



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

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

In Re: 21218483

Date: SEP. 29, 2022

Appeal of California Service Center Decision

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

The Petitioner, an inventory management software provider, seeks to employ the Beneficiary temporarily in the position of senior sales engineer 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. On appeal, the Petitioner submits a brief asserting that the Director's determination was erroneous.

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(l)(3).

## II. BACKGROUND

The Petitioner and its foreign affiliate in South Africa claim to offer "a cloud-based inventory management software solution," and indicate that their core team has been involved in inventory replenishment, management and optimization since the late 1980s. The Petitioner states that it markets and promotes its software through two primary methods: directly to businesses seeking a cloud-based

inventory solution, and to channel partners, which are larger software vendors that offer software as a value-added, integrated solution.

The Beneficiary began working for the South African affiliate as an account executive in December 2013, and the Petitioner indicates that “his job title since has evolved to the more descriptive title of Sales Engineer & Channel Enablement.” Regarding his duties, the Petitioner indicated that the Beneficiary directs the partner channel with pre-sales and solution-selling activities into their existing customer base and prospect accounts; partners with sales executives to plan, prepare, and execute on strategic deals in complex sales cycles; and delivers presentations and demonstrations. The Petitioner now seeks to employ the Beneficiary in the position of “Senior Sales Engineer – Partner Channel” in the United States at an annual salary of \$150,000, and states that he would work closely with sales and marketing teams and channel partner teams and will focus primarily on partner channel deals. According to the Petitioner, the Beneficiary has approximately ten years of professional experience with other organizations in sales and management roles, and eight years of specialized knowledge employment with the foreign affiliate.

### 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.<sup>2</sup>

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 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

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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.

<sup>2</sup> On appeal, 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.”

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 letter submitted with the petition, the Petitioner indicated that it markets and promotes its inventory management software directly to businesses and to larger software vendors it refers to as "channel partners." The Petitioner stated that the proffered position, as described above, requires "extensive specialized knowledge of [the Petitioner's] Enterprise Resource Planning (ERP) software integrations and partner relationships to keep [the petitioner's] solution front of mind." The Petitioner explained that the Beneficiary's "extensive knowledge of multiple ERP and financial software products within the [ ]<sup>3</sup> product stack enables him to successfully steer the partners to match customer requirements to proposed solutions." The Petitioner provided copies of the organizational charts for the U.S. company and its foreign affiliate, as well as the following overview of the Beneficiary's position and duties abroad:

<i>Description of specialized knowledge required to perform the duty</i>	
(1) Run demonstrations as the application displaying in-depth knowledge and understanding of the supply chain issues prospect space as well as how [the Petitioner] solves these issues.  <i>This duty requires advanced knowledge of supply chain processes and our software and how it has been implemented for other customers to be able to present the software to new customers and answer technical questions. This cutie runs in tandem with the second duty here as part of the channel partner collaboration to cross sell the Petitioner] to the customers of our channel partners.</i>	40%
(2) Run workshops with channel partners at customers to craft the ideal supply chain solution integrated to the partner ERP solution being sold.  <i>This duty requires advanced knowledge of our software and how it has been implemented for other customers to be able to present the software to new customers and answer technical questions. Equally critical is specialized</i>	15%

<sup>3</sup> The record indicates that the Petitioner has a partnership with the [ ] software firm, and that the Beneficiary has been responsible for the [ ] Inventory Advisor application throughout Africa, the Middle East, and Asia through [ ] and their channel of business partners.

