U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF P- LLC

DATE: APR. 26, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a management consultant staffing firm for the financial services sector, seeks to temporarily employ the Beneficiary as a service delivery lead 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 L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary possesses specialized knowledge, that she has been employed abroad in a position involving specialized knowledge for at least one year, or that she will be employed in a specialized knowledge capacity in the United States.

On appeal, the Petitioner asserts that the Director's decision was not based on a review of the totality of the evidence submitted and was therefore unsubstantiated. Further, the Petitioner argues that the Director incorrectly applied the law by requiring that the Petitioner demonstrate that the Beneficiary has been performing in a specialized knowledge capacity for at least one year in the three years preceding the filing of the petition. The Petitioner maintains that the record establishes by a preponderance of the evidence that the Beneficiary is qualified for the benefit sought.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a capacity involving 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 managerial, executive, or specialized knowledge capacity. *Id.*

The relevant statutory definition states that a beneficiary is considered to be serving in a capacity involving specialized knowledge with respect to a company if the beneficiary has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B).

Specialized knowledge is also defined as 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).

An individual L-1B classification petition must be accompanied by evidence that: the beneficiary has been employed abroad in a position that was managerial, executive, or involved specialized knowledge for at least one continuous year in the three years preceding the filing of the petition; the beneficiary is coming to work in the United States in a specialized knowledge capacity for the same employer or a subsidiary or affiliate of the foreign employer, and, the beneficiary's prior education, training and employment qualifies him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. SPECIALIZED KNOWLEDGE

The Director found that the Petitioner did not establish that the Beneficiary possesses specialized knowledge, that she has been employed abroad in a position involving specialized knowledge for at least one year, or that she would be employed in the United States in a specialized knowledge capacity.

Specifically, the Director determined that the record did not establish that the Beneficiary acquired special knowledge of the Petitioner's services and methodologies or clients that is truly distinct or uncommon compared to the knowledge typically possessed by recruiters in the industry, or knowledge of the firm's processes and procedures that is advanced compared to other employees within the Petitioner's group of companies. In addition, the Director observed that the Beneficiary had less than 13 months of employment with the foreign entity. Because the Petitioner stated that the Beneficiary spent her initial 12 to 16 weeks of employment in an "intensive training program," the Director found the record did not establish that she "had been performing for a full year in a specialized knowledge capacity abroad."

As noted, the Petitioner maintains that the Director did not consider each piece of evidence submitted and did not apply the preponderance of the evidence standard. In addition, the Petitioner claims that the Director erred by requiring evidence that the Beneficiary has been *performing* in a specialized knowledge capacity for one year, as the regulations require evidence that the Beneficiary's year of foreign employment *involved* specialized knowledge; and further erred by dismissing the Beneficiary's extensive knowledge of the Petitioner's clients' inner workings as not demonstrating specialized knowledge. The Petitioner contends that the record establishes that the

Beneficiary possesses both special and advanced knowledge and that such knowledge is required for the offered U.S. position.

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 she possesses specialized knowledge, then we cannot conclude that she has been employed abroad in a position involving specialized knowledge or would be employed in the United States in a specialized knowledge capacity.

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. 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.

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.

Here, the Petitioner claims that the Beneficiary possesses both special and advanced knowledge gained during her employment with its United Kingdom subsidiary, where she had worked as a "recruitment analyst (recruiter)" for 1 year and 20 days as of the date this petition was filed.

A. Background

The Petitioner is a management consulting firm providing regulatory compliance staffing services to the global investment banking sectors. It recruits new graduates and seasoned professionals in the financial services sector and places these consultants with their clients to fulfill their specific staffing needs, often on a temporary basis. The Petitioner has offered the Beneficiary the U.S.-based position of service delivery lead, a promotion from her current position of recruiter.

As a recruiter, the Beneficiary performs recruitment, marketing, sales, and personnel management functions. The job description for the offered service delivery lead position is similar with an additional category of "customer relationship management" duties that include serving as a primary contact for clients and managing customer relationships by managing expectations and responding to client feedback. The Petitioner indicated that it expects the Beneficiary to spend 40% of her time working with [redacted] 30% of her time with [redacted] and 30% of her time on new business development and expansion of existing client relationships.

