



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

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

MATTER OF A-USA, INC.

DATE: JUNE 27, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a computer support services provider, seeks to temporarily employ the Beneficiary as a systems operations specialist under the L-1B nonimmigrant classification for intracompany transferees. 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, California Service Center, denied the petition. The Director concluded that the Petitioner had not established that the Beneficiary possesses specialized knowledge or that he 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 ignored the totality of evidence in the record and did not consider the factors and guidance provided in the newly adopted L-1B adjudication policy memorandum.¹ The Petitioner avers that the Director did not apply the proper evidentiary standard in this matter.

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 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

¹ The Petitioner is referring to USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), <https://www.uscis.gov/laws/policy-memoranda>.

employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

If a 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.

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II. SPECIALIZED KNOWLEDGE

The issue to be addressed is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he has been employed abroad and will be employed in the United States in a specialized knowledge capacity.²

A. Evidence of Record

The Petitioner attested on the Form I-129 that it currently has one employee in the United States and has earned a gross annual income of \$108,000 in its first year of operations which ended December 2014.³ The Petitioner is a subsidiary of the Beneficiary's foreign employer, [REDACTED] (the foreign entity), located in Japan.

In its letter in support of the petition, the Petitioner stated that it had been founded in September 2013 to provide the foreign entity's "clients with system monitoring, analysis, maintenance and customer support services as part of [the parent company's] 24/7 System Management services, utilizing the 16-hour time difference between Japan and Nevada." The Petitioner noted that the foreign entity provides "customers and clients with a variety of IT business services; development of smartphone applications; operations, maintenance and technical support for server systems; and development and sales of [the company's] original web applications." The Petitioner explained that since its inception it has been serving the foreign entity's clients as its overseas system management center, providing system monitoring, analysis, maintenance, and customer support services during the day in the U.S. to reduce the night shift labor in Japan. The Petitioner indicated that it "***provides services only to Japanese corporate clients of [its] parent company.***"

The Petitioner also stated, in the letter in support of the petition, that it requires "the services of a well-trained System Operations Specialist with advanced knowledge in the company's internal procedures and customization methods for the Integrated System Development and Maintenance Solutions, as well as in-depth knowledge and extensive experience with respect to software development." The Petitioner noted that the position requires a professional who possesses specialized knowledge of its parent company's proprietary system management toolset, [REDACTED] and of the proprietary iPad application [REDACTED] for hair salons in Japan and its server system. The Petitioner provided an overview of the proffered position stating that the Beneficiary will be responsible for monitoring and assessing various Japanese clients' systems, assisting in the launch of system development services in the United States, and training new employees as the

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

³ The Beneficiary was approved for one year in L-1A classification ([REDACTED] valid to March 31, 2015. He entered the United States on June 8, 2014, on the approved L-1A visa. On April 14, 2015, a petition ([REDACTED] to extend the Beneficiary's L-1A classification was denied. He departed the United States on April 22, 2015.

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company grows. The Petitioner detailed the Beneficiary's proposed duties and allocated his time to the duties as follows (paraphrased, and bullet points added for clarity):⁴

1. Monitor, investigate, and analyze clients' server system operations (35%):
 - Review and investigate monitoring statistics such as CPU load, network utilization, disk usage, port status, and system logs;
 - Analyze the results taking into consideration monitoring solutions used by different systems, including the proprietary monitoring software toolset, [REDACTED]
 - Troubleshoot and conduct error recovery when the need arises; and
 - Evaluate operational stability and security of systems, analyze system alerts, and detect potential problems.
2. Compile system incident reports, conduct risk analysis and assessment, and devise preventive measures (15%):
 - Produce monthly incident reports by utilizing an issue-tracking tool;
 - Create a weekly report;
 - Conduct analysis and assessment on risk factors of each client's systems (including servers, networks and applications), as a result of an incident;
 - Suggest measures to improve operational performance and reduce potential risks; and
 - Will devise preventive measures for reducing incidents in the proprietary [REDACTED] app system.
3. Upgrade, customize and optimize system-monitoring solutions for clients' systems (20%):
 - Upgrade existing clients' system monitoring and alert tools (Zabbix, [REDACTED] Nagios, Cacti, etc.) as needed;
 - Configure and customize monitoring tools based on the company's proprietary [REDACTED]
 - Optimize the monitoring performance for those systems that are not embedded with [REDACTED] and
 - Fine-tune the existing server monitoring script that defines monitoring conditions and rules.
4. Assist in launching server security consulting services for Japanese clients (15%):
 - Research up-to-date security alert information against threats and evasion attack;

⁴ We note that the Petitioner's allocation of the Beneficiary's time exceeds 100%.

