



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

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

In Re: 19974926

Date: May 20, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a developer, manufacturer, and distributor of scientific instruments, seeks to temporarily employ the Beneficiary as a product support engineer under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 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 of the Texas Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary has been employed abroad in a capacity involving specialized knowledge, and that he would be employed in a specialized knowledge capacity in the United States. The matter is now before us on appeal.

On appeal, the Petitioner contends that the Director did not consider the nature of its products and industry, emphasizing that the knowledge required to perform the duties of the Beneficiary’s current and offered positions is extremely complex and can only be gained through extensive internal training and experience.

In these proceedings, it is the petitioner’s burden to establish eligibility for the requested benefit by a preponderance of the evidence. *See* section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

## **I. LEGAL FRAMEWORK**

To establish eligibility for the L-1B nonimmigrant visa classification, a qualifying organization must have employed the beneficiary “in a capacity that is managerial, executive, or involves specialized knowledge,” 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 employer or a subsidiary or affiliate thereof in a specialized knowledge capacity. *Id.* 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(I)(3).

## II. BACKGROUND

The Petitioner is the U.S. affiliate of a United Kingdom company described as "a leading provider of systems and accessories for the [REDACTED]" Its products, which it distributes to universities, biological research laboratories and biopharmaceutical companies, include the [REDACTED] spectrometers and [REDACTED] spectroscopy systems. The Petitioner was established in 2014 to market, sell and service the company's products to clients in North America.

The Beneficiary has been working for the United Kingdom affiliate as a product support engineer since December 2016. The Petitioner indicated that the Beneficiary has been responsible for installing new instruments at customer laboratories; training customers' new users; maintaining, servicing, upgrading and repairing existing instruments; responding to customer support-related helpdesk inquiries; recording support activities in internal systems, promoting the company's after-sales products and services; maintaining a CRM customer database; writing technical procedures for troubleshooting and support; and assisting in preparing after-sales and support literature and media, among other duties. The Petitioner now seeks to employ him in this position in the United States at an annual salary of \$51,400, and states that he would be performing similar duties.

The record reflects that the Beneficiary has a bachelor's degree in medical physics, a master's degree in photonics and materials, and a master of business administration. Prior to joining the Petitioner's organization in the United Kingdom, he had approximately nine years of professional experience, including research, sales, consulting, and account management roles, primarily in the energy, medical, and life sciences sectors.

## III. ANALYSIS

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>

Under the statute, a beneficiary is considered to have specialized knowledge if he or she has: (1) a "special" knowledge of the company product and its application in international markets; or (2) an "advanced" level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition of specialized knowledge.

Specialized knowledge is also defined as knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its

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

application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures. 8 C.F.R. § 214.2(l)(1)(ii)(D).

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 readily 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.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge. We 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 an employee can acquire specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

#### A. Procedural History

In a supporting letter, the Petitioner stated that its product support engineer position, as described above, requires an employee who “possesses highly ‘specialized knowledge’ regarding the Company's equipment including the [REDACTED], [REDACTED], [REDACTED] and the [REDACTED] Spectrometer.” The Petitioner provided copies of the user manuals for these products in support of its claim that the equipment is “extremely complex” and that the installation and servicing of such equipment “requires specialized knowledge in the environmental, pneumatic, electrical and computer requirements specific to each product.” It emphasized that the product support engineer must have “hands-on experience independently installing and repairing the Company's equipment and products for their customers.” The Petitioner stated that the knowledge required “can only be attained through years of experience and training” with its group of companies and emphasized the Beneficiary's four years of experience in the position.

The Petitioner also provided a letter from its foreign affiliate's CEO, who stated that the Beneficiary has “the highest quality specialized knowledge that an engineer can achieve within our company, which requires years of experience and prior knowledge of the specific scientific applications where our instruments are utilized.” According to the letter, the Beneficiary's knowledge (gained through his formal education and training time the company) “differs from most of the Ph.D. people available on the market,” noting that individuals with advanced degrees in engineering or biotechnology would not possess a breadth of knowledge that includes technical expertise in electronics, photonics, physics, scientific instrumentation troubleshooting, biophysics, biology, and biochemical laboratory procedures. The foreign entity's CEO states that even an “ideal” candidate would require “extensive training of approximately three years” to acquire the specialized knowledge possessed by the Beneficiary.

