



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

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

In Re: 8846343

Date: JULY 7, 2020

Appeal of California Service Center Decision

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

The Petitioner is technology services provider that seeks to employ the Beneficiary temporarily as an “SAP Professional Services Consultant – Senior” under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The California Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary possesses specialized knowledge and that he was employed abroad and would be employed in the United States in a specialized knowledge capacity. The matter is now before us on appeal.

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 find that the Petitioner did not meet that burden. Therefore, we will dismiss the appeal.

## **I. LEGAL FRAMEWORK**

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. BACKGROUND**

The Petitioner is an IT company that provides its clients with metadata analytics about application usage and offers “complete application lifecycle support” in implementing and upgrading software and “ongoing management and functional support.” It highlights the Beneficiary’s “in-depth knowledge” about the design, development, and delivery of the organization’s “proprietary products and solutions” and states that the Beneficiary is “intricately familiar” with the company’s “internal business methodologies, processes, and procedures” that were “internally developed” over “many years.” The Petitioner states that during his employment with the foreign entity the Beneficiary relied

on his “unique abilities” to make “significate contributions” to the organization. It focused on the Beneficiary’s history of employment with the foreign entity, which included working on more than 10 projects and experience in the organization’s technologies and its “global clientele.” The Petitioner asserts that the Beneficiary’s experience makes him “an ideal candidate” to lead user training in the migration of data from the legacy system to the configured “SAP [Enterprise Resource Planning] ERP system.” The Petitioner believes that the Beneficiary would positively impact the U.S. operations by using his “deep subject matter expertise” of the organization’s “SAP ERP”<sup>1</sup> systems and his “advanced knowledge” of the company’s sales and distribution and its management of warehouse and materials to configure those systems.

### III. 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.

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>2</sup>

A beneficiary is deemed 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. 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 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.

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<sup>1</sup> The Petitioner stated that “SAP” stands for systems, applications, and products and “ERP” stands for Enterprise Resource Planning.

<sup>2</sup> The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

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 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 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 initially submitted a supporting cover letter stating that the Beneficiary’s current job duties include leading and conducting a “business process blueprint,” configuring the SAP ERP system based on that blue print, and consulting clients, leading user training, and providing user support on the implementation of the configured SAP ERP system. Although the Petitioner claimed that specialized knowledge is required to perform these duties, it did not provide an explanation to support this claim and despite claiming that the Beneficiary’s position entails an “in-depth” understanding of the employer’s proprietary methods, process, and procedures, the Petitioner did not describe the proprietary methods, processes, and procedures its organization uses or explain why specialized knowledge is required to implement them. Likewise, the Petitioner stated that it employs “specialized methodologies, standards and techniques” that were “internally developed . . . over the course of many years” and are “unique” to its organization, but it did not describe the methodologies and techniques, identify their functionalities, or explain what makes them unique as compared to methodologies and techniques used by other IT companies. Further, although the Petitioner stated that development of its “worldwide operations” rests “only” on its ability to use employees such as the Beneficiary, who are claimed to possess specialized knowledge, it did not elaborate on the Beneficiary’s specific contribution(s) to its operations on an international scale, nor did it establish that specialized knowledge was required to make the contribution(s).

In addition, the Petitioner claimed that the Beneficiary has advanced knowledge of the organization’s means of managing warehouse and material and monitoring sales and distribution. However, the Petitioner did not distinguish its organization’s practices from those commonly used by other IT companies who offer similar services, nor did it describe the Beneficiary’s knowledge to explain how it is more developed as compared to others within the organization, particularly among the multiple “principal” and “senior” consultants who, like the Beneficiary, are also employed within the SAP professional services team. Although the Petitioner provided the Beneficiary’s résumé showing that he was promoted from the position of “senior” consultant to his current position as professional services “lead,” it did not elaborate on the distinctions between the two positions and therefore it did not show that the current position involves a higher degree of knowledge that rises to the level of being special or advanced. Furthermore, if, as the Petitioner indicates, the Beneficiary’s current position

requires a higher degree of knowledge than his former position as “senior” consultant, it is unclear how the proposed position as “senior” consultant would satisfy the specialized knowledge criteria if it is comparable to the position the Beneficiary held prior to being promoted to lead consultant. The Petitioner must resolve this ambiguity by submitting independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner also provided a letter from the managing director who was the Beneficiary’s direct superior at his former position with the foreign entity. However, the letter lacks meaningful content that adequately elaborates on the Beneficiary’s “deep SAP system expertise” and “very strong subject domain expertise” in sales and distribution and warehouse and material management. As such, it is unclear that the Beneficiary’s “expertise” in these areas rises to the level of specialized knowledge. In addition, aside from broadly stating that the Beneficiary gained his claimed specialized knowledge from “on-the-job experience,” the Petitioner did not describe a progression of knowledge to clarify precisely how and when the Beneficiary attained the specialized level of knowledge he is now claimed to have. In addition, although the Petitioner provided a certificate of appreciation for completing an SAP consultant course in 2008 and a certificate of completion showing that the Beneficiary received a project management professional certification from a four-day course he completed in 2014, it did not establish that either course contributed to or resulted in the Beneficiary attaining specialized knowledge.