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- Assess the clients' server protection status; and
 - Prepare regular reports on the latest security information and current system risks.
5. Develop system operations manual and training program for new employees at the Petitioner (10%):
- Prepare a system operations manual and a training program; and
 - Provide training to newly employed engineers and specialists at the Petitioner.
6. Liaise with the foreign entity and its engineers to ensure consistency with their quality level of system operations and maintenance services (10%):
- Ensure consistency between the Petitioner and the parent company;
 - Coordinate with the technical support team in Japan to ensure and deliver seamless, around-the-clock services; and
 - Prepare monthly reports in Japanese on overall U.S. operational progress.

The Petitioner concluded that these duties require “the specialized knowledge, skills and expertise of a professional who has extensive experience with [its] company’s proprietary [redacted] and [redacted] system” and “the individual must be well acquainted with internally developed procedures and customization methods, business policies and practices of [the parent company]” and “be proficient in both Japanese and English.” The Petitioner added that the proffered position requires advanced knowledge of its customer base, corporate policies, and business strategies.

The Petitioner asserted that the Beneficiary possesses specialized knowledge of its software toolset, [redacted] which combines “carefully selected” open-source software solutions and utilities, such as Zabbix, Redmine, log processing (rsyslog), Jenkins, [redacted] and JobScheduler. The Petitioner noted that the Beneficiary had “gained hands-on experience in configuring the [redacted] [redacted].” The Petitioner claimed that the Beneficiary had also contributed to the development of the [redacted] iPad app from the aspect of data system operations and maintenance, and is one of the few employees who have a comprehensive knowledge of the [redacted] app and the cloud-based system that it uses. The Petitioner indicated that advanced knowledge of this app and its database and app system operation procedures is indispensable for the office in the United States.⁵ The Petitioner noted that its system development and system management procedures and customization methods are unique to the company, and generally unknown in the United States because they are internally developed. The Petitioner maintained that the Beneficiary has

⁵ The Petitioner described [redacted] as an iPad app using a cloud-based database management system allowing hair salon owners and stylists to upload customer information, appointment records, reminder messages, hairstyle photos, and other informational videos and photos of hairstyle techniques. The Petitioner claimed the app had been sold to over 250 hair salons in Japan, is used by more than 2000 users, and that the parent company performs 24/7 system operations and maintenance, and offers technical support for app users.

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specialized knowledge of the development procedures and customization methods because of his professional experience in the areas of application development, system customization, and system operations.

The Petitioner noted that the Beneficiary had worked as a software engineer and programmer for other companies which “developed the foundational basis of his advanced knowledge of Japanese IT service providers’ internally developed software development and customization methods, as well as system operations and maintenance procedures.” The Petitioner stated that the Beneficiary, upon joining the foreign entity in late 2010, became a project leader as the branch manager at the foreign entity’s [REDACTED] and carried out system management tasks for major clients. The Petitioner noted that the Beneficiary’s main tasks, as part of the 24/7 system operations and maintenance services, typically included the following:⁶

- Monitor errors, conduct error recovery, investigate and analyze causes
- Manage incident reporting, logs (access, application, errors), and risk assessment, and develop preventive measures
- Modify specifications of a web server, application server and database server; and ensure to backup data and systems
- Update customized operations systems and middleware
- Modify specifications of monitoring tools
- Update secure socket layer (SSL) certificates
- Revise database entries (content revisions, data entry schedules)
- Produce monthly system management reports.

The Petitioner also provided a summary of the Beneficiary’s assignments with the foreign entity noting that he: was assigned to work with the app development team to configure and install monitoring and incident reporting software tools for the [REDACTED] app, and has been responsible for upgrades and modifications of the tools in collaboration with the app development team since the launch in November 2012; was in charge of designing and configuring the monitoring and system management software tools for Realize mobile platform between November 2010, and January 2011; was instrumental in selecting open-source software solutions and utilities for monitoring, incident tracking and log processing for the [REDACTED] and for internal testing and evaluating between February and October 2012; was in charge of configuring and installing the [REDACTED] in server systems of two users of the Intra-mart platform from December 2013, to March 2014; and, was responsible for the maintenance services, and assisted in providing security alert information and security vulnerability assessment services for a large IT service provider in Japan, while in the United States and even after returning to Japan. The Petitioner also indicated that the Beneficiary had supervised three system operations specialists between March 2011, and May 2014.

