

A #		Application/Petition I-129, Petition for A Nonimmigrant Worker
Receipt # WAC1424850888		Applicant/Petitioner Optum Svcs Inc
Notice Date October 10, 2014	Page 1 of 8	Beneficiary Gogia Anil

KILIBARDA, SARAH R
FAEGRE BAKER DANIELS LLP
RE: OPTUM SVCS INC
90 S 7TH ST STE 2200
MINNEAPOLIS, MN 55402

Request for Evidence

Notice also sent to:

RETURN THIS NOTICE ON TOP OF THE REQUESTED INFORMATION LISTED ON THE ATTACHED SHEET.

Note: You are given until January 2, 2015 in which to submit the requested information to the address at the bottom of this notice.

Please note the required deadline for providing a response to this Request for Evidence. The deadline reflects the maximum period for responding to this RFE. However, since many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible but no later than the date provided on the request.

Pursuant to 8 C.F.R. 103.2(b)(11) failure to submit ALL evidence requested at one time may result in the denial of your application.

For more information, visit our website at www.uscis.gov

Or call us at 1-800-375-5283

Telephone service for the hearing impaired: 1-800-767-1833

CSC4606 WS25047 EB2 HOPE TW

You will be notified separately about any other applications or petitions you filed. Save this notice. Please enclose a copy of it if you write to us about this case, or if you file another application based on this decision. Our address is:

USCIS - CALIFORNIA SERVICE CENTER
P.O. BOX 10590
LAGUNA NIGUEL, CA 92607-0590
800-375-5283



WAC1424850888

If you are requesting consulate/embassy notification, provide the following evidence in duplicate. Any document submitted to USCIS containing a foreign language, must be accompanied by a full English language translation that has been certified by the translator as complete and accurate, and that the translator is competent to translate from the foreign language into English.

You have filed Form I-129, Petition for a Nonimmigrant Worker on behalf of Anil Gogia, ("beneficiary") on September 22, 2014 in order to classify the beneficiary as an intracompany transferee with specialized knowledge with a concurrent request for consulate notification.

Your organization, Optum Services, Inc., seeks to employ the beneficiary as a .

I-129, L-1B SPECIALIZED KNOWLEDGE

The L-1B classification applies to aliens temporarily visiting the United States as intracompany transferees with specialized knowledge. When seeking to temporarily employ a beneficiary under the L-1B nonimmigrant classification, you are required to establish that:

- the beneficiary has been employed abroad for one continuous year within the three years preceding the application for admission into the United States; and
- the beneficiary's prior year of employment abroad was in a position that was managerial, executive, or involved specialized knowledge; and
- the beneficiary has specialized knowledge based on prior education, training, and employment that qualifies him/her to perform the intended services in the United States;
- the beneficiary's position in the United States involves specialized knowledge.

To process your petition and determine if the participants are eligible, additional information is required. Provided for you is suggested evidence you could submit to satisfy each requested item. You may give one, some, or all of these items. You may also submit none of them, and instead give other evidence that you believe satisfies the request. Note, however that you are responsible for providing evidence that best shows that you and the beneficiary meet all requirements. Evidence must show that both you and the beneficiary were eligible for the requested benefit when the Form I-129 was filed.

Discussion of L-1B Criteria

The regulations define "Specialized Knowledge" 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."

The term "special" can mean surpassing the usual; distinct among others of a kind; distinguished by some unusual quality; uncommon; or noteworthy.

The term “advanced” can mean highly developed or complex; at a higher level than others; beyond the elementary or introductory; or greatly developed beyond the initial stage.

Accordingly, where it is claimed that the beneficiary has “special” knowledge of the company’s product, service, research, equipment, techniques, management, or other interests and its application in international markets - the knowledge must be established as being distinguished, noteworthy or uncommon. Where it is claimed that the beneficiary has “advanced” knowledge of the organization’s processes and procedures; it must be established that the knowledge is at a higher level than others, beyond the elementary or introductory, or greatly developed beyond the initial stage.

