



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

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

In Re: 12237994

Date: DEC. 17, 2020

Appeal of California Service Center Decision

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

The Petitioner, a company providing architectural engineering services, seeks to temporarily employ the Beneficiary as a job captain in the United States 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 the Petitioner did not establish that: 1) the Beneficiary has been employed abroad in a specialized knowledge capacity; 2) the Beneficiary is qualified to perform the intended services in the United States; and 3) the proposed U.S. position would involve specialized knowledge.

On appeal, the Petitioner asserts that the Beneficiary holds “unique and in-depth” knowledge of the company’s “checking techniques and managerial systems” used by the company’s job captains to complete complex curtain wall design and fabrication projects for clients. The Petitioner states that the Beneficiary’s knowledge can only be gained within the company and emphasizes the Director acknowledged that it is “unique.” The Petitioner contends that the Beneficiary is one of only a handful of job captains working for the foreign employer holding her level of knowledge of the company’s processes and procedures.

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 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(1)(3).

II. BACKGROUND

The Petitioner indicated that it is a “world leader in design services for state-of-the-art building exterior systems,” noting that it employs “over 100 design professionals” performing design engineering and consulting on “aluminum and glass [redacted] systems, stone veneer systems, architectural pre-cast concrete, EIFS systems, and stucco finishes.” The Petitioner stated that “the [redacted] business is very specialized” and “there are very few companies that provide [its] types of services.” It further explained that it and its worldwide affiliates are used “as an overflow resource to keep up with [client] design and engineering demand.” It noted that its “clients’ factories can usually produce more material than their in-house staff can design and engineer” thus necessitating its professional services.

The Petitioner emphasized that it struggles to identify and hire qualified [redacted] technicians in the United States, indicating that it currently has ten position openings. The Petitioner stated that “it generally takes **6 to 10 years of on-the-job training** for a recent graduate to rise to the level of **Job Captain**” and manage projects, the Beneficiary’s asserted position abroad since November 2018¹ and proposed position in the United States. It further indicated that its subsidiary company in the Philippines serves as “an invaluable talent source” employing 95 professionals as well as approximately 16 job captains. It asserted that the Beneficiary was chosen for transfer to the United States as a job captain “based on her extensive specialized knowledge of [the company’s] [redacted] design and drawing procedures.” It also explained that the Beneficiary is “hard working” and pointed to her “project management skills and experience.” The Petitioner explained that its U.S. staff is “overloaded” and that it requires additional job captains “which are Junior Project Managers in simple terms.”

In addition, the Petitioner stated that the Beneficiary is “primarily responsible for leading and supervising 4 degreed CAD Technicians, and planning, executed and coordinating large and complex drafting projects,” more specifically producing project fabrication/shop drawings. It indicated the Beneficiary would supervise three CAD technicians in the United States when transferred. The Petitioner explained that the Beneficiary was responsible for “the comprehensive supervision and in-depth review of all drawings prepared by CAD Technicians...prior to release [to clients].” It further listed the company’s typical “Shop Drawings’ Checking Procedures” and “Fabrication Drawings’ Checking Procedures,” noting that the Beneficiary was an expert in these procedures.

The Petitioner also stated that the Beneficiary devoted her time to project coordination, supervising and coordinating the work of her subordinate CAD technicians, communicating with outside architects, erectors, developers, and clients, delivering final construction drawings, resolving problems, and maintaining “full end-to-end project management responsibility.” It also listed “defined processes and procedures related to this project coordination and asserted that these are “unique” to the company. The Petitioner submitted various screenshots of drawings produced by the Beneficiary and her team, including work three primary projects “[redacted]” “[redacted]” and “[redacted]” It provided brief descriptions of these assignments and stated that “you can clearly see the level of sophistication and specialized knowledge and skill that is needed to carry out this role.”

The Petitioner emphasized the Beneficiary “over 13 years of relevant professional employment experience” both outside and within the company, including her three years as a “CAD Tech II” and two

¹ The petition was filed on February 18, 2020.

years as a “CAD Tech III” prior to her promotion to a job captain in November 2018. The Petitioner indicated that the Beneficiary holds specialized knowledge of the company’s “clearly defined processes and procedures for checking shop drawings and fabrication drawings that are unique to [the company],” as well as the “project coordination, production and administration processes and procedures.” It also submitted a table listing the Beneficiary and 11 other job captains working for the foreign employer in the Philippines. The table included their educations, years of experience in CAD technical roles, experience with the foreign employer, and total industry experience. The Petitioner stated that although the Beneficiary had the “least total experience” she was chosen over her colleagues, noting that this “speaks volumes to her expertise.” The Petitioner also provided other supporting documentation such as the Beneficiary’s training certificates, drawings she completed and/or reviewed, her resume and those of other job captains working for the foreign employer.