B. Special Knowledge

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 specialized.

The Petitioner's primary claim on appeal is that the Beneficiary possesses special knowledge of the company's services, research, techniques, management and other interests and its application in international markets. The Petitioner focuses on the Beneficiary's client-specific and market-specific knowledge, specifically her contacts within and experience working with this client, and her knowledge of other clients and the company's ongoing contracts in the U.K. and European banking sector.

Before addressing the claims made on appeal, we note that the Petitioner has previously maintained that the Beneficiary's knowledge is uncommon within the industry at large because the Petitioner occupies a niche within the staffing industry and the nature of its services requires an employee with specialized knowledge. The Petitioner submitted a report published by the which states that only 13% of employees hired through temporary and contract staffing arrangements work in professional or managerial positions, with financial regulatory and compliance staff occupying a smaller subset of those occupations. As such, the Petitioner stressed that the Beneficiary's job duties are tailored to the industry the Petitioner serves, and that even if the duties themselves were common, the knowledge required to perform them is not. The Petitioner pointed out that its recruiters source highly-paid professionals and that the job requires "specialized knowledge of the challenges global banks face in light of variations between regulatory regimes around the world."

However, a review of the Beneficiary's qualifications, and the credentials provided for other similarly employed workers in the company, undermines the Petitioner's claim that this industry-specific knowledge qualifies as special knowledge. When hired by the foreign entity, the Beneficiary, like her colleagues, was lacking recruiting experience and experience in the banking or financial services sector, yet the Petitioner maintains that she was able to successfully source and recruit staff in this sector essentially immediately upon being hired.

While the Petitioner claims that all of its recruitment department employees undergo 12 to 16 weeks of intensive training under the supervision of an experience recruiter, it has not sufficiently documented this training nor described it in detail. The Petitioner submitted a copy of its 16-page "Recruiter Manual" which provides a step-by-step guide to sourcing, recruiting, screening and onboarding candidates to fill client needs, but it has not stated that its employees receive any specific training in the financial services or banking sector subject matter. In fact, the record contains a self-evaluation statement indicating that the Beneficiary rated her own technical knowledge of finance/banking as "satisfactory" (a 5 on a scale of 1 to 10) at the end of her first year of

employment with the foreign entity. In addition, the Petitioner later downplayed the length of the training program, noting that the Beneficiary had "several weeks" of training, "learned very quickly and was performing tasks involving specialized knowledge within days of joining [the foreign entity]."

It may be true that knowledge of the staffing requirements of the banking and financial services sector are not widely known by professional recruiters; however, the Petitioner must also establish that the knowledge cannot be easily imparted in order to establish that it is truly distinct or uncommon. The Petitioner has not met that burden as the evidence submitted instead supports a finding that the knowledge needed to recruit professionals in this field can be quickly learned on the job by those with an aptitude for the work.

Similarly, the Petitioner has not identified any other aspects of its internal recruiting and placement processes that would require special knowledge that is somehow different from that held by those working for other staffing firms. The Petitioner has stated that someone who is already familiar with financial institution regulatory compliance would be incapable of adequately performing the service delivery lead job duties and it would require "at least a year to train to a level of minimal proficiency," since they would be "unacquainted with [the company's] clients, services or operations." The Petitioner has not attempted to reconcile this claim with its claim that the Beneficiary was fully performing most of these duties within days or weeks of joining the foreign entity despite having no prior recruiting experience or employment-based exposure to the field of financial institution regulatory compliance.

