



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

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

In Re: 21920328

Date: SEP. 27, 2022

Appeal of California Service Center Decision

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

The Petitioner, a provider of industrial training and simulation services within the [] sector, seeks to employ the Beneficiary temporarily in the position of “[] – Americas” 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 is part of a multinational organization that operates on a global scale to provides training and simulation services through technology and traditional training methods to “enhance the skills, knowledge, and performance of [] sector personnel.” The Petitioner describes the Beneficiary’s foreign employer as “the U.K.’s largest and leading [] and [] safety training provider” and credits the Beneficiary with the “successful development and implementation of a robust sales and business strategy to grow revenue and throughput in the [] sector.” The Petitioner points to the Beneficiary’s role as the organization’s “first and

only [] lead” and his oversight of “all []-related projects.” The Petitioner also highlights the Beneficiary’s participation as a panelist in “the largest [] conference in the Western Hemisphere,” indicating that these roles are indicative of an individual possessing specialized knowledge.

III. SPECIALIZED KNOWLEDGE

The primary issue in this matter 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.

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.¹

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

¹ 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 submitted a supporting cover letter claiming that the Beneficiary has specialized knowledge, more specifically, that his knowledge is "special" with respect to "the organization's operational setup, support, and direction on [redacted] safety training projects and critical safety training operations." However, the Petitioner did not elaborate on the operational setup or support of its organization, nor did it offer specifics about its organization's safety training projects and safety operations to explain how they are special and why developing and marketing them requires specialized knowledge. Likewise, the Petitioner referred to the Beneficiary as a "leading subject matter expert" in training and course curricula within the organization and within "the [redacted] industry as a whole," but it did not offer information about the course curricula to explain why a specialized knowledge individual is needed to implement that curricula into training projects that are developed and marketed to clients within the [redacted] industry.

Further, the Petitioner pointed to the job duties the Beneficiary performed and copies of presentations he authored about the company's [redacted] services, asserting that the duties and presentations serve as evidence that the Beneficiary was employed in a specialized knowledge capacity for at least one year. However, the Petitioner did not adequately support this claim with information disclosing when the Beneficiary attained the knowledge that is claimed to be specialized or details about the process for acquiring such knowledge.

In a request for evidence (RFE), the Director noted evidentiary deficiencies that precluded approval of the petition. Namely, the Director determined that the Petitioner did not explain the nature of specialized knowledge that was required to perform the Beneficiary's duties with the foreign entity or establish that specialized knowledge was required to perform those duties. The Director also pointed out that the Petitioner did not specify the requirements for attaining knowledge that is claimed to be specified nor offer sufficient evidence establishing how the Beneficiary obtained specialized knowledge of the organization's setup, support, and direction of its safety training projects and operations and how long it took to attain that level of knowledge.

The Petitioner's response contains a statement explaining that the Beneficiary is responsible for developing and implementing "a robust sales and business strategy" and "occupies a strategic sales and development role with key focus on the [redacted] and [redacted] market." However, it is unclear how the Beneficiary's knowledge of the [redacted] and [redacted] market establishes that his knowledge is specific to the petitioning organization's products or services. Likewise, although the Petitioner referred to the Beneficiary's "high level knowledge of the training

curricula, course standards, technology, industry representatives, and service operations,” it did not explain how knowledge of industry representatives was indicative of “special” knowledge of the organization’s products or services. Further, because the Petitioner did not discuss the training curricula, course standards, or service operations with any specificity, or elaborate on the “technology” that was used, it did not adequately support the claim that specialized knowledge was required for the Beneficiary’s position.

The Petitioner also highlighted the Beneficiary’s responsibilities, which included planning and developing projects, negotiating and implementing contracts, and designing courses, and asserted that the Beneficiary’s ability to fulfill these responsibilities hinges on his “expertise” of the organization’s “setup, support, and direction on [redacted] safety training projects.” However, the Petitioner provided no insight about its organization’s setup, support, or safety training projects and therefore it remains unclear what characteristics these elements embody that make specialized knowledge a required component of the Beneficiary’s claimed “expertise.” Likewise, the Beneficiary’s résumé describes his role as one that focuses on “strategic sales and development” and involves establishing “business critical opportunities” with participants in the [redacted] sector. Although we recognize that the Beneficiary’s ability “to foster, build, and expand” the petitioning organization’s training center services into new and developing markets is valuable to the Petitioner’s business endeavors, this claim does not further our understanding of the nature of the Beneficiary’s knowledge or the characteristics that qualify that knowledge as specialized.