The letter from the foreign entity also briefly addresses the industry, noting that the Petitioner’s group is one of four main manufacturers of [ ] spectrometer products. The CEO emphasized that “specialized knowledge is restricted between those people working in this very niche industry, in which each [company] has confidential technological differences between their scientific equipment.”

Finally, the CEO’s letter included the following summary of training available to the company’s product support engineers, noting that “although it is not compulsory,” the position’s “path” is divided into seven steps, as follows:

Actionable Steps	Tasks	Accumulative Training Timeframe
Step 1	Service maintenance work (Preventive Maintenance Service)	3 months
Step 2	Training Customers	6 months
Step 3	Certificate instruments with IQOQPQ certification for Research and Drug development (GMP & CFR)	12 months
Step 4	Hardware and Software Troubleshooting	>12 months
Step 5	Training Distributors	18 months
Step 6	Major Service on-site	24 months
Step 7	Robotics	>36 months

The Petitioner included information from its website regarding various support plans available for its products, noting that preventive maintenance, optical service and IQ/OQ services are provided by “fully trained and certified service engineers.”<sup>2</sup> However, it did describe or document any training or certifications completed by the Beneficiary, or further describe the nature of the training involved with each of the seven “steps” listed in the chart.

In a request for evidence (RFE), the Director asked that the Petitioner provide: additional evidence of the Beneficiary’s training and experience and an explanation as to how it relates to the claimed specialized knowledge; a comparison of the Beneficiary’s knowledge to that of other similarly employed workers in the field and within the company; and copies of curricular and training materials for any internal training he completed, among other evidence. The Director emphasized that it is the Petitioner’s burden to demonstrate that a similarly employed person in the field could not readily acquire the company-specific knowledge within a reasonable period of time.

In its response to the RFE, the Petitioner explained that its only U.S.-based product support engineer unexpectedly departed after two years with the company and emphasized its need for a fully trained employee to ensure that it can support its North American customers, some of which are involved in research related to COVID-19. The Petitioner repeated its earlier claim that it would take three years of training and hands-on experience for a new employee to acquire the knowledge possessed by the Beneficiary. It also provided a slightly expanded breakdown of the Beneficiary’s proposed duties by

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<sup>2</sup> A “service schedule” included with the Petitioner’s initial evidence indicated that most of the recent and upcoming support services scheduled for its U.S. and Canadian customers were “preventive maintenance visits,” along with some new installations.

identifying specific procedures required for the servicing and maintenance of its products at customer locations.

The Petitioner's response to the RFE included organizational charts for the U.S. and U.K. companies. The foreign entity's chart indicates that it has six employees in its customer support department, including a customer support manager and a support group coordinator who oversees the Beneficiary and three other product support engineers. The Petitioner's organizational chart does not identify any staff in product support roles. The Petitioner also provided evidence of patents related to its products, additional product and software manuals, written procedures related to the installation, calibration and testing of its products, copies of Service Reports completed by the Beneficiary between 2017 and 2020, and training materials for the company's products, some of which identify the Beneficiary as the author.

Finally, the Petitioner submitted the company's internal "Role Description" for the Beneficiary's U.K.-based position, which lists the company's formal education and experience requirements. According to this document, the role requires a "higher degree in a science or engineering subject or other equivalent experience" and strong fine motor skills. The company indicates a preference for candidates who also have experience in the service and support of scientific instrumentation, experience with [redacted] spectroscopy, competence with the setup, configuration and troubleshooting of computers, and experience with Microsoft Dynamics CRM. The role description indicates that there is "required training" consisting of "comprehensive training on the [company's] range of instruments" provided internally over a period of three months, training in internal systems (including the CRM customer database), health and safety training, and "on the job training shadowing existing employees (internal)."

The Director denied the petition concluding that although the record establishes that the Beneficiary is regarded as a valuable employee who is experienced with the company's products and services, the record did not establish how his knowledge is special or advanced in comparison with similarly employed workers within the organization or within the industry. In reaching this conclusion the Director observed that the Petitioner did not provide information that would allow for comparisons between the Beneficiary's knowledge and that generally found within the company and the industry, and did not sufficiently establish the minimum time required to obtain the claimed specialized knowledge, including formal training and actual experience accrued after the training.

#### B. Special or Advanced Knowledge

Special knowledge concerns knowledge of the petitioning organization's products or services and its 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.