Further, based on the evidence submitted, it appears that the Petitioner's clients establish the nature and parameters for the services to be provided and choose from competing staffing firms after considering their proposals. This evidence suggests that other firms can and do provide comparable services to the same client base, and the Petitioner has not elaborated on any aspect of its recruiting methods to establish that they are different from methods generally found in the industry or that they could not be learned within a short period of time. Even if the Petitioner's methods and processes can be considered proprietary, the Petitioner must still establish that qualities of its processes or methods require its employees to have knowledge that is truly different from what is commonly found in the industry. The fact that other workers may not have the same level of experience with the petitioner's methodologies as applied to a specific client is not enough to equate to special knowledge such knowledge could be readily imparted to a similarly educated or experienced employee.

In sum, the record does not support a finding that knowledge of either the Petitioner's niche field or its internal recruiting methods constitutes special knowledge.

We now turn to the Petitioner's primary claims on appeal, in which it emphasizes that the position of service delivery lead requires the Beneficiary's knowledge of (1) current contracts under implementation; (2) the requirements of Petitioner's investment banking clients who operate in both the United States as well as in the U.K. and Europe; and (3) the Petitioner's past business history with these clients, particularly [redacted] The Petitioner asserts that the Beneficiary has

knowledge in these areas that is "distinct or uncommon" even in comparison to its own U.S.-based workers.

The Petitioner explained that none of its U.S. employees have the "knowledge and relationships" to take responsibility for the contracts, noting that its other recruiters, service delivery leads and managers are already fully engaged and not as intimately involved in the day-to-day interactions with to be able to "grasp the totality of the project."

In support of its claim that the Beneficiary possesses the required knowledge, the Petitioner emphasized that the Beneficiary has been performing "the leading project management role in connection with a major, multiyear contract we have entered with and which is now principally managed by out of its U.S. offices." The Petitioner stated that the Beneficiary has also developed knowledge of how "our services as marketed to our U.K. and European multinational investment banking clients," and further elaborated that this knowledge includes:

- The internal structure, culture and processes of [the company's] investment bank clients related to practices regarding obtaining consulting services . . .;
- The internal structure, culture, and processes of [the company's] existing U.S. clients, gained from providing services to those clients' UK branches;
- The culture and processes of investment bank personnel involved in hiring consultant services working at banks who are [the company's] current or prospective clients;
- How to effectively contact key stakeholders within investment banks, build rapport with those contacts, and turn those contacts into contracts for [the company];
- Developing consulting projects from pitch through contract, gained from experience working on projects for existing clients such as
- Negotiating contract details for [the Petitioner], especially as related to negotiations with
- Consulting needs and vendor expectations within the investment banking market, especially as it pertains to and other current and prospective clients; and
- Specific consulting contracts, especially the ongoing contracts with and other current [company] clients.

As evidence of the Beneficiary's involvement in the company's contract with the Petitioner provided copies of four proposals made to that client and several "representative Statements of Work." One of the proposals lists the Beneficiary as the presenter, while the others identify her as "US Service Delivery Lead" or "Engagement Lead." All of the proposals are dated between April and June 2016 and three of them indicate that the Beneficiary has been working with colleagues based in the Petitioner's U.S. office to place staff in the United States. In addition, the Petitioner submitted proposals prepared or presented by the Beneficiary and the Petitioner's U.S. staff for three other clients in May and June 2016, also to fulfill staffing needs in the United States.

We have observed some inconsistencies and ambiguities in this evidence. First, the proposal that the Beneficiary ostensibly presented to a representative in May 2016 ("Loan Operations | Ireland") contains an inaccurate summary biography of the Beneficiary's education and experience that raises questions regarding its credibility. This biography indicates that the Beneficiary has an "MSc International Management" from the when in fact, the Beneficiary has a bachelor's degree from a different Irish university. The presentation materials also indicate that she has three years of experience with the foreign entity (since 2013) working primarily with The Beneficiary joined the foreign entity 10 months prior to the date on this proposal.

In addition, the Petitioner submitted a promotion letter indicating that the Beneficiary held the position of recruiter up until August 1, 2016, and it is unclear why she is identified as a U.S. service delivery lead on several documents that pre-date that promotion by as much as four months. The Beneficiary's four-page self-evaluation statement prepared around that time does not suggest that she was leading a major project for or serving in the service delivery lead role prior to her promotion. The Petitioner has not resolved these inconsistencies 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). While we do not doubt that the Beneficiary has experience in providing resources for in her role as a recruiter, it is unclear to what extent she has been "performing the leading project management role" for this client.