Further, USCIS recognizes that most employees today have been highly trained. However, it can not always be concluded that all employees performing highly technical duties are eligible for classification as intra-company transferees with specialized knowledge.

Additionally, a distinction can be made between skilled labor and the person who is to be employed for his or her ability to carry out a key process or function which is important or essential to the business firm’s operation. Although the knowledge possessed by someone with specialized knowledge need not be proprietary or unique it must be different or uncommon. Further, the determination that the beneficiary has specialized knowledge does not involve a test of the United States labor market. However, it must be established that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized.

Evidence of the Beneficiary’s Managerial, Executive, or Specialized Knowledge Position Abroad

It must be shown that the beneficiary has been employed abroad by a qualifying organization in a position that was managerial, executive, or a position that involved specialized knowledge.

You submitted the following evidence to establish that the beneficiary’s prior year of employment abroad was in a position that was managerial, executive, or involved specialized knowledge:

- Your cover letter describing the beneficiary’s position abroad;
- Letter from the beneficiary’s supervisor(s) describing the beneficiary’s position with the organization abroad;
- Copy of the foreign entity’s organizational chart;

You indicate that the beneficiary has been employed abroad as a Senior Technical Architect since November 2006. Your description of the position abroad was insufficient to show that the position involved specialized knowledge because:

- Although you have submitted a description of the Senior Technical Architect position, it is insufficient to determine whether the position is executive, managerial or involves specialized knowledge.
- Your description of the Senior Technical Architect position does not compare and contrast the beneficiary’s duties with others performing the same type of work.

--Suggested Evidence to Establish the Beneficiary’s Position Abroad

Evidence you may submit to satisfy this requirement includes but is not limited to a combination of the following or similar types of evidence:

- Description of the Beneficiary's Position Abroad: Indicate whether the beneficiary's position of Senior Technical Architect abroad is managerial, executive, or involved specialized knowledge;
- Duties Abroad: Submit a more detailed specific description of the beneficiary's duties abroad. Identify the percentage of time required to perform the duties. In addition, please address the following:
 - Managerial Position: If the position of Senior Technical Architect is a managerial position, list the beneficiary's primary managerial duties. Also, if applicable, indicate the number and types of positions the beneficiary supervises;
 - Executive Position: If the position of Senior Technical Architect is an executive position, list the beneficiary's primary executive duties. Also, if applicable, indicate the number and types of positions the beneficiary supervises;
 - Position Involving Specialized Knowledge: If the position of Senior Technical Architect is a position which involves specialized knowledge, list the beneficiary's primary duties that involve specialized knowledge. Indicate why others have not acquired this "special" or "advanced" level of knowledge of your company's equipment, system, product, technique, research, service; and/or processes or procedures; and explain how the knowledge involved in the position is different than other Senior Technical Architect employed by the foreign company or others employed in similar positions in the industry.

[Optional] Provide evidence to establish that the beneficiary as a Senior Technical Architect has commanded a high salary or other significantly high remuneration for services compared to others in the same industry because of his/her "special" knowledge of your equipment, system, product, technique, or service; or an "advanced" level of knowledge of your company's processes and procedures.
- Foreign Organizational Chart: Submit a copy of the foreign company's line and block organizational chart, showing the organization's organizational hierarchy and staffing levels ONLY for the beneficiary's immediate hierarchy, associates, and subordinates. List all employees in the beneficiary's immediate division, department, or team by name, job title, summary of duties, educational level, and salary. Clearly identify the beneficiary's position in the chart.

Evidence that the Beneficiary has Specialized Knowledge

Although the beneficiary may have been employed in an executive, managerial, or specialized knowledge capacity abroad, it must be shown that the beneficiary possesses specialized knowledge as discussed above.