On appeal, the Petitioner emphasizes that the Director disregarded the fact that it operates within a niche industry with only a few other companies engaged in the manufacture of [redacted] spectroscopy systems comparable to its [redacted] range of products. The Petitioner's assertion that there are relatively few employees in the market who have been trained to install and maintain this specific type

of laboratory equipment is noted, but the Petitioner does claim that everyone who is qualified to maintain and service such equipment should be deemed to possess specialized knowledge. Rather, the Petitioner claims that the knowledge required to perform the duties of a product support engineer within its group of companies is “special knowledge” that is truly distinct from what is held by other similarly employed workers, and that even an “ideal” candidate would require years of training and experience.

We acknowledge that the Petitioner has provided evidence of patents related to its products. The statutory and regulatory definitions of “specialized knowledge” do not include a requirement that a beneficiary’s knowledge be proprietary. However, a petitioner might satisfy the definitions by establishing that a beneficiary’s purported specialized knowledge is proprietary, if the petitioner also demonstrates that the knowledge is either “special” or “advanced.” By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard. We look at the nature of the proprietary knowledge, how it can be acquired within the company, and when and how a given beneficiary gained such knowledge in order to determine whether the knowledge qualifies as “special knowledge.”

The Petitioner has not provided sufficient explanation or evidence to support its claim that the knowledge required to install, service and train users on its proprietary products can only be acquired through at least three years of formal training and experience. The company’s marketing materials state that its product support services are provided by “trained and certified” engineers. The foreign entity’s letter provides a very brief overview of a seven-step, 36-month training “path” for its support engineers, although it appears to indicate that completion of such path is “non-compulsory.” However, despite the Director’s request, the Petitioner did not provide evidence of any training the Beneficiary received since joining the company, and therefore did not demonstrate that he had completed the seven-step training path (or any other internal training), or that he had been “certified” by the company to provide specific support services to customers.

Further, despite its claims that a new employee would require three years of training and on-the-job experience to acquire specialized knowledge of its products, the Petitioner submitted an internal role description for the position indicating that newly hired product support engineers receive “comprehensive training” on the company’s full range of products over a three-month period. This evidence indicates that the Petitioner requires its new hires to have a degree (or equivalent) in science or engineering, and that it prefers to hire persons who have some background in the service and support of scientific instrumentation.

This evidence undermines the Petitioner’s claim that even an “ideal” candidate would require three years of training and experience to perform the duties of a product support engineer. Rather, it indicates that the knowledge could likely be readily transferred to an employee with the appropriate education and relevant experience in servicing and supporting scientific instrumentation. While the Petitioner submits the user manuals for its products as evidence of their complexity, the role description nevertheless indicates that the company provides its product support engineers with “comprehensive” training across its product lines in only three months.

While we do not question that the Beneficiary is well-qualified to perform the intended duties in the United States after four years of experience as a product support engineer in the United Kingdom, the

Petitioner has not met its burden to that its product support engineers are required to complete extensive training in order to provide the services the position demands or that the position otherwise requires special knowledge. The foreign entity hired the Beneficiary in December 2016. The evidence demonstrates that the Beneficiary has the required educational background but does not show that he had any experience in the service and support of scientific instrumentation when hired by the foreign affiliate. The Petitioner submitted a copy of a [REDACTED] Service Report completed by the Beneficiary in early April 2017 demonstrating that the foreign entity sent him to a customer site in Qatar to independently provide installation, testing and support services shortly after he joined the company. The Petitioner's claim that it would need to provide three years of training to a new employee before he or she could provide similar services to its U.S. customers is therefore not adequately supported in the record. Rather, this evidence appears to be consistent with the information in the submitted product support engineer role description, which indicates that new hires undergo a fairly short period of training.

Based on the foregoing, we conclude that there are unresolved inconsistencies in the record regarding the nature, scope and length of training provided to the organization's product support engineers. Further, the record lacks information and documentation regarding the specific training completed by the Beneficiary. While completion of company-specific training may support a claim of specialized knowledge, the Petitioner must still establish that the training conveyed knowledge that is not common in the industry and knowledge that could not be easily imparted to similarly qualified employees from outside the company. The evidence submitted does not sufficiently establish how long it would take an individual who meets the company's hiring criteria to acquire the knowledge needed to perform the duties of a product support engineer. Due to these deficiencies, we cannot make any meaningful comparison between the Beneficiary's knowledge and the knowledge held by other similarly employed workers in the industry and cannot conclude that the knowledge the Beneficiary possesses of the company products is "special knowledge." As emphasized above, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge

Overall, the Petitioner has not submitted sufficient explanations or evidence to support its claim that the Beneficiary possesses special knowledge of its products that is truly distinct or uncommon compared to knowledge generally possessed among similarly trained support engineers in the Petitioner's industry.