The Petitioner stated that the Beneficiary’s specialized knowledge includes:

⁶ The Petitioner submitted a letter from the foreign entity that also listed these specific duties.

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(1) proprietary system management toolset, [REDACTED] (2) original application, [REDACTED] and its Cloud-based database system, and (3) uniquely established procedures and customization methods for system development and operations – which he has acquired, and ***can only be obtained, through extensive on-the-job experience with [the foreign entity].***

The Petitioner concluded that the Beneficiary is “already intimately familiar with the various procedures and practices of our company through his four (4) years of employment with our parent company in Japan and through his leading role in monitoring tool development and system management projects.” The Petitioner claimed that the Beneficiary meets both the special knowledge prong and the advanced knowledge prong of the specialized knowledge criteria.

In response to the Director’s request for evidence (RFE), the Petitioner added that it planned to develop, implement and introduce system management software with error prediction capability and unified communication software that consolidates communication tools. The Petitioner noted that only an experienced system operations specialist with special and advanced knowledge of the company’s current system management toolset ([REDACTED]) as well as advanced knowledge of the company’s internal systems operations and maintenance services procedures would be able to design and implement the new software systems. The Petitioner claimed that the Beneficiary is one of only two employees with the requisite special and advanced knowledge, and that it would take at least three years of on-the-job-training at the parent company for another employee to gain the necessary special and advanced knowledge.

The Petitioner also re-submitted the previous U.S. job description for the Beneficiary, but amended the time allocated to the Beneficiary’s various duties to total 100 percent. The Petitioner also explained why a newly hired employee in the United States would not be able to perform the duties for the U.S. entity. The Petitioner indicated that it currently employed only an administrative staff person but that it planned to hire a systems operations staff member by December 2015, and additional system operations specialists and system development staff in 2016 and 2017. The Petitioner referenced an attached draft training manual and reiterated that the Beneficiary will train newly hired specialists and engineers.⁷ The Petitioner claimed that in addition to this training, it would take about three years of on-the-job training for a new hire to perform his/her duties with little or no supervision.

The Petitioner also reiterated that the Beneficiary had on-the-job training of nearly fifteen years working in the field of software development and system operation and maintenance and four years of experience working at the parent company. The Petitioner also re-stated the various projects the Beneficiary had been involved in and concluded again that the Beneficiary had obtained the following specialized knowledge:

⁷ The draft training manual is 178 pages and includes information relating to fundamentals of operating systems. It does not appear to include any specific training on the Petitioner’s claimed proprietary software toolset or applications.

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- Special and advanced knowledge of the company's unique software toolset called [REDACTED]
- Special and advanced knowledge of the company's unique iPad applications like [REDACTED]
- Advanced knowledge of the company's internal procedures for system development and maintenance services as well as customization methods IT management solutions; and
- Advanced knowledge of our Japanese clients' IT systems and servers.

The Petitioner again stated that the Beneficiary, while performing managerial and specialized knowledge duties, also supervised three subordinates in the positions of operations engineer, and operations staff.

The Director denied the petition after reviewing the Petitioner's response to the RFE. On appeal, the Petitioner asserts that the Director erred: when considering only a bullet list of duties without addressing the Petitioner's explanation of each of the bulleted points; by not considering the Petitioner's assertion that the Beneficiary had advanced knowledge as he was one of only two employees with specialized knowledge; by ignoring the Petitioner's claim that it would take a minimum of three years of on-the-job training to perform the described duties at the U.S. entity; and, by not applying the appropriate preponderance of evidence standard. The Petitioner also maintains that the Director did not discuss the guidance provided in the newly adopted L-1B adjudication policy memorandum.

B. Analysis

Upon review of the petition and the evidence of record, including the appeal, we conclude that the Petitioner has not established that the Beneficiary possesses specialized knowledge or that he 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. U.S. Citizenship and Immigration Services (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 the 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.

