



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

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

In Re: 20613408

Date: MAY 6, 2022

Appeal of California Service Center Decision

Form I-129, Petition for L-1B Specialized Knowledge Worker

The Petitioner, an electrical contractor, seeks to employ the Beneficiary temporarily in the position of a “broadband technology specialist” under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary possesses specialized knowledge and was employed abroad and would be employed in the United States in a specialized knowledge capacity. The matter is now before us on appeal.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we conclude that the Petitioner did not meet that burden. Therefore, we will dismiss the appeal.

## I. LEGAL FRAMEWORK

To establish eligibility for the L-1B nonimmigrant visa classification, 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 specialized knowledge capacity. Section 101(a)(15)(L) of the Act. The petitioner must also establish that the beneficiary’s prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

## II. BACKGROUND

The Petitioner operates in the telecommunications industry as a designer and installer of high-capacity broadband telecommunication outside plant facilities (OSP), including aerial and underground deployment of coaxial and fiber optic cables and termination equipment for long haul, feeder, and distribution routes. The Petitioner states that it seeks to expand its “specialized skilled workforce” to meet its current contractual obligations with clients seeking broadband deployment services. The Petitioner plans to compensate the Beneficiary approximately \$42,000 annually for his specialized knowledge in evaluating and installing fiber optic cables and coaxial cable design production, content,

and document generation, thereby supporting construction crews in their placement of fiber infrastructure. The Petitioner states that to attain the position of broadband technology specialist (BTS) within its organization, the job candidate must have at least five years of experience as an electrical and telecom line technician as well as crew leadership industry experience and training.

### III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether the Beneficiary has been employed abroad and will be employed in the United States, in a specialized knowledge capacity.

As a threshold issue, we must determine whether the Petitioner established that the Beneficiary possesses specialized knowledge. If the evidence is insufficient to establish that he possesses specialized knowledge, then we cannot conclude that the Beneficiary's past and intended future employment involve specialized knowledge.<sup>1</sup>

A beneficiary is deemed to have specialized knowledge if they have: (1) a "special" knowledge of the petitioning organization's product and its application in international markets; or (2) an "advanced" level of knowledge of the processes and procedures of the petitioning organization. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition.

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 special or advanced, and that the beneficiary's position requires such knowledge.

Special knowledge concerns knowledge of the petitioning organization's products or services and their application in international markets. To establish that a beneficiary has special knowledge, 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.

Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the petitioning entity may meet its burden through evidence that the beneficiary has knowledge of or an expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's

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<sup>1</sup> The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

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. We cannot make a factual determination regarding a given 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 individual beneficiary gained such knowledge.

In the present matter, the Petitioner broadly referred to the Beneficiary's knowledge as "specialized" and did not specify whether it was making that claim on the basis that the knowledge is "special" or "advanced," a clarification that the Petitioner was instructed to provide in a request for evidence (RFE). Rather, the Petitioner identified three company-specific cable deployment methodologies – "DL1SC\_1010," "DL1SC\_1012," and "DL1SC\_1014" – claiming that they were created "to provide safe, efficient, and timely outcomes when faced with unique challenges during initial broadband service implementation." However, the Petitioner did not describe those methodologies, explain what about those methodologies requires their user to possess specialized knowledge, or identify specific characteristics that distinguish those methodologies from ones used within the telecom industry.

The Petitioner also provided the Beneficiary's job duty breakdown, which was broken down in to two categories – "broadband line deployment," which would account for 70% of Beneficiary's time, and "broadband switching deployment," which account for the remaining 30%. Some of the duties listed include installation of fiber optic and coaxial cables and broadband switching elements, reading and interpreting broadband transmission cabling and switching network diagrams, digging trenches or climbing poles to install or maintain broadband cables, clearing away hazards such as tree branches, troubleshooting outages and problems with broadband cables and switches, performing testing and repairs, adhering to company standards and industry regulations, and providing status reports to the supervisor. Although the Petitioner claimed that 100% of these duties involve specialized knowledge, it did not elaborate on or support this claim with information about its organization's products or services or its processes and procedures; nor did the Petitioner distinguish the Beneficiary's duties from those performed by others holding a BTS position within the telecom industry.

