



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

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

In Re: 7144860

Date: JAN. 31, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a technology consulting firm, seeks to extend the Beneficiary's temporary employment as a "Senior Technical Architect" 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 Texas Service Center denied the petition, concluding that the Petitioner did not establish that: 1) the Beneficiary's former foreign employment involved specialized knowledge, 2) the Beneficiary is qualified to perform the services in the United States, and 3) the Beneficiary's U.S. position would involve specialized knowledge.

On appeal, the Petitioner points to two prior L-1B nonimmigrant visa approvals it received on behalf of the Beneficiary and states that the facts of his employment have not changed. The Petitioner indicates it submitted spreadsheets extensively comparing the Beneficiary to his colleagues which demonstrate that his knowledge is advanced in comparison. The Petitioner further asserts that it provided highly detailed foreign duty descriptions for the Beneficiary, contrary to the Director's conclusion that these descriptions were generic. In addition, the Petitioner states that the Beneficiary's knowledge is unusual and different compared to other similarly placed individuals in the industry.

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 indicated that it and its affiliated companies, including the Beneficiary's former foreign employer, "design, implement and customize enterprise systems for securities trading, portfolio management, asset securitization, risk management, c-finance and financial operations." The Petitioner stated that the Beneficiary was employed by the foreign employer as a lead architect beginning in 2004 up until his entry into the United States as an L-1B nonimmigrant in July 2015. The Petitioner stated that the Beneficiary "developed advanced and nearly unique knowledge in the fields of quantitative finance — specifically structured fixed income securities, database designing and software development." The Petitioner indicated that the Beneficiary "specializes in requirement analysis and development of quantitative trading and risk management technology for structured fixed income and U.S. High Yield Bonds and Loans." In addition, the Petitioner noted that the Beneficiary "is also an expert in a number of software mobile application development technologies."

The Petitioner further explained the Beneficiary's knowledge and expertise as follows:

[The Beneficiary] possesses skills that are very rare at [the Petitioner and its affiliated companies] and in the industry as a whole. In particular, [the Beneficiary] is highly advanced in Database Design and Data Architecture. He is an expert in database systems, including HP Vertica and Amazon Redshift, as well as SQL Server. He is [the company's] subject matter expert on NoSQL Databases and Big Data. No other [company] employee worldwide has the experience of knowledge that [the Beneficiary] possesses in these technologies...He is also an expert in the use of INTEX CMO Deal Modeling Language and Library, which he uses to build data marts for RMBS, CMBS and CLO products. He has extensive knowledge of mortgage data across EMBS, Intex, Trepp and Loan Performance vendor data sets. He was the key senior technical member closely involved in designing and building the data marts for [redacted], [redacted] and [redacted]. Both [redacted] and [redacted] which are licensed by [redacted]. The in-depth knowledge he has of these products will be extremely critical to [the Petitioner] to provide service to [redacted] one of [the Petitioner's] largest clients.

The Petitioner also added that the Beneficiary "led the offshore development for [redacted] [the company's] high performance mortgage data analysis platform based on columnar databases (Vertica, VectorWise) for querying and analyzing complex datasets." It stated that the Beneficiary "designed and led the development of the UI for supporting basic & advanced querying capabilities." In addition, it indicated that "these skills are extremely rare in the industry and within [the company's] staff" and that the Beneficiary's "skills are at the very highest level of specialization."

Furthermore, the Petitioner explained that the Beneficiary's knowledge is "unusual in comparison to other Director, Technical Services positions within [the company] and within the industry because [the Beneficiary's] duties were focused on the creation of large-scale data warehouses for the financial industry using [the company's] proprietary products." It indicated that the company's products are different from those offered by other financial software companies; noting that [redacted] holds "several features that make it unique in its field." These features include constructing a "hybrid best record for loan data combining data from various sources at loan, group and deal levels, and being specially optimized for grip computing." The Petitioner stated that this technology "would take just a few hours

to generate analytics for the entire universe of non-agency deals and ABS CDOs under multiple interest rate, HPI and loan-level prepay/loss scenario.”

The Petitioner stated in the petition that it would pay the Beneficiary \$135,000 per year plus “Standard Company Benefits.”

III. SPECIALIZED KNOWLEDGE

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

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 emphasizes the Beneficiary’s “very rare” and “highly advanced” knowledge, noting that within the company he is a subject matter expert on “NoSQL Databases” and “Big Data.” It asserts that “no other [company] employee worldwide has the experience of knowledge that [the Beneficiary] possesses in these technologies.” Since the Petitioner contends that the Beneficiary has greater knowledge in its proprietary tools as compared to his colleagues within its greater corporate structure, we will first discuss whether it demonstrated that the Beneficiary’s knowledge is advanced.

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.