<p><i>knowledge of the petitioners international marketing and business development strategies to be able to evaluate various ERP systems and quickly assess the petitioners interoperability and end user functionality. Only through several years of experience within [the Petitioner's] channel partner marketing universe can one meet the demands of this critical and conflicts responsibility.</i></p>	
<p>(3) Run product education sessions in partner channel on [the Petitioner] solution and how that is to be leveraged in sales discussions the partners have.</p> <p><i>This duty requires advanced knowledge of our software and marketing protocols as described in the prior duty.</i></p>	15%
<p>(4) Assist the business development managers and marketing teams in refining problems statements and solutions.</p> <p><i>This duty requires advanced knowledge of our software and marketing protocols as described in duties 2, 3, 7.</i></p>	5%
<p>(5) Perform product demonstrations and hold talks at events and conferences. Attend about 4 events per year of which some or all will require on-stand demonstrations as well as topical presentations. Grow relationships into channel partner network at these events.</p> <p><i>This duty requires the same specialized knowledge described in duties 1 and 2.</i></p>	10%
<p>(6) Provide input to handover documents from marketing to sales team as well as from sales team to customer success teams to ensure improved handover processes.</p> <p><i>This duty requires advanced, specialized knowledge of our software and implementation/training processes to understand the status quo, possible changes and/or improvements and how best to achieve them. Only through this knowledge can one identify appropriate modifications that will maintain the existing platform while introducing new or improved functionality. Extensive background with our software provides this institutional knowledge through prior iterations and upgrades.</i></p>	5%
<p>(7) Assist BDMs in follow up questions and analysis required by prospects during the sales process. Generally there will be between 2 and 5 follow-up questions per customer engaged with.</p> <p><i>Only through prior, extensive experience with our software and how we market it can one gain the advanced, specialized knowledge necessary to pass along that knowledge to new team members. As in the medical professions adage, "See one, do one, teach one" to train new doctors, only after many years "doing" supply chain work in general and our software implementation and training particularly can one "teach" a new associate how to market and implement our software.</i></p>	5%

(8) Collaborate with other sales personnel and teams on a global basis to continue to improve and refine the sales processes and results.	5%
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The Petitioner provided copies of representative correspondence with colleagues, third-party resellers of the Petitioner's software, and channel partners to demonstrate the Beneficiary's status within the company and role in the company's marketing. The Petitioner also submitted letters from its channel partner [ ] in support of the Beneficiary's specialized knowledge of the Petitioner's company, and industry comparisons of the Petitioner to market competitors.

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.

The Petitioner's response to the RFE included a diagram illustrating two sales models intended to show the complexity of the Beneficiary's role as it pertains to the Petitioner's channel partner sales strategy. The Petitioner explained its expansion strategy is to grow its channel partner sales segment by 45%, and noted that it requires a sales engineer who has specialized knowledge to engage approximately 400 channel partners in the United States. The Petitioner stated that it had previously hired an individual to serve in this role, but the individual was unable to adapt his software sales background to the Petitioner's supply chain inventory solution after more than a year with the Petitioner. The Petitioner concluded by stating that it requires "a seasoned subject matter expert with the [its] ranks to help us expand our U.S. Channel Partner strategy."

The Petitioner claimed that the Beneficiary satisfies this requirement as a result of his eight years of experience with its foreign affiliate and the fact that he has engaged in hundreds of channel partner engagement activities and sales discussions during that time. The Petitioner submitted a training plan outline prepared by the Beneficiary, as well as internal correspondence discussing the need for the Beneficiary's training guidance and the Beneficiary's coordination and collaboration for internal training efforts, and states that its Learning and Development Manager has identified the Beneficiary to serve as the company's key contributor to technical training efforts based on his expertise. The Petitioner provided a supplemental overview of the Beneficiary's duties abroad, indicating that in addition to the duties recited above, the Beneficiary presented webinar discussions or software demonstrations, assisted with negotiations and technical questions, served as a technical resource, and analyzed potential customer profiles, among other duties. According to the Petitioner, his position abroad and the associated duties have given him the requisite specialized knowledge of its channel partner business model. In conclusion, the Petitioner claimed that it would take at least three years of experience working with the software and channel partner enablement activities for another individual to reach the level of knowledge that the Beneficiary has acquired.

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 software and international channel partner business model, 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. *See 2 USCIS Policy Manual L.4(B)(1)*, <https://www.uscis.gov/policymanual>.

