



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

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

In Re: 29321133

Date: NOV. 27, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1B Specialized Knowledge Worker)

The Petitioner is an aviation maintenance and repair company that seeks to employ the Beneficiary temporarily in the position of “airman instructor” 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 that: 1) the Petitioner and the Beneficiary’s foreign employer have a qualifying relationship; and 2) 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.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that the Beneficiary possesses specialized knowledge. Because the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding the qualifying relationship issue. *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).

I. LAW

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. 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.¹

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.

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 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 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

¹ The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

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 claims that the Beneficiary possesses specialized knowledge, but it does not identify the nature of such knowledge, despite having been asked to do so in a previously issued request for evidence (RFE). The RFE also pointed to the distinction between "special" and "advanced" knowledge and instructed the Petitioner to specify whether the Beneficiary's knowledge is special, thus involving knowledge of the petitioning organization's products or services and their application in international markets, or whether the knowledge is advanced, thus involving knowledge of the petitioning organization's processes and procedures.

In response, the Petitioner did not provide the requested information about its organization's services or its process and procedures to explain why specialized knowledge is required to assume the Beneficiary positions abroad and in the United States. Rather, the Petitioner provided a general description of its operation, stating that it is as an aviation maintenance and repair business whose chief function will be to provide "[q]ualified [m]anpower and [t]raining for new personnel in the area of [a]ircraft [m]aintenance." The Petitioner also discussed the Beneficiary's role with the foreign entity, stating that the Beneficiary has been working as a ground instructor since January 2021 and claiming that he has "all the required training . . . as well as practical experience with the equipment of large airlines and [c]orporate [a]viation."² Although the Petitioner provided the Beneficiary's flight training record and summary, the training is shown as having taken place in between October 7 and October 15, 2022, thus only preceded the filing of this petition by approximately one week. As such, the training record does not establish that the Beneficiary acquired specialized knowledge that he then used during his employment abroad for at least one year prior to the instant petition's date of filing. In sum, the record does not establish that the Beneficiary completed training that resulted in specialized knowledge that he then used in the course of his employment foreign employment and which he would use in his proposed U.S. position. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

On appeal, the Petitioner contends that the Beneficiary has worked for the foreign entity for nearly three years and "has demonstrated specialized knowledge in the [c]ommercial [a]viation [f]ield." The Petitioner highlights the Beneficiary's credentials as a U.S. FAA and Costa Rican airline transport pilot "with several thousand [f]light [h]ours [e]xperience." The Petitioner describes the Beneficiary as "a very well[-]experienced instructor in [s]everal airplane types" and claims that the Beneficiary "knows all our politics and company procedures in order to offer a high class service to our new customers."

Despite highlighting the Beneficiary's work history and qualifications as an experienced airline pilot, the Petitioner still has not identified a product or service within its organization to explain how the

² Although the Director referred to a list of the Beneficiary's foreign job duties in response to the RFE, the exhibit index that accompanied the RFE response does not list a job duty breakdown among the response exhibits. The exhibit index lists a "continuous employment letter," which states that the Beneficiary assumed the position of ground instructor since January 20, 2021, and confirms that he has the required training and experience for this position. The index also lists a training curriculum and training summary, both of which were among the RFE response submissions. However, the index does not list a job duty breakdown and as such it does not appear one was included as part of the RFE response.

Beneficiary's knowledge is special. And although the Petitioner broadly references the Beneficiary's understanding of its organization's "politics and company procedures," it has not specified or described its organization's processes and procedures to explain how the Beneficiary's knowledge is "advanced." Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). The Petitioner has not explained how the knowledge that it claims is specialized is typically gained within its organization, nor has the Petitioner stated how and when the Beneficiary gained such knowledge.

Given the evidentiary deficiencies discussed above, the record does not establish that the Beneficiary attained specialized knowledge of the petitioning organization's products or services or its processes and procedures. Accordingly, 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.

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 is dismissed.