On appeal, the Petitioner emphasizes that the Petitioner operates in a “unique niche” designing and engineering “some of *the world’s most complex facades*,” and as a result, it “developed...in-depth checking techniques and management system[s] for their Job Captains.” The Petitioner indicates that this knowledge is distinct and uncommon in comparison to other similar situated employees in the industry. Further, to highlight the Beneficiary’s advanced level of knowledge within the company the Petitioner states that “only four level one Job Captains at [the foreign employer] have more [company] experience than the Beneficiary”.

III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether she was employed in a specialized knowledge capacity. As a threshold matter, if the Beneficiary does not possess specialized knowledge, then her position abroad and in the United States would not involve specialized knowledge as necessary to qualify her.

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 special 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).

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 an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

A. Advanced Knowledge

The Petitioner contends on appeal that the Beneficiary's knowledge is advanced in comparison to her similarly placed colleagues within the company. Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. A petitioner may meet its burden through evidence that a given 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 in the employer's operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others. Also, as with special knowledge, the petitioner ordinarily must demonstrate that a beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another.

The Petitioner has not sufficiently established how the Beneficiary's knowledge is greatly developed when compared to similarly placed colleagues within the organization. Determining whether knowledge is "advanced" inherently requires a comparison of a beneficiary's knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. The Petitioner emphasizes on appeal that "only four level one Job Captains at [the foreign employer] have more [company] experience than the Beneficiary." However, in response to the Director's request for evidence (RFE) it stated that the Beneficiary was chosen for transfer as a job captain in the United States despite having the "least total experience" when compared to 11 other job captains within the foreign employer. In fact, the Petitioner submitted a comparison chart showing the Beneficiary's experience and that of 11 of her fellow job captain colleagues and it reflected that she had 13.5 years of total experience, while her colleagues had more overall experience ranging from 14 to 24.5 years. As such, the Beneficiary's lack of total experience in comparison to her immediate colleagues leaves uncertainty as to its assertion that her knowledge is advanced in comparison.

Further, the Petitioner stated that foreign employer employed 16 total job captains including the Beneficiary, while the provided comparison chart reflected only 11 "level one" job captains. This presumably would leave four other senior level two job captains working for the foreign employer. The Petitioner also emphasized that the four level one job captains have more experience than the Beneficiary; as such, it appears that at least eight job captains within the foreign employer (out of the 15 outside of the Beneficiary) likely have more knowledge and experience than her, and at least, similar knowledge and experience. Given this, it is difficult to discern how the Beneficiary's knowledge can be considered greatly developed in comparison. In addition, the Petitioner does not specifically describe how the Beneficiary's architectural knowledge and her knowledge of its checking, coordination, and production processes and procedures exceeds that of the several job captains working just within the foreign employer's organization, all of whom appear to exceed her level of overall experience.

Furthermore, when analyzing the Beneficiary's asserted specialized knowledge we should consider her knowledge in comparison to similarly placed employees within the company as a whole, including her prospective U.S. employer. However, the Petitioner provides no indication as to how the Beneficiary's knowledge compares to the job captains working in the United States. This lack of comparison is noteworthy since the Petitioner's organizational chart reflects that it employs 20 project managers (levels one through three) in senior positions overseeing junior level one and level two job captains, as well as other CAD technicians at varying levels. Likewise, the Petitioner's organizational chart indicates that it

also employs ten other job captains in the United States, five of which that are classified as level two job captains, positions senior to that of the Beneficiary's "junior" level job captain position. The Petitioner provides no explanation of the knowledge of these U.S. based employees, how their knowledge compares to the Beneficiary's, or how her knowledge can be considered greatly advanced in comparison. This is a notable oversight given that a great deal of the Petitioner's project managers and job captains appear to be working in positions senior to that of the Beneficiary.

In addition, the Petitioner also stated in a support letter provided with the petition that it employs 290 employees worldwide (including 100 "design professionals") and lists fourteen other offices throughout the United States and the world. However, the Petitioner provides no indication as to how many of these employees and "design professionals" work in project manager or job captain positions. Given its stated business model and the structure of the Petitioner's organizational chart at its Texas headquarters, it is reasonable to conclude that the company's other offices, say in Illinois or Mexico as only two examples, also employ senior project managers and job captains, as well as junior level job captains similar to the Beneficiary. However, the Petitioner provides no indication how the Beneficiary's knowledge of engineering, designing, drawing exterior enclosures, or checking and other project management processes and procedures greatly exceeds that of the professionals in its various offices around the world. The Petitioner must resolve ambiguities 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).