The Petitioner provided a supporting statement claiming that the Beneficiary has special and advanced knowledge with respect to its inventory management software and its supply chain processes, and claimed that he "has become a subject matter expert in our software and how to sell it to Channel Partners." In sum, the Petitioner claimed that the Beneficiary, as a result of his employment with its foreign affiliate, possessed special knowledge of the entity's software products, sales strategies, and processes, including tools and systems for prospecting new clients for these products, as well as knowledge of the industry in which the Petitioner and its affiliate operate.

Turning first to the Petitioner's claims regarding its software, although the Petitioner emphasized that its software is unique in the industry, it must still establish that the knowledge required to develop sales leads with software vendors and acquire new channel partners is truly distinct or uncommon in comparison to that generally held by similarly employed workers in the industry. The Petitioner cannot meet its burden simply by claiming that the Beneficiary's knowledge is proprietary. For example, if a beneficiary's proprietary knowledge can be gained through a brief period of training or short period of experience with the company, then his or her knowledge of the company product generally will not qualify as special knowledge.

The Petitioner attempted to differentiate the Beneficiary's knowledge by emphasizing that its U.S. based sales team does not have specialized knowledge of the Petitioner's software and channel partner process. The Petitioner provided an example of an individual hired by the U.S. company several years ago with previous software experience. The Petitioner claimed that because he lacked supply chain software expertise, he was unable to engage effectively with new channel partners and was unable to adapt his software sales background to the Petitioner's supply chain inventory solution. However, the Petitioner has not explained how or in what capacity the Beneficiary's role as a sales engineer provided him with knowledge of its software that was not otherwise available within the organization. While we acknowledge the Petitioner's assertions that the Beneficiary's prior experience in South Africa makes his knowledge special, the Petitioner did not specify how the Beneficiary gained such expertise within the context of his position abroad. While we do not question that the Beneficiary is well-qualified to perform the intended duties in the United States after eight years of experience as a sales engineer in South Africa, the Petitioner has not met its burden to demonstrate that its sales

personnel are required to complete extensive training in order to provide the services the position demands or that the position otherwise requires special knowledge.

Turning to the Beneficiary's education, training, and experience, the record reflects that the Beneficiary joined the Petitioner's affiliate in December 2013. Although the Petitioner claimed that the Beneficiary has approximately ten years of professional experience with other organizations in sales and management roles, it is not documented in the record. The Petitioner has also not indicated whether the position of sales engineer has any minimum educational requirements, and the record contains no documentation or claims with regard to the Beneficiary's education or academic coursework. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

The Petitioner indicated that when the Beneficiary joined the foreign affiliate, he "created sales process from the ground up for [the Petitioner] as an Independent Software Vendor for the partners," and that he was "involved in all processes from partner enablement, business analysis, sales training, and direct sales." The Petitioner stated that, as a result of his early work with its channel partner [redacted] and as a result of the company's expansion into other channels, the Beneficiary's portfolio and his ability to position the Petitioner's products into new markets grew accordingly. The Petitioner asserted that the Beneficiary provides guidance and training to new pre-sales staff and business development managers, and claims that the Beneficiary has more knowledge of its product than any other individual employed by the foreign affiliate, by the U.S. company, or in the industry.

The Petitioner, however, provided no information with regard to the type or amount of training provided to the Beneficiary during his employment with the foreign affiliate, or the length of time it took the Beneficiary to gain the claimed special and advanced knowledge of its software products and sales processes. The Petitioner did not further develop its claim as to how this combination of knowledge and skills qualify as specialized knowledge. It appears that the Beneficiary was expected to acquire knowledge of the Petitioner's industry and knowledge of the company's internal sales processes while on the job and did not receive formal training in these areas. For example, the Petitioner repeatedly asserts that the Beneficiary gained his knowledge from years of employment experience with the foreign affiliate where he performed analysis and conducted product demonstrations for partner software organizations. If the Petitioner claims that the Beneficiary acquired knowledge apart from what was described and documented in his job description and job requirements, the Petitioner must explain and document when and how he gained this knowledge. It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012); *Matter of Ho*, 19 I&N Dec. 582, 588-89 (BIA 1988); *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966).