In a request for evidence (RFE), the Director found that the Petitioner did not (1) show how and when the Beneficiary gained knowledge that is claimed to be specialized, (2) establish that the duties performed by the Beneficiary required specialized knowledge, (3) demonstrate that the Beneficiary’s experience resulted in specialized knowledge, or (4) distinguish the Beneficiary’s knowledge from that of others who are similarly employed within the employer or within the industry. The Director instructed the Petitioner to provide additional evidence addressing these deficiencies.

In response, the Petitioner reiterated previously made claims, stating that the Beneficiary has knowledge that is distinct and uncommon within the industry and referring to the Beneficiary as a “leading expert[]” in SAP practice technologies regarding sales and distribution, warehouse and materials management, and quality assurance. As stated earlier, however, the Petitioner did not elaborate on precisely how the Beneficiary’s knowledge is distinct and uncommon, nor did it identify the “significant contributions” it claims the Beneficiary made to the company’s SAP ERP systems. The Petitioner also cited to USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), <https://www.uscis.gov/laws/policy-memoranda>, in support of its claim that the Beneficiary’s knowledge is both “special” and “advanced.” However, aside from making this general claim, the Petitioner did not address the elements of “special” or “advanced” or explain how the Beneficiary’s knowledge meets the criteria of either of these terms. Further, despite making broad references to the organization’s proprietary “Speed to Value” methodology, the Petitioner did not specifically describe the features of this methodology to explain why using it requires specialized knowledge. Likewise, the Petitioner made general references to its organization’s processes and procedures, but it did not describe those processes and procedures to support the claim that using them requires advanced knowledge. The Petitioner also claimed that the Beneficiary “developed new functionality” and provided sales and customer support, but it did not describe the “new functionality”

that the Beneficiary is claimed to have developed or explain why specialized knowledge was required to provide customer and sales support.

Further, the Petitioner offered no explanation to support the claim that the Beneficiary is one of five subject matter experts in SAP business practices, nor did it outline the characteristics that merit such distinction. Although the Petitioner emphasized the Beneficiary's "overlapping skill sets related to SAP implementation and production support" as an indicator that the knowledge he possesses is specialized, it did not offer sufficient evidence to support this assertion. In addition, the Petitioner referred to the Beneficiary as one of the organization's "most knowledgeable and highly trained employees," claiming that in his 12 years of employment abroad, the Beneficiary received "comprehensive and specific management trainings." However, it did not describe or provide the dates of such training, nor did it otherwise outline a path for gaining the specialized knowledge that the Beneficiary is claimed to possess.

Further, despite claiming that the Beneficiary participated in developing the SAP ERP systems "from initial conceptions," the Petitioner did not identify any of the Beneficiary's claimed contributions or explain why specialized knowledge was required to develop the SAP ERP systems. And despite providing a more robust job duty breakdown, claiming that "specialty" or "advance" knowledge is required to perform each duty, the Petitioner did not support these claims with clarification about the complexities of the job duties to explain why specialized knowledge is required for their execution. In addition, the Petitioner provided an informational packet about the "SAP Hana solution," an internal planning and procedural guide for project delivery, and a list of the Beneficiary's past projects. However, the Petitioner did not identify the Beneficiary's role in developing the solution or project delivery guide or demonstrate a need for specialized knowledge in such development, nor did the Petitioner clarify how a list of the Beneficiary's past projects establishes that specialized knowledge is required to engage in and complete those projects.

On appeal, the Petitioner does not offer greater insight about the Beneficiary's knowledge and generally reiterates prior claims about the Beneficiary's "distinct and uncommon knowledge" of his employer's proprietary systems, methodologies, and SAP implementation and customer services processes, asserting that the systems and methodologies are "advanced" and that the processes for implementing solutions are "highly complex." The Petitioner does not describe the systems or processes to establish a basis for making these broad claims, nor does it explain why specialized knowledge is required to perform the Beneficiary's assigned job duties. As such, the Petitioner has not submitted sufficient evidence to establish that the Beneficiary possesses knowledge that is either special or advanced. While the Beneficiary may have knowledge that could only be gained through prior experience with the petitioning organization, this characteristic alone is not probative of his specialized knowledge. As noted in the memorandum, this characteristic is only one of various "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. Here, the Petitioner makes broad assertions about the Beneficiary's claimed specialized knowledge, but it does

not offer sufficient evidence to demonstrate that the Beneficiary possesses knowledge that rises to the specialized level.

In light of the evidentiary deficiencies described above, 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 will be dismissed.