In articulating its claim that the Beneficiary possesses advanced knowledge, the Petitioner emphasized the Beneficiary's "expert" knowledge of various technologies, including "HP Vertica," "Amazon Redshift," "SQL Server," "NoSQL Databases," "INTEX CMO Deal Modeling Language and Library," "data marts for RMBS, CMBS and CLO products," and "[redacted] [redacted] and [redacted]." As discussed, 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, services, processes, or procedures. The Petitioner regularly references the technology discussed above, some which appears to be proprietary, such as "[redacted] [redacted] and [redacted]," while other technology appears to be third party software, including "HP Vertica" and "Amazon Redshift." However, at no point does the Beneficiary explain in basic terms each of these technologies and what they do. As such, the nature of the Beneficiary's knowledge is not entirely clear, thereby making it difficult to discern how his knowledge is set apart or greatly advanced in comparison to his colleagues. Further, it is also noteworthy that there is little to no supporting documentation on the record reflecting the Beneficiary acting in his asserted capacity to demonstrate his greatly developed level of knowledge.

To illustrate, the Petitioner emphasized the Beneficiary leading the offshore development of "[redacted]" but it did not explain this technology sufficiently to understand it, articulate how it contributes to the Beneficiary's current role, and why this knowledge and experience sets him apart, nor did it document these activities. Further, the Beneficiary emphasizes that the Beneficiary was involved in designing and building the "datamarts for [redacted] [redacted] and [redacted]" but again, it does not describe in detail what these technologies are and what they do, how his knowledge in these technologies sets him apart from his colleagues, or document his involvement in designing these data marts. r

Further, the Petitioner did not sufficiently articulate how the Beneficiary gained this advanced knowledge as compared to his colleagues or how this knowledge was set apart from them. Determining whether knowledge is "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. The Petitioner submitted a basic chart listing the Petitioner's personnel, including the Beneficiary and generic information on the "skills" held by him and each of his colleagues. We acknowledge that this chart appeared to include more technologies and applications for the Beneficiary in the skills category, but this chart did not sufficiently demonstrate or explain in detail how he gained this knowledge when compared to his colleagues. In fact, this chart indicated that there were several employees within the Petitioner that had similar experience and education when compared to the Beneficiary's claimed 15 years of experience, including four colleagues with more than 30 years' experience, two with more than 20, and one other with more than 15 years.

Also, the list of the Beneficiary's colleagues reflects that all but one of its 18 employees had more than ten years' of experience. However, the Petitioner did not provide specific comparisons of the Beneficiary against his colleagues or sufficiently explain how he gained more knowledge than them in the aforementioned proprietary technologies. Likewise, the Petitioner provided a similarly vague

comparison chart specific to the Beneficiary's former colleagues abroad. Again, this chart generically listed technologies to different employees within the foreign employer, but the Petitioner did not meaningfully explain how the Beneficiary's knowledge was greater than more than 20 other technical "leaders" and "leads" working for the foreign employer. The Petitioner notably did not articulate how long it took the Beneficiary to gain his knowledge or indicate how long it would take another one of his colleagues or someone similarly placed in the industry to obtain his level of knowledge.

In a support letter submitted along with the petition, the Petitioner stated that it required the services of an individual "holding at least a degree in computer science," "experience in software development and database designing," "5 years or more development experience in C#, ASP, .NET and SQL," and "strong experience in designing and developing large Investment data warehousing systems." However, it appears that many of those working for the Petitioner have this requisite experience and education, and are likely providing similar services to its many clients. It is reasonable to conclude without additional explanation and evidence that they also likely hold client specific and proprietary knowledge, much like the Beneficiary.

Further, it is also notable that the Petitioner submitted agreements and statements of work specific to other client engagements reflecting the provision of licenses and support services similar to that provided by the Beneficiary. As noted, the Petitioner indicates that the Beneficiary has advanced knowledge based on his assignment to a large client, [REDACTED]. However, the Petitioner submitted a 2014 agreement with another client for the provision of "RMBS Loan Mapping Service" and two other agreements related to the licensing of its [REDACTED] software to other financial companies. The Beneficiary's involvement, if any, with these projects is not clear. Without further information and explanation, the licensing of the technology in which the Beneficiary is claimed to have expert knowledge suggests that his colleagues also work with financial institutions on implementing and supporting these proprietary products.

The Petitioner also provided printouts of its website indicating that the company has 25 other clients, many of which are financial institutions. The website highlights the company's [REDACTED] and "big data technologies," noting that they leverage "HP Vertica" and Amazon Redshift." This discussion of the company's technologies and offerings sounds very similar to the asserted knowledge of the Beneficiary. Therefore, it is reasonable to conclude, without more sufficient explanation and comparisons, that the Beneficiary's similarly experienced colleagues are also providing similar big data services to various other financial institutions. Meanwhile, the Petitioner indicates that the Beneficiary is exclusively assigned to one client. The Petitioner has not explained in detail how the Beneficiary gained greatly developed knowledge in the company's proprietary products in relation to his colleagues and how he become the most knowledgeable in these products and processes as claimed. In fact, the submitted evidence reflects that the Petitioner's proprietary products are widely provided to many other clients suggesting that knowledge of these technologies is more likely than not widely held within the company. Further, although the Petitioner is not required to demonstrate that the Beneficiary developed the company's proprietary technologies, it is notable that it does not assert that he did so, suggesting that there are other professionals within the company who developed and created these proprietary technologies.