For instance, the Petitioner emphasizes the Beneficiary's "expert" level knowledge in the company's "clearly defined processes and procedures for checking shop drawings and fabrication drawings that are unique to [the company]," as well as her knowledge of "project coordination, production and administration processes and procedures." However, given the apparent prevalence of project managers and job captains within the Petitioner and foreign employer organizational charts, as well as presumably within its many other offices around the world, it appears likely that knowledge of its processes and procedures would be widely held and understood given their centrality to its provision of professional services. The Petitioner did not credibly demonstrate how the Beneficiary's knowledge of these internal processes and procedures, apparent checklists for checking drawings and administering client projects, are greatly developed in comparison to her colleagues, particularly when she has only worked as a junior level job captain for only approximately 16 months as of the date the petition was filed.

Lastly, we acknowledge that the Petitioner also submitted drawings along with brief technical descriptions related to three of the Beneficiary's projects. Likewise, we note the Beneficiary's provided training certificates reflecting her completion of several courses and lectures specific her industry, such as "Hilti Stud Anchor Introduction" in October 2017 and "EIA for RLAs: An Architect's Guide to Environmental Impact Assessment" in August 2019. We agree with the Petitioner that these drawings appear to be "sophisticated" and their completion likely requires a great deal of skill and training. However, technical complexity or sophistication is not alone sufficient to establish knowledge as advanced as many technical positions in various industries require complex knowledge. Further, it is common in many professions, particularly those involving complicated technical aspects, for professionals to be required to complete training and continuing education in their field. However, the Petitioner does not explain how the Beneficiary's completion of the submitted projects, drawings, and trainings set her knowledge apart as greatly developed in comparison to her colleagues within the company. In fact, it is reasonable to conclude that the Beneficiary's colleagues also work on similar

technically complex exterior engineering projects, complete and/or review such architectural drawings, and attend comparable industry related trainings and lectures.

For the foregoing reasons, the Petitioner did not establish that the Beneficiary possesses advanced knowledge.

B. Special Knowledge

We will next discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge is "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

Determining whether a beneficiary has "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, a 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. Knowledge that is commonly held throughout a petitioner's industry or that can be easily imparted from one person to another is not considered special knowledge.

As noted, the Petitioner emphasizes on appeal that the Petitioner operates in a "unique niche" designing and engineering "some of *the world's most complex facades*;" and as a result, it "developed...in-depth checking techniques and management system[s] for their Job Captains." However, the Petitioner provides little information on why its knowledge of exterior engineering and internal checking and project management processes and procedures should be considered distinct and uncommon within the industry.

For instance, it is not clear whether there are other companies within the company's industry providing similar services, and without more detailed explanation, it is reasonable to conclude that there are. In fact, the Petitioner indicated that "the [redacted] business is very specialized" and "there are very few companies that provide [its] types of services," but it did not explain in detail these companies and how the Beneficiary's knowledge of exterior architecture is uncommon in comparison to similar architects working for these other companies. We acknowledge the Petitioner contention that it works within a "niche" in the industry handling the overflow from larger exterior manufacturers; however, this appears to demonstrate that these larger companies also have knowledge of similar engineering concepts, including "complex facades," and that they likely have their own internal processes and procedures for checking drawings and managing projects. Again, the Petitioner does not indicate how the Beneficiary's projects, training, and education make her knowledge distinct or uncommon in comparison to the knowledge of other similarly employed workers in the industry. Merely stating that the company has its own internal processes and procedures in checking drawings and managing projects and noting that the Beneficiary is an "expert" in them does not demonstrate that her knowledge is special within the industry.

Indeed, without further explanation and evidence, the company's checking and project management processes procedures do not appear particularly uncommon, but look to be checklists with steps to be

taken by its professionals, such as to complete a “comprehensive and thorough checking of preliminary shop drawings,” coordinate “RFI, drawing discrepancies and errors founds in shop drawings and installation procedures,” and “final checking, collaboration and organization of all shop drawings for client’s submission,” amongst other similar instructions. Again, the Petitioner does not specifically explain why these internal processes and procedures are distinct or uncommon in comparison to the greater industry, which appears to include large manufacturers and other similar professional service providers; within which, it is reasonable to conclude that other similar professionals likely hold their own proprietary knowledge they also use to provide products and services.

Therefore, the Petitioner has not established that the Beneficiary’s knowledge is “special” as defined by the regulations.

Again, as a threshold matter, if the Beneficiary does not possess specialized knowledge, then her position abroad and in the United States would not involve specialized knowledge as necessary to qualify her. For the foregoing reasons, the Petitioner has not sufficiently established that the Beneficiary possesses specialized knowledge.

ORDER: The appeal is dismissed.