Nevertheless, in response to the Director's request for evidence, the Petitioner placed great emphasis on the Beneficiary's knowledge of and personal contacts with noting that she stands out from other recruiters in the field because of her "in-depth knowledge of the Petitioner's relationship with It provided a supplemental table showing "how the Beneficiary's knowledge compares to the knowledge generally required from similarly employed individuals, and to the knowledge of other Recruiters and Service Delivery Leads currently working for Petitioner in their office." Although the Petitioner stresses the Beneficiary's prior experience with the client and her client contacts in the United Kingdom, most of the supporting evidence shows that she has been working with the Petitioner's U.S. staff to recruit and place consultants at U.S.-based locations in the months leading up to the filing of the petition, while one proposal involves placement of staff in Ireland. We cannot determine based on the evidence submitted that the Beneficiary has been serving as the lead project manager for the Petitioner's long-standing contract with or that she has extensive experience working with the client's U.K. and European offices.

The Petitioner stated that other employees in the office lack "intangible elements of business culture that can only be learned through immersion in the European banking sector, specifically through relationships with the banking executives responsible for hiring external consultants and contracting with staffing agencies like ours to meet temporary employment needs." The Petitioner explained that based on the rate at which it is acquiring new business it does not have "the luxury of time to send someone to Europe for immersion nor do we have any other way to transfer the knowledge we required to our office."

However, the Petitioner has also stated that the U.K. subsidiary's operations "are highly integrated into [the Petitioner's] global operations, inasmuch as our clients in [redacted] are also our clients in the United States and elsewhere in the world," with "a great deal of coordination among our offices." As noted, the submitted proposals indicate that the Beneficiary has been working with the Petitioner's and client's U.S. offices to staff U.S.-based positions despite not having any, much less a full year, of immersion in the United States banking sector. These facts tend to undermine the Petitioner's claim that a one-year assignment in Europe would be required to perform the duties of the U.S. position.

The Petitioner's president, [redacted] submitted a letter in which he emphasized the Beneficiary's knowledge of "how to effectively contact key stakeholders" and build rapport, stating: "It is one thing to make a call, it is another thing to get a person to return your call. The second step is vital and requires specialized knowledge." He explained that the Beneficiary "knows how to leverage her knowledge of the banking industry and our clients in particular to effectively reach out to new contacts" and that "she has picked it up faster than any other recruiter we have trained." [redacted] noted that the Beneficiary's knowledge extends to "the intangible inner-workings and unwritten rules of doing business followed by our UK-based clients," noting that the Beneficiary's knowledge and relationships "have been built up over time based on repeated and ongoing interactions" and "are built on mutual respect and trust going well beyond simple access to an email address o[r] phone number." He allowed that "other people have the integrity to build this knowledge and relationships," but emphasized that the Beneficiary already has this knowledge, "knows not only who to call but what to say" and "knows who to email and how to frame those emails to achieve results."

[redacted] went on to name the Beneficiary's contacts within [redacted] and [redacted] explaining that the Beneficiary "knows how these people work," "their role within their organizations," "what they do and what decisions they can make in regard to using our services," and "how to communicate with them effectively." In explaining the Beneficiary's specialized knowledge of "negotiating contract details," he explained that "learning to price labor and understand a client's appetite for external spending" is something that "cannot be easily taught, nor can it be easily learned without aptitude for interpersonal nuance in the context of corporate structure." Here, [redacted] again emphasized that the Beneficiary "has met important gate keepers and decision makers" within [redacted] business, finance and procurement divisions and "has a unique view of their business plans, strategies, hiring needs, pricing structures and project costing models."