Further, the Petitioner claimed that a new sales employee would require three years of experience working with its software and channel partner enablement activities to reach the level of knowledge that the Beneficiary has acquired. However, the Petitioner submitted documentation, including the training plan outline and overview of its sales processes, indicating that new sales employees receive "several months of basic training from senior personnel" for direct customer sales, and those engaged in channel partner sales spend "12+ months in technical training and sales discussion protocols." 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, as evidence in the record indicates that the training could be provided in less than three years. The Petitioner must resolve this incongruity in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92.

The Petitioner also indicated that the Beneficiary has had a significant positive impact on the organization as a result of his specialized knowledge. Specifically, the Petitioner noted that his work has enhanced the foreign entity's competitiveness, and indicated that the Beneficiary was "instrumental in contributing to double-digit sales within their first year." However, the Petitioner does not explain how the Beneficiary's sales accomplishment is indicative of his claimed specialized knowledge.

In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee, particularly one who was specifically charged with generating sales, did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. While the Beneficiary may have filled a role beneficial to the foreign entity's financial position or competitiveness in the marketplace, this characteristic alone is not probative of his specialized knowledge. The Petitioner must, as a threshold matter, demonstrate that a beneficiary acquired knowledge of the company's products or processes that is special or advanced. *See 2 USCIS Policy Manual L.4(B)(1)*, <https://www.uscis.gov/policymanual>. The Petitioner here has not met that burden. A beneficiary's contributions to a company's competitiveness or financial position cannot substitute for the required specialized knowledge.

Again, the Petitioner must establish that the position of sales engineer required the Beneficiary to have knowledge that is uncommon in the industry and knowledge that could not be readily transferred. Here, the evidence showed that the Beneficiary stepped into the role with no relevant education identified and no apparent background in the software industry, and was able to "start from the ground up" and achieve high sales levels in his first year of employment with the Petitioner. The Petitioner has not established that the position abroad is one which involved or required specialized knowledge of the company's software or sales process, or that the Beneficiary gained such knowledge by performing the duties of this position.

Clearly, any company will require members of its sales organization to understand the company's products, so that the staff can identify potential customers and explain the advantages of the product. The knowledge that comes from sales experience, however, does not necessarily amount to specialized knowledge as the regulations define that term. We note that all employees can be said to possess unique skill sets to some degree; however, a skill set that can be easily imparted and mastered is not "special knowledge." The Petitioner has not shown that the Beneficiary, as a sales engineer, acquired familiarity with its proprietary products that meets the threshold of special knowledge, or that he was employed abroad in a position requiring specialized knowledge. While there may not be any employees with the exact knowledge the Beneficiary possesses, the record does not support the Petitioner's claim that the Beneficiary's knowledge gained as a sales engineer was in fact significantly different from that generally held by workers in similar positions in the industry, or by other similarly employed workers in the foreign entity.



For the foregoing reasons, the record does not establish that the Beneficiary possesses special knowledge of the company's software product and sales methods and their application in international markets.

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. *See 2 USCIS Policy Manual L.4(B)(2)*, <https://www.uscis.gov/policymanual>.

The Petitioner generally claimed that the Beneficiary possesses advanced knowledge of the company's sales process as it relates to channel partners but, as discussed above, it has not sufficiently articulated this claim by clearly identifying the specifics of this sales process or by explaining when and how the Beneficiary was able to acquire advanced knowledge during his tenure abroad. 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 the company's sales processes apart from the elementary or basic knowledge possessed by others.

While the Beneficiary's knowledge of the Petitioner's software products and sales process as it pertains to the channel partner business model may be advanced compared to a new hire, the Petitioner must still show that the Beneficiary 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.

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

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>, and its contention that that the Director's decision runs contrary to the memorandum. However, as discussed above, the Petitioner has not submitted sufficient evidence to 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.

#### IV. CONCLUSION

For the reasons discussed, the Petitioner has not established that the Beneficiary possesses specialized knowledge. 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. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). We will therefore dismiss the appeal.

**ORDER:** The appeal is dismissed.