You submitted the following evidence to establish that the beneficiary has specialized knowledge:

- Your cover letter describing the beneficiary's knowledge, education, training, and employment which identified the beneficiary's specialized knowledge as his expertise in the company's Application Enablement (AE) system;
- Letter from the beneficiary's supervisor(s) describing the beneficiary's training and experience with the organization abroad;

From the documentation submitted with your petition, USCIS is unable to determine that the beneficiary has specialized knowledge because:

- Although you state that the knowledge obtained by the beneficiary through education, training, and employment is "special" or "advanced", you have not provided corroborating evidence to support your assertion.
- Your description does not compare and contrast the beneficiary's knowledge, education, training, and employment with others employed in the industry performing the same or similar type of work.
- Your description of beneficiary's design and development of tools which helped "in triaging the production issues quickly and was later recognized as a remarkable achievement for the project" is not supported by any evidence.

--Suggested Evidence to Establish the Beneficiary has Specialized Knowledge:

Evidence you may submit to satisfy this requirement includes but is not limited to a combination of the following or similar types of evidence:

- Description of Specialized Knowledge: Explain, in detail (and in layman's terms), and provide documentary evidence to show the specialized knowledge obtained by the beneficiary through education, training, and employment.
 - Identify and provide documentary evidence to show the product, service, tool, research, equipment, process, or procedure the beneficiary uses that involves specialized knowledge.
 - Identify and provide documentary evidence to show the minimum amount of time required to obtain this knowledge including the training and actual experience accrued after the completion of training.
 - Indicate and provide documentary evidence to show whether this knowledge is held by others employed by your organization or by other employers in the United States and abroad.
 - Indicate and provide documentary evidence to show exactly what it is about the beneficiary's knowledge of the petitioner's equipment, system, product, technique, or service that makes it "special" and how it is applied in the international marketplace;
 - Describe and provide documentary evidence to show how the beneficiary's knowledge is an "advanced" level of knowledge of the petitioner's processes or procedures.

- Describe and provide documentary evidence to show how the beneficiary has knowledge that is valuable to the employer's competitiveness in the market place;
- Describe and provide documentary evidence to show how the beneficiary is qualified to contribute to the United States employer's knowledge of foreign operating conditions as a result of specialized knowledge not generally found in the industry;
- Describe and provide documentary evidence to show how the beneficiary has been utilized abroad in a capacity involving significant assignments which have enhanced the employer's productivity, competitiveness, image, or financial position;
- Describe and provide documentary evidence to show how the beneficiary has knowledge which, normally, can be gained only through prior experience with your organization;
- Describe and provide documentary evidence to show how the beneficiary has knowledge of a product or process which cannot be easily transferred or taught to another individual without significant economic inconvenience to the United States or foreign firm;
- Describe and provide documentary evidence to show how the beneficiary has knowledge of a process or a product that is of a sophisticated nature, although not unique to the foreign firm, which is not generally known in the United States.
- Describe and provide documentary evidence to show how the beneficiary's has obtained special or advanced knowledge of a product or process by participating in its development or creation.

NOTE: If USCIS can not clearly understand the knowledge described by you then it may be difficult to determine that the beneficiary's experience or skills are specialized knowledge as opposed to only ordinary skills required to use the your product, tools, processes, or procedures.

- Number of Employees: Indicate the total number of employees abroad and in the U.S. that acquired the same knowledge of your company's equipment, system, product, technique, research, service; and/or processes or procedures as the beneficiary and explain how the beneficiary's knowledge is "special" or "advanced" and set apart from these employees and other employees working in a similar position within your organization and other employers in the same type of business. Provide job descriptions of those persons employed at the foreign and U.S. location who have the same position as the beneficiary.
- Training Received: Provide documentation that shows any specialized knowledge gained through specific training courses presented by your company. Include evidence to establish the content of the course, duration, completion dates, and number of employees enrolled in each course. Explain how the training establishes a "special" or an "advanced" level of knowledge of your company's equipment, system, product, technique, service, processes, or procedures when compared to other employees of your company.
- Proprietary Knowledge: Although proprietary knowledge is not required to establish that the beneficiary has been employed abroad in a specialized knowledge position, it could only further

support your petition to classify the beneficiary as having specialized knowledge if, in fact, the beneficiary does possess proprietary knowledge. As such, if you feel the beneficiary possesses proprietary knowledge please elaborate. Provide a detailed comparison of your company's equipment, system, product, technique, research, service; or processes or procedures; to others in your industry. Indicate if the beneficiary was involved in the "design" or "development" of any of your tools, services, processes or procedures and provide evidence of his work.