Taken together, much of the Beneficiary's claimed specialized knowledge is based, in large part, on factors such as her interpersonal skills, communication skills, confidence in her sales skills, existing professional relationships with client contacts, and "aptitude for personal nuance." While all of these attributes undoubtedly make her well prepared for the offered sales-focused position, the Petitioner has not established that these skills amount to special knowledge of the Petitioner's services. The record shows that the Petitioner has long-standing relationships with a number of well-known clients in the international banking and financial services sector. Individual employees within the U.S. and U.K. entities may have more contact with some clients than others, but it is

reasonable to believe that any recruiter or service delivery lead representing the petitioning company, even a new hire, would reasonably be able to communicate with any given client regarding the Petitioner's services because the company is well-known to the clients. The Petitioner specifically states that the Beneficiary herself was expected to do so almost immediately upon being hired and that she quickly excelled at her duties. The Petitioner has not established how a specific recruiter's rapport with a client, or the ability to establish a rapport, qualifies as special knowledge.

With respect to the contract with the record shows that the Petitioner's relationship with this client clearly pre-dates the Beneficiary's employment with the U.K. company, and there is insufficient evidence in the record to establish that she possesses knowledge of this client beyond what is generally held in the company. Moreover, the Petitioner has not explained why knowledge of any particular client's needs is considered special knowledge, as all of the clients appear to have similar staffing needs. The Petitioner has not distinguished why the knowledge needed to recruit financial consultants for is somehow different from what is generally required to service other clients, either within the company or within the industry.

The fact that workers outside the organization do not have existing professional contacts with individual employees of its clients' organizations, does not establish that this type of knowledge is special. All employees can be said to possess unique skill sets to some degree; however, a skill set that can be easily imparted to another similarly educated and generally experienced recruiter is not "special knowledge." Again, the Petitioner must establish that the position requires this employee to have knowledge that is uncommon in the industry and knowledge that could not be readily transferred. Here, the record does not support the Petitioner's claim that the duties could only be performed by an employee with a year of immersion in the European banking sector and existing relationships with its client's U.K. and European employees.

We acknowledge the Petitioner's claim that the Beneficiary is the most efficient choice for transfer because she already possesses the required client-specific, technical, and market-specific knowledge required for the position. However, the Petitioner has not demonstrated how the Beneficiary acquired knowledge that is special within the industry based on her completion of "several weeks" of training under the supervision of a recruiter and a year of experience in a recruiting role. While it may be true that there are no employees in the United States office with the exact same knowledge the Beneficiary possesses, the record does not sufficiently support the Petitioner's claim that the knowledge is in fact significantly different from that generally held by professionals in its industry, or that it would require up to a full year or longer to acquire the knowledge needed for the position.

For the foregoing reasons, the record does not establish that the Beneficiary possesses special knowledge of the company's services and methods and their application in international markets.

C. Advanced Knowledge

We have also considered whether the evidence establishes that the Beneficiary possesses advanced knowledge. At the time of filing, the Petitioner stated that the Beneficiary has advanced knowledge based on her training in the company's "internal proprietary systems and processes, including their

internal [redacted] project management software and their methods of recruiting top talent to meet their client's consulting needs."

Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the Petitioner may meet its burden through evidence that the 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. 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 its initial letter in support of the petition, the Petitioner emphasized that the Beneficiary possesses the following:

- Expert knowledge of [the Petitioner's] internal recruitment, selection, and placement processes for matching prospective consultants with the client requiring their skills;
- Advanced knowledge of the vendor management systems used by [the Petitioner's] clients ([redacted] etc.) to solicit consultant services and review candidate resumes;
- Advanced knowledge of [redacted] [the Petitioner's] proprietary [redacted] management software;
- Advanced knowledge of [the Petitioner's] pricing practices;
- Advanced knowledge of [the Petitioner's] internal contract requirements and practices;
- Advanced knowledge of the skillsets available within [the Petitioner's] pool of prospective consultants;
- Advanced knowledge [the Petitioner's] "Future Leaders" programs, the opportunities available to the alumni of that program, and the skill sets of potential candidates coming through that program;
- Advanced knowledge of [the Petitioner's] internal procedures for negotiating terms with prospective consultants;
- Advanced knowledge of the duties of recruiters within [the Petitioner], specifically with regard to internal management, consultants, and clients; and
- Advanced knowledge of [redacted] internal training program for new recruiters.