In the present case, the Petitioner asserts that the Beneficiary has a special knowledge of the company's products and their application in international markets. Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, the 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.

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.*

Here, the evidence supports the conclusion that the Beneficiary's current and proposed duties are those typically performed by a system operations specialist in the systems monitoring, maintenance, and customer support field. For example, in describing the nature of the Beneficiary's role with the foreign entity, the Petitioner stated that the Beneficiary had worked as a software engineer and programmer for other companies which "developed the foundational basis of his advanced knowledge of Japanese IT service providers' internally developed software development and customization methods, as well as system operations and maintenance procedures." While the Petitioner also emphasizes the Beneficiary's three years of on-the-job training, the Petitioner has not specified what aspects of the Beneficiary's hands-on experience distinguish him from similarly employed workers in this industry. "[G]oing 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 Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

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Rather, according to the Petitioner, the Beneficiary once hired at the foreign entity “was primarily responsible for system operations and maintenance projects for different types of clients in Japan” and “immediately took on a project leader position as the Branch Manager to carry out systems management tasks for [its] major clients.” The Petitioner does not indicate that the Beneficiary obtained specific training on its internal systems operations, customization, and maintenance services procedures but rather was able to immediately perform duties as a system operations specialist based on his prior experience in the field.

The Beneficiary’s specialized knowledge is claimed to include, in part, knowledge of the Petitioner’s [REDACTED]. The Petitioner does not include substantive documentation, such as promotional and training materials, supporting its claim that the [REDACTED] is its proprietary tool. The Petitioner acknowledges that its [REDACTED] is based on open-source software, rather than on software developed by foreign entity. However, it claims the open source software is available only in Japan. The Petitioner also emphasizes the Beneficiary’s three years of experience utilizing the [REDACTED] to provide system management services for the company’s clients.⁹ However, the Petitioner has not documented that the open source monitoring, incident tracking, and log processing tools that make up the [REDACTED] are specific to a particular geographic region. Moreover, the Petitioner has not established that configuring open source software to accommodate the company’s particular clients’ servers requires special knowledge. The record does not establish that more than the Beneficiary’s foundational knowledge as a software engineer and programmer was needed to select open source software, configure the software to the company’s needs as a system monitoring, analysis, maintenance, and customer support services provider, and then install the software. The Petitioner has not established that the knowledge to perform these duties is distinct or uncommon from the knowledge of others performing similar work within the company’s industry.

The Petitioner further claims that the Beneficiary has specialized knowledge of the [REDACTED] iPad application developed by the foreign entity that allows him to enhance, maintain, troubleshoot and support the app, which the Petitioner states is exclusively used by beauty salons in Japan.¹⁰ Significantly, the Beneficiary’s proposed duties in the United States contain only one reference to [REDACTED] and mostly revolve around his claimed knowledge of the [REDACTED] product and his ongoing support of servers and systems for the foreign entity’s corporate clients, rather than [REDACTED] users.

⁸ The Petitioner claimed, in response to the Director’s RFE, that it was submitting documents describing its software toolset, [REDACTED] however, the record does not include this documentation.

⁹ The Petitioner stated initially and in response to the Director’s RFE, that the Beneficiary over a nine-month period was instrumental in selecting open-source software solutions and utilities for monitoring, incident tracking, and log processing and was also responsible for testing the [REDACTED] internally. Subsequently, over a three month period, the Beneficiary also configured and installed the [REDACTED] in various server systems.

¹⁰ The Petitioner provided promotional materials relating to the “[REDACTED] iPad app which shows that it was copyrighted by “[REDACTED]. The Petitioner does not explain its relationship to “[REDACTED]” or otherwise support its claim that this app was developed by the foreign entity.

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Nevertheless, the Petitioner has not established that monitoring, maintaining, and providing customer support for its [REDACTED] application requires special knowledge. The Petitioner claims on appeal that the Beneficiary was the key project leader in developing and launching the [REDACTED] application and that he is one of only two key employees who has the comprehensive special knowledge of the app's cloud-based system and its operation procedures and that this app is not available in the United States.¹¹ First, we note that the Petitioner initially stated that the Beneficiary had been involved with and contributed to the development of this app only from the aspect of data system operations and maintenance, but now on appeal asserts that the Beneficiary was the key project leader in developing and launching the [REDACTED] application, as well as being one of only two key employees who has the comprehensive special knowledge of the app's cloud-based system and its operation procedures. Thus, the Beneficiary's actual level of involvement in the development of this application is unclear. Moreover, the Beneficiary's knowledge again, appears to be based on his professional experience within the software engineer and programming industry. The Petitioner has not established how his involvement in monitoring, maintaining, and providing customer support related to this application requires knowledge that is noteworthy or uncommon when compared to other professionals in the IT industry.