The Petitioner also emphasized that the Beneficiary possesses knowledge that is not easily transferrable, stating that a less experienced employee would need at least four years of job experience to attain a level of expertise that is comparable to that of the Beneficiary. However, the Petitioner did not disclose the duration of or the process for attaining the Beneficiary’s level of knowledge, even though this evidentiary deficiency was specifically noted in the RFE. Although the Petitioner referred to the Beneficiary’s 13 years of business development and sales management experience, only four of those years were spent working for the petitioning organization. Because specialized knowledge must pertain to the petitioning organization’s products or services, it is therefore critical to establish that the knowledge claimed to be specialized was obtained during the Beneficiary’s employment with the petitioning organization. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D) (qualifying “special” knowledge as knowledge that pertains to “the petitioning organization’s” product or service). Here, given that nine of the Beneficiary’s 13 years of work experience involved working outside of the petitioning organization, those nine years are not relevant for the purpose of determining how and when the Beneficiary acquired his claimed specialized knowledge, as knowledge that was acquired during that nine-year period did not pertain to the petitioning organization and would not result in specialized knowledge of this organization’s products or services.

Also, because the Beneficiary’s employment abroad in a specialized knowledge capacity must have been for at least one year, it is critical for the Petitioner to establish the precise timeframe of when the Beneficiary is deemed to have attained the level of knowledge that is claimed to be specialized. *See* section 101(a)(15)(L) of the Act. Without an understanding of when the purportedly specialized knowledge was attained, we cannot determine when the Beneficiary started using that knowledge and thus, we cannot conclude that the knowledge was used for at least one year in the course of the Beneficiary’s employment abroad in a specialized knowledge capacity. The Petitioner claims that the Beneficiary’s specialized knowledge was obtained “through his more than four years of continuous

work . . . leading and developing this specific sector of the company's service offerings." However, this claim is ambiguous and offers no insight as to the precise period when the specialized knowledge was acquired.

On appeal, the Petitioner seeks to clarify what it perceives as a "miscalculation of the duration" of the Beneficiary's foreign employment, asserting that the Beneficiary's employment in a specialized knowledge capacity did not begin in September 2021 and that his continuous employment as "Head of [redacted]" has been ongoing since 2017. In sum, the Petitioner claims that the Beneficiary spent "more than [four] years . . . in a specialized knowledge capacity," which resulted in his gaining "special knowledge, experience, and skills" in the organization's [redacted] training services. In other words, the Petitioner indicates that the Beneficiary has been employed in a specialized knowledge capacity since he started working for the foreign entity in 2017. However, this claim leads to greater concerns as to how and when the Beneficiary gained the claimed specialized knowledge and whether that knowledge pertains specifically to the petitioning organization. Despite claiming that the Beneficiary has specialized knowledge of the petitioning organization's service offerings within the [redacted] sector, the Petitioner has not specified a path for how the knowledge was gained or demonstrated that there was a progression of knowledge over the course of the Beneficiary's employment with the Petitioner's foreign affiliate. If, at the time the Beneficiary assumed his position with the foreign entity, he already possessed knowledge that the Petitioner deems as specialized, we must then question whether the Beneficiary's knowledge pertained specifically to products or services offered by the petitioning organization. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D).

Further, the Petitioner highlights that the Beneficiary's role is not general and does not pertain broadly to sales, operations, or business development, but rather that his role requires "expertise of [redacted] [redacted] safety training projects," which the Petitioner deems "necessary" to gain "critical contacts within the [redacted] industry." The Petitioner also claims that the Beneficiary's knowledge pertains to the petitioning organization's service offerings – namely, its safety training services within the [redacted] sector. However, because the Petitioner has not expounded on any particular characteristics of the training services, it has not established that specialized knowledge is required to carry out the Beneficiary's role of developing and selling those services.

As discussed above, we have considered the Beneficiary's experience with the petitioning organization, his role as creator of subject matter presentations and business strategies, and the Petitioner's claim that the Beneficiary is the only employee with a "high-level knowledge of the training curricula, course standards, technology, industry representatives, and service operations." While these factors indicate that the Beneficiary is a valuable employee within the organization, they do not serve as sufficient evidence that the knowledge the Beneficiary possesses with respect to the petitioning organization's services is specialized. Accordingly, because the Petitioner has not articulated how the Beneficiary's knowledge is specialized or established when and how he obtained the knowledge that it deems specialized, we conclude that the Petitioner has not established that the Beneficiary possesses specialized knowledge or that he was employed abroad and would be employed in the United States in a specialized knowledge capacity.

ORDER: The appeal will be dismissed.