Further, although the Petitioner highlighted the six months of in-house training and six months of "mentoring" it requires before deeming an employee a "proficient" BTS, it did not explain why it sought to contrast its BTS training from the telecom industry's training of a "Basic OSP Broadband installer," as opposed to other BTS positions within the industry. Although the Petitioner seemingly indicates that its BTS position is comparable to that of an OSP broadband installer, it does not provide evidence, such as the latter position's job duties and knowledge requirements, to support this position. Thus, despite noting that the training for a basic OSP broadband installer is significantly less rigorous – requiring only three months of training in broadband deployment technology – as compared to training for a BTS position within the petitioning organization, it is unclear how, if at all, the distinction is relevant in this case or how it supports the claim that specialized knowledge is required to perform the duties of the Beneficiary's position as a BTS. Furthermore, in response to the RFE, the Petitioner

provided conflicting information regarding the length and components of its BTS training. Namely, the response includes a statement discussing BTS job criteria and a chart listing employees along with their respective salaries, duties, and job prerequisites. The chart states that the employees holding BTS positions are required to have “BTS Certificate via 24 Months Training + high school,” while the RFE response statement makes the claim that the Beneficiary acquired his specialized knowledge “through an intensive 18 months BTS [t]raining after successfully completing a [six] months Introductory [and] Evaluation Training Program.” It is unclear whether the 24 months of training listed in the chart is synonymous with the 18 months of “intensive” BTS training coupled with the six-month introductory and evaluation training program referenced in the statement. Moreover, the information in the RFE response documents, which indicate that there is an 18- or 24-month training requirement for a BTS, is notably different from what was claimed in the original supporting statement, where, as noted above, the Petitioner mentioned six months of in-house training followed by a six-month period of “mentoring” prior to being deemed “proficient.” Because the original statement did not mention a period of training that goes beyond one year, it is inconsistent with the chart and with the supplemental statement provided in response to the RFE. The Petitioner must resolve these ambiguities and inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In this instance, although the Petitioner provided a training record showing that the Beneficiary was issued a certificate for completing a BTS training program in December 2019, the record does not list the training start date or the number of hours, days, or weeks it took to complete it prior to being issued the completion certificate.

In addition, putting aside the discrepancy concerning the length of the training, the record does not establish that the training program conveyed content that was indicative of specialized knowledge, i.e., “special” knowledge of the petitioning organization’s product or services or an “advanced” level of knowledge of the organization’s processes and procedures. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). First, we note that the training record contains only the names and training codes but does not include content descriptions for the 18 components covered in the training. Although the heading of each component offers general information about the component’s subject matter, it does not serve as evidence that the course content conveyed specialized knowledge of the organization’s products or services or its processes and procedures. Thus, while nine of the 18 topics covered in the training were assigned a code starting with “BTS,” there is no evidence that the Beneficiary gained specialized knowledge from courses titled “Orientation – BTS Training Program,” “Service problem management and problem resolution,” “Outside Plan [] evolving methods and techniques,” “Customer problem resolution,” and “Customer retention.” Likewise, there is no evidence that courses titled “Broadband Skills Assessment,” “Field Work Fundamentals,” “Leadership Skills Assessment & Review,” “Safety Skills Assessment,” “Safety Techniques,” and “Engineering Print Reading” were part of a path to gaining specialized knowledge of the Petitioner’s products or services or its processes and procedures.

Lastly, the record includes expert opinions from [redacted] and [redacted], the latter of which has been resubmitted on appeal. Regarding the former, despite referencing the Beneficiary’s proffered position [redacted] references an entirely different beneficiary than the one who is the subject of this petition. As such, it is unclear what evidence, if any, [redacted] reviewed with regard to the Beneficiary. Thus, to the extent that [redacted]’s opinion is based on evidence that pertains to an entirely different beneficiary, it is not relevant to this Beneficiary’s eligibility. Although the other expert opinion focuses on the Beneficiary’s position and does not mention any beneficiary

in particular, the expert relied on evidence that we find to be lacking probative value, such as the Beneficiary's training and job duties, and expressed no awareness as to the statute and regulations that pertain to specialized knowledge. Thus, while we may, in our discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony, we are not required to accept or may give less weight to an opinion that is not in accord with other information or is in any way questionable. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

In sum, we find that the evidence in the record does not establish that the Beneficiary attained specialized knowledge of the petitioning organization's products or services or its processes and procedures. Accordingly, in light of the evidentiary deficiencies described above, the Petitioner has not established that the Beneficiary possesses specialized knowledge or that the Beneficiary was employed abroad and would be employed in the United States in a specialized knowledge capacity.

**ORDER:** The appeal will be dismissed.