The Petitioner emphasizes the Beneficiary's three years of on-the-job training, with its company-unique [REDACTED] set that uses international software and its company-unique application, [REDACTED] as evidence that the Beneficiary's knowledge is specialized. The Petitioner claims that it would take a minimum of three years of on-the-job training to perform services relating to these products in international markets. However, the Petitioner has not provided evidence to support this claim. It has neither explained nor clarified what sets these two products apart from other applications or modified open source software such that duties relating to the products require three years of on-the-job training. The minimal evidence submitted suggests that the company's employees are not required to undergo any extensive training in the company's products and methodologies. Here, the Petitioner has not clearly articulated any claimed specialized knowledge that the Beneficiary gained during his employment at the foreign entity other than a vague reference to "on-the-job" training. We have considered the Petitioner's references to the Beneficiary's assignments on various projects, but the record does not include evidence that the Beneficiary's involvement in the various projects required special knowledge that is uncommon or distinct in comparison to other software engineers and programmers in the industry. The Beneficiary cannot be considered a specialized knowledge employee based solely on the length of his tenure with the organization.

¹¹ The Petitioner stated, initially and in response to the Director's RFE, that the Beneficiary had been "involved in the [REDACTED] app development and system management," "contributed to the development of the app from the aspect of data system operations and maintenance," and explained further that over a seven-month period he worked with the app development team to configure and install monitoring and incident reporting software in the cloud-based database server in order to launch this application and then continued working with the app development team on upgrades and modifications subsequent to the launch.

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We note here that the Petitioner's draft training manual does not include training specific to either of the company's two claimed proprietary products, to the company's database, or to the Petitioner's methodologies in customization and integrating its products into clients' server systems and providing customer support. Further, as noted above, the Petitioner has not submitted any documentation in support of its claim that it developed [REDACTED] as a product offering for its corporate clients. We also note that the current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that a beneficiary's knowledge be proprietary. Whether the knowledge is proprietary or not in order to be considered specialized, a petitioner must still establish that the knowledge utilized in the proposed position and possessed by a 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 applications. Without a substantive explanation or evidence, it cannot be concluded that the company's internal tools, methodologies, and applications are particularly complex or unique compared to those utilized and developed by other companies in a similar industry, or that it would take a significant amount of time to train an experienced software engineer or programmer to perform the duties required of the position.

The Petitioner also claims that the Beneficiary possesses an advanced level of knowledge of the company's products, [REDACTED] and [REDACTED] and advanced knowledge of its internal procedures and customization methods for integrated system development and maintenance solutions, as well as its Japanese clients' IT systems and servers. 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.

The Petitioner has not established that the Beneficiary has advanced knowledge of the company's processes and procedures. The Petitioner claims that the Beneficiary is one of only two employees at the foreign entity that has advanced knowledge of its products, its internal procedures and customization methods and its clients' IT systems and servers. However, the foreign entity's organizational chart depicts the Beneficiary reporting to an operation service department manager and showing that the Beneficiary has eight employees who report to him. The employees, as shown on the foreign entity's organizational chart reporting to the Beneficiary, include a second operations specialist, two operations engineers, and five operations staff.¹² In response to the Director's RFE, the Petitioner stated that the Beneficiary supervised only three employees including an operations engineer with over 20 years of experience, and two operations staff with bachelor's degrees and five and three years of experience.

¹² The record does not include evidence of the degrees or experience and training of the operation service department manager, the second operations specialist, the second engineer, and the remaining three operations staff.