On appeal, the Petitioner emphasizes a submitted expert opinion from a [REDACTED] an associate professor of computer systems technology at [REDACTED] College of Technology. It

contends that this demonstrates the advanced nature of the Beneficiary's knowledge. We may, in our discretion, use advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

The expert opinion submitted by the Petitioner does not sufficiently establish that the Beneficiary's knowledge is advanced in relation to his colleagues. For instance, the letter from [redacted] largely reiterates the same general conclusions provided in the Petitioner's support letters and it does not sufficiently articulate how the Beneficiary's knowledge is set apart from his colleagues. For instance, the letter declares that the Beneficiary's knowledge is specialized and set apart without discussing in detail how he gained this asserted level of knowledge in comparison to his colleagues. Indeed, there is little or no discussion of the Beneficiary's colleagues in the opinion letter.

Further, the expert opinion only generically reiterates the Petitioner's discussion of the Beneficiary's experience and knowledge. For example, the [redacted] referenced several other projects the Beneficiary worked on and clients he worked with, including performing services for "[redacted]," "[redacted] investment advisory firm," "[redacted] Banking Corporation [redacted]," "[redacted] and [redacted] financial data services company. However, the Petitioner and [redacted] do not highlight or explain the Beneficiary's involvement in these projects, the knowledge he gained in working them, or how these assignments set him apart from his colleagues. We did not find the expert opinion, which largely reiterates the assertions of the Petitioner, as convincing in demonstrating that the Beneficiary's knowledge is advanced.

Although we acknowledge that the Beneficiary's knowledge of the company's proprietary technologies and clients appears complex, complexity alone does not demonstrate that knowledge is specialized according to the regulations. The Petitioner has not effectively set the Beneficiary's knowledge apart from his colleagues with detailed and probative comparisons.

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.

Although the Petitioner vaguely notes that the Beneficiary's knowledge is "rare in the industry," it provides little explanation and evidence as to why. The Petitioner asserts that the Beneficiary holds knowledge of the company's proprietary tools such as its [redacted] and "big data technologies" leveraging "HP Vertica" and Amazon Redshift." However, there is little indication how these proprietary technologies or the Beneficiary's knowledge greatly exceeds other similarly placed professionals in the industry. For instance, the Petitioner stated that [redacted] is distinguished by several features that make it unique in its field," noting that it "constructs a hybrid best record for loan data combining data from various sources at loan, group and deal levels" and that it "just take[s] a few hours to generate analytics for the entire universe of non-agency deals and ABS CDOs." It is not clear from this overly technical explanation how this proprietary technology is set apart from similarly placed companies or how the Beneficiary's specific knowledge of this proprietary technology is different from those similarly placed in the industry, professionals who are likely to also have knowledge of their own proprietary technologies and specific clients. To illustrate, the Petitioner emphasizes that it only takes few hour to generate analytics using its technology, but does not indicate how long this would take using other similar technologies or other methods. In addition, the Petitioner noted that [redacted] has "several features unique in the field," but it does not explain these features in a detailed and understandable manner, nor does it indicate how these features are unique in comparison.

The Petitioner also indicates that "no other system is available that integrates so many asset classes and such a wide variety of data sources" and that "most of the other competing products are either asset class specific or are in-house developed by a few financial service firms for their own use." First, this statement indicates that there are competing products to the Petitioner's greater company and its technology. Yet, the Petitioner does not meaningfully discuss how its technology is set apart or offer specific comparisons, it only declares that it is the only system with "such a wide variety of data sources." There is little indication as to why this ability is distinct or uncommon. It also submits little supporting documentation to substantiate the assertion that its technology is distinct or uncommon in comparison to the knowledge of those similarly employed in the industry. The Petitioner provides no specific comparisons of the Beneficiary's knowledge in relation to the greater industry; within which, it is reasonable to conclude that other similar professionals likely have their own proprietary tools they use to provide services and which they also license to their clients.

Therefore, for the foregoing reasons, the Petitioner has not established that the Beneficiary's knowledge is "special" as defined by the regulations.

Because the Petitioner has not demonstrated that the Beneficiary possesses specialized knowledge, we need not further address whether he is qualified for the proffered position in the United States or whether this position abroad involved specialized knowledge.

ORDER: The appeal is dismissed.