon in comparison to the knowledge of other similarly employed workers in the petrochemical industry.

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Further, as mentioned, the record does not establish that the Beneficiary has prior work experience with [REDACTED] programs, [REDACTED] or raw material characterization within the Petitioner's organization. The Petitioner has not supported its claim that she used these technologies and processes to perform her duties as a process and equipment health monitoring engineer. Without evidence that she used these technologies in her position with the foreign entity, it appears that she was able to assume the position of raw material tactical operations coordinator with limited training and little to no prior work experience in this area. Again, the Petitioner does not detail what aspects of its internal tools, systems, and methodologies are complex and require specific training. The Petitioner's unsupported assertion that the Beneficiary's use of its products, research, equipment, and techniques while performing her duties establish her specialized knowledge is insufficient. Without the underlying descriptions and explanations of the products, research, equipment, or techniques, and information regarding the Beneficiary's direct experience in the area of claimed specialized knowledge, we cannot conclude that the Beneficiary's tenure alone at the foreign entity resulted in specialized knowledge. Again, the Petitioner focuses its specialized knowledge claim on two specific areas – the [REDACTED] Program and [REDACTED] custom models – and has not explained or documented the Beneficiary's experience in these areas.

We note here that the current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that a beneficiary's knowledge be proprietary. Thus, whether the knowledge is proprietary or not, a petitioner must still establish that the knowledge utilized in the proposed position and possessed by the beneficiary is in fact specific to the petitioning organization, and somehow different from that possessed by similarly-employed personnel in the industry. It is reasonable to believe that all companies develop internal tools, methodologies, and software. Without a substantive explanation or evidence, we cannot conclude that the petitioning company's internal methodologies to predict the qualities of untested crude oil is particularly complex or uncommon compared to tools and methodologies used by other companies within this industry. The Petitioner has not adequately described its tools and methodologies and how they are different from other companies, has not sufficiently explained how the Beneficiary gained knowledge specific to only its organization, and has not supported a claim that it would take a significant amount of time to train an experienced chemical engineer to perform the duties required of the position.

We have also considered whether the Beneficiary possesses advanced knowledge. The concept of "advanced knowledge" concerns knowledge of an organization's processes and procedures that is greater than that of the company's other employees. Thus, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or expertise in its processes and procedures that is greatly developed or further along in progress, complexity and understanding in comparison to other workers in its operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

We note here that the Petitioner offered no information on the education, experience, training, or knowledge of its other chemical and petroleum engineers working in raw material characterization. Rather, the Petitioner asserts, without supporting evidence, that few individuals possess the

Beneficiary's specialized knowledge of its products, techniques, research, and equipment. As the record does not include probative evidence upon which to base a comparison between the Beneficiary and the petitioning organization's other similarly-employed engineers, we cannot conclude that the Beneficiary's knowledge is advanced within the Petitioner's own operations. While the Petitioner asserts that USCIS's interpretation of the applicable regulations would result in a denial of an L-1B petition for any company with more than two employees working in a specialized knowledge capacity, we note that advanced knowledge does not need to be narrowly held within the organization. While we recognize that a company of the Petitioner's size and with the inherent complexity of portions of the petrochemical industry may employ many individuals with specialized knowledge, the Petitioner cannot rely on its number of employees and the complexity of the industry to establish that a particular employee has specialized knowledge. Rather, the Petitioner must present evidence to support its claim that a specific employee has specialized knowledge, using the guidance set out in the L-1B memorandum and the statute and regulations.⁴ Here, the Petitioner has not provided such evidence.

Upon review, the record does not include sufficient evidence to compare the Beneficiary's knowledge and the knowledge of other company engineers in the process and health equipment arena or in the raw material characterization segment of the industry. The Petitioner does not specify if all of its employees are required to take specific trainings prior to working in either of these two areas and if so the amount of training that is necessary. Further, the Petitioner has not submitted evidence of the length of time it would take to train a U.S. employee to perform the duties it described. The Petitioner has not connected the Beneficiary's work experience abroad to the proposed work in the United States or sufficiently developed the record so that we may effectively review and adjudicate the Beneficiary's specialized knowledge, her employment in a specialized knowledge capacity abroad, and that the proposed position requires specialized knowledge.

In sum, the record does not include sufficient probative evidence demonstrating that the Beneficiary's combination of professional experience, work assignments, and knowledge of the Petitioner's proprietary software and methodologies has resulted in her possession of knowledge that is distinct or uncommon compared to similarly employed workers in the industry or others within the petitioning company.

We do not doubt that the Beneficiary is a valuable employee who is well-qualified for the proposed position in the United States. However, based on the evidence presented, the Petitioner has not presented sufficient evidence supporting its assertion that the Beneficiary has specialized knowledge and that she has been and would be employed in a capacity requiring specialized knowledge. While we acknowledge that the Beneficiary is currently in L-1B classification pursuant to the Petitioner's blanket L petition and take note of the Department of State's previous determination of L-1B eligibility, we must make a determination based on the instant petition based on the record before us.

⁴ The L-1B memorandum notes that the mere existence of other employees with similar knowledge should not, in and of itself, be a ground for denial, but continues by stating that the Petitioner must still demonstrate its need for another individual with similar knowledge in the organization's U.S. operations.

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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).

III. CONCLUSION

The petition will be denied and the appeal dismissed for the above reason. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of E-R-A-E-, Co.*, ID# 18242 (AAO Aug. 30, 2016)