- **Patents:** If the petitioner was awarded a patent as a result of the beneficiary's knowledge, provide copies of any patents held by your company that were created as the result of the beneficiary's "special" knowledge of your equipment, system, product, technique, or service; or an "advanced" level of knowledge of the petitioner's processes or procedures.
- **Published Material:** Provide copies of any noteworthy published material in professional or major trade publications or major media about the beneficiary, relating to the beneficiary's work that distinguishes him or her from others in the industry or within your company. Include the title, date, and author of such published material, and any necessary translation.

Evidence of Proposed Specialized Knowledge Position in the United States

Although the beneficiary may have been employed in an executive, managerial, and/or specialized knowledge capacity abroad, it must be shown that the proposed position in the United States involves specialized knowledge as discussed above.

You submitted the following evidence to establish that the beneficiary will enter the United States in order to render services in a capacity that involves specialized knowledge:

- Your cover letter describing the beneficiary's duties in the U.S.;
- Copy of the United States entity's organizational chart;

From the documentation submitted with your petition, USCIS is unable to determine that the beneficiary will be employed in a position that involves specialized knowledge because:

- Although you have submitted a long, detailed, and technical description of the beneficiary duties, it is not clear, in layman's terms, exactly what the beneficiary's duties will be and how they compare to other employees on the project, team, department, division, and/or organization.
- Your description of duties does not compare and contrast the beneficiary's duties with others performing the same type of work.
- USCIS is unable to determine whether the beneficiary has been or will be performing duties as an L-1B based on "special" knowledge of your company's product, service, research, equipment, techniques, management, or other interests or an "advanced" knowledge of your company's processes and procedures.

--Suggested Evidence to Establish a Specialized Knowledge Position in the United States

Evidence you may submit to satisfy this requirement includes but is not limited to a combination of the following or similar types of evidence:

- Description of Duties in the United States: Submit a detailed description of the beneficiary's duties. Explain, in detail (and in layman's terms), the specialized knowledge duties the beneficiary will perform in the United States. If not already provided, identify the product, tool, process, or procedure the beneficiary will use for each duty and indicate if it is used or produced by other employers in the United States and abroad. Identify the minimum amount of time required to perform the duties of the specialized knowledge position including training and actual experience.

Indicate exactly what it is about the duties that call for the beneficiary's knowledge of your equipment, system, product, technique, service to be "special" and how it will be applied in the international market; or describe how the listed duties to be performed by the beneficiary are of an "advanced" level of knowledge of your processes or procedures.

Explain how the duties the beneficiary will perform in the United States are different from those of other workers employed by you or other U.S. employers in this type of position;

NOTE: If USCIS can not clearly understand the duties described by you then it may be difficult to determine that these duties are specialized knowledge as opposed to only ordinary skills required to use your product, tools, processes, or procedures.

- Training to be Provided by Beneficiary in the United States: If the beneficiary will provide training in the area of his or her claimed specialized knowledge, describe in detail the training which the beneficiary will give other workers in the U.S. Identify the product, tool, process, or procedure in which the beneficiary will provide training. Explain how long it takes to train other employees to use the specific tools, product, service, research, equipment, techniques, management, processes, procedures and/or methodologies utilized. Provide an itinerary of the proposed training.
- Organizational Chart: Submit a copy of the United States company's line and block organizational chart, showing the organization's current organizational hierarchy and staffing levels ONLY for the beneficiary's immediate hierarchy, associates, and subordinates. List all employees in the division, department, or team where the beneficiary's position is located by name, job title, and immigration status. Clearly identify the beneficiary's position in the chart and, if applicable, indicate the number of employees managed.