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The record does not support the Petitioner's claim that the Beneficiary has advanced knowledge of any of its products, processes, or procedures. Here, the Petitioner has not submitted evidence of the duties, education, experience, and training of the employee who it claims has the same advanced knowledge as the Beneficiary. Additionally, the Petitioner has not provided evidence of the duties, education, experience, and training of all of the employees in the Beneficiary's department. Accordingly, we cannot distinguish the Beneficiary's employment and experience within the foreign entity's operation service department with all of its other employees. It is reasonable to believe that all the Petitioner's employees in this department would need to be knowledgeable about the Petitioner's products and methodologies to offer technical support and to monitor and maintain its system management centers. Without sufficient evidence describing how the Beneficiary's knowledge is greater or more advanced than the other employees within the department, we cannot conclude that the Beneficiary possesses advanced knowledge or that the foreign position requires advanced knowledge. 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.

When the Petitioner describes the Beneficiary's advanced knowledge of its two products, [REDACTED] and [REDACTED] it concludes without analysis that if the applicant for the U.S. position did not have the Beneficiary's advanced knowledge, he or she would not be able to service its clients and their servers effectively. Again, however, the record does not include evidence that the Beneficiary's knowledge is apart from the basic knowledge possessed by others within the company, nor has it sufficiently explained why the knowledge could not be readily transferred to a similarly educated and experienced worker in the field. With respect to either special or advanced knowledge, the Petitioner must demonstrate that the Beneficiary's knowledge cannot be easily imparted from one person to another. The Petitioner asserts that the Beneficiary has acquired advanced knowledge of its internal procedures and customization methods and of its Japanese clients' IT systems and servers. The Petitioner claims that the Beneficiary acquired his advanced knowledge by contributing to a database that the company has developed that stores up-to-date records of server software errors and patches that the company's engineers access to identify potential problems in customization and by leading various projects. We observe that most companies in the Petitioner's business have internal databases of fixes and patches and have employees that routinely lead projects. The Petitioner here does not provide sufficient probative evidence demonstrating that this Beneficiary's knowledge is not commonly found in the company's industry. Moreover, the Petitioner does not support its claim that the Beneficiary's knowledge is greatly developed or further along in progress, complexity and understanding as compared to others within the company's organization. The record is deficient in supporting the Petitioner's conclusory statements.

The Petitioner's claims also rest on the assertion that the proffered position requires specialized knowledge of the foreign entity's Japanese clients, the servers that are used in Japan, and software that is only available in Japan. The Petitioner repeatedly emphasizes that the Beneficiary has specialized and advanced knowledge based on his work with Japanese IT systems and Japanese clients, as well as the ability to communicate in Japanese. Knowledge regarding regional operations systems, and the players within that region, is not knowledge that can be considered specific to the

petitioning organization, and is not “specialized knowledge” as defined in the statute and regulations. Furthermore, we cannot find that the Beneficiary’s cultural experiences and native language skills constitute specialized knowledge specific to the petitioning organization. The Petitioner may find the Beneficiary to be a perfect fit for their organization based on the talents, skills, and life experiences he possessed when he was hired. However, these traits do not establish the Beneficiary’s eligibility for L-1B classification.

We also acknowledge the Petitioner’s claim that the Beneficiary’s presence in the United States is indispensable to the petitioning company’s objectives in maintaining its 24/7 service without night shift work in Japan. However, merely establishing that the Beneficiary will undertake an important position will not satisfy the Petitioner’s burden of proof. The Petitioner must still submit evidence to establish that it will employ the Beneficiary in a specialized knowledge capacity. While the Beneficiary’s skills and knowledge may contribute to the success of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge; the regulations specifically require that the Beneficiary possess an “advanced level of knowledge” of the organization’s processes and procedures, or a “special knowledge” of the company’s product, service, research, equipment, techniques, or management. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D). In the present matter, the Petitioner’s claim appears to be based primarily on the Beneficiary’s tenure with the company, which has resulted in greater familiarity with the Petitioner’s tools, processes, and methodologies than employees with a shorter term of employment may have.

The Beneficiary appears to be a skilled and experienced system operations specialist; however the Petitioner did not adequately support a claim that the Beneficiary’s combination of professional experience, contributions to the foreign entity’s products and database, and knowledge of its proprietary software and methodologies has resulted in his possession of knowledge that is distinct or uncommon compared to similarly employed workers in the industry or within the petitioning company, or that the Beneficiary’s knowledge is greatly developed or further along in complexity and understanding that is generally found within the employer.

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge and has been employed and will be employed in a specialized knowledge capacity with the Petitioner in the United States.

III. CONCLUSION

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. § 136; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of A-USA, Inc.*, ID# 17155 (AAO June 27, 2016)