We have also considered whether the evidence establishes that the Beneficiary possesses advanced knowledge. Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or 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 within the organization. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

As noted, the Petitioner submitted an organizational chart identifying the Beneficiary as one of four product support engineers working in the U.K. affiliate's customer support department and indicating that these engineers are supervised by a coordinator and a manager. The record reflects that the company has customers worldwide and that its U.K.-based employees are therefore expected to travel

to other countries, including the United States, to provide product support services.<sup>3</sup> Although requested by the Director, the Petitioner did not provide information that would allow a comparison between the Beneficiary and others working in similar positions within the organization in terms of duties, internal training, experience, and any advanced knowledge. Instead, the Petitioner emphasizes that its U.S.-based product support engineer left the company and that it has upcoming preventive maintenance and installation visits scheduled for North American customers. It did not articulate or support a claim that the U.S.-based position requires advanced knowledge of company processes or procedures, or that the Beneficiary was selected for transfer due to his advanced knowledge. Rather, most of the Petitioner's claims were based on his knowledge of the company's products and the unavailability of such knowledge in the market.

Further, the Petitioner did not identify the company processes or procedures, if any, in which the Beneficiary possesses advanced knowledge. The record contains some copies of training presentations on company products that appear to have been authored or presented by the Beneficiary but did not explain the significance of this evidence. It appears they were likely presentations delivered to customers who use the company's instruments and that the organization's other product support engineers would be expected to deliver similar training presentations, as "training of new users at customer laboratories" is including in the role description for the position. The position description also indicates that the product support engineers are expected to spend a small portion of their time<sup>4</sup> writing technical procedures for troubleshooting and support as part of their regular duties; but without additional explanation, we cannot determine that this task involves or equates to "advanced knowledge" of company procedures.

The evidence is therefore insufficient to establish that the Beneficiary's expertise in the organization's processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the organization. Here, the Petitioner's claims are not supported by evidence setting the Beneficiary's knowledge of company processes apart from the elementary or basic knowledge possessed by others.

While the Beneficiary's knowledge of certain products and related maintenance procedures may be advanced compared to a new hire, the Petitioner must still show that he possesses advanced knowledge in comparison to similarly employed workers within the foreign entity and that the knowledge he possesses could not be readily transferred to another employee with a similar technical skill set. The Petitioner did not provide the information needed to make such a comparison and has not established that the Beneficiary possesses advanced knowledge.

Finally, we acknowledge the Petitioner's claim that the Beneficiary possesses characteristics of a specialized knowledge employee consistent with USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), <https://www.uscis.gov/laws-and-policy/policy-memoranda>. However, as discussed above, the Petitioner has not submitted sufficient evidence to

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<sup>3</sup> The role description for the U.K.-based position indicates that the position requires "extensive international travel" and involves providing technical support to customers worldwide. The Petitioner submitted a sampling of "[redacted] Service Reports" completed by the Beneficiary showing that he had provided on-site support to customers in 18 countries in Europe, Asia, North America, South America and Australia.

<sup>4</sup> A breakdown of the product support engineer position indicates that writing technical procedures is one of four duties that, in the aggregate, would require 10% of an employee's time.



establish that the Beneficiary possesses knowledge that is either special or advanced. While the Beneficiary may be performing a role that requires complex knowledge and that is beneficial to the Petitioner's competitiveness in the marketplace, these characteristics alone are not probative of his specialized knowledge. As noted in the memorandum, the "characteristics" listed by the Petitioner are only "factors that USCIS may consider when determining whether a beneficiary's knowledge is specialized." *Id.* The memorandum emphasizes that "ultimately, it is the weight and type of evidence that establishes whether the beneficiary possesses specialized knowledge." *Id.* at 13.

Because the Petitioner has not demonstrated that the Beneficiary possesses specialized knowledge, we need not further address whether he has been employed abroad in a position involving specialized knowledge or would be employed in the United States in a specialized knowledge capacity.

#### IV. CONCLUSION

For the reasons discussed, the Petitioner has not established that the Beneficiary possesses specialized knowledge. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.