As noted, the Petitioner stated that the Beneficiary "went through an intensive training program when she was hired" by its foreign subsidiary, noting that this initial training takes 12 to 16 weeks, and involves working "side-by-side with a senior recruiter" under intense supervision. The Petitioner noted that only 70% of its new recruiters remain at the company beyond their initial training, and that the Beneficiary, in the past year, "reached the level of expertise with our internal systems and procedures we do not usually see until an employee has been with us for two years."

In support of its claim that the Beneficiary possesses advanced knowledge of the company's methods, processes, and procedures, the Petitioner submitted a copy of its internal, 16-page "Recruiter Manual," and materials describing the vendor management systems used by its recruiters, including (used by (used by , and (used by The Petitioner did not further describe or document the nature or content of its training program or what specific training its employees receive in internal procedures related to negotiations, pricing practices, internal contract practices, or the ' software. The Petitioner later noted that the Beneficiary had "several weeks" of training, was a particularly fast learner and "was performing tasks involving specialized knowledge within days" of joining the foreign entity.

As discussed above, we found that the Petitioner did not submit sufficient evidence to establish that knowledge of its internal practices and procedures constitute special knowledge that could not be easily imparted to another individual in the Petitioner's industry. Likewise, we find insufficient evidence to demonstrate that the Beneficiary has acquired advanced knowledge of the company's processes and procedures during her one year period of employment with the foreign entity. While the Petitioner maintains that she excels in her role as a recruiter, it has not provided relevant information that would allow us to compare her knowledge to that of other employees within the organization, who reasonably would have received the same training upon joining the company.

The Petitioner submitted copies of résumés for similarly employed workers based in its office. A résumé for a service delivery lead shows that he, like the Beneficiary, received his bachelor's degree in 2015, was hired by the Petitioner in July 2015 as a recruiter, and was promoted to the service delivery lead position in August 2016. Another service delivery lead, hired in September 2015, joined the petitioning company in that position, having received her bachelor's degree in 2014 and with approximately one year of post-university experience with unrelated employers. A lead recruiter's résumé shows that she was hired straight out of college as a recruitment intern and was promoted annually to the positions of recruiter and then senior recruiter before assuming her current position. There is no information provided in the résumés that would give us insight into the extent of the employees' relative knowledge of company policies and practices. The Beneficiary, who received a promotion to service delivery lead approximately one year after being hired as a recruiter, appears to be on a typical career trajectory within the company and the evidence does not support a finding that she has acquired advanced knowledge in comparison to her colleagues.

Finally, we acknowledge the Petitioner's claim that the Beneficiary possesses characteristics of a specialized knowledge employee consistent with the USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), https://www.uscis.gov/laws/policy-memoranda. Specifically, the Petitioner emphasizes that it expects the Beneficiary to generate revenue in excess of $11.4 million in just her first 12 months based on her assignment to work with and other existing and new clients. However, for the reasons discussed, the Petitioner has not submitted sufficient evidence to establish that the Beneficiary possesses knowledge that is either special or advanced. While the Beneficiary may be filling a role beneficial to the Petitioner's competitiveness in the marketplace, this characteristic alone is not probative of her

specialized knowledge. As noted in the memorandum, the "characteristics" listed by the Petitioner are only "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.

It is clear that the Petitioner considers the Beneficiary to be a valuable and highly productive employee who excels at her position, but it has not sufficiently shown that her knowledge of company processes and procedures is advanced compared to other similarly employed-workers performing recruiting or service delivery lead duties, or that she possesses special knowledge that is different from what is generally held in the Petitioner's industry.

Because the Petitioner has not demonstrated that the Beneficiary possesses special or advanced knowledge, we need not address whether the Beneficiary will be employed in the United States in a specialized knowledge capacity.

D. Foreign Employment

The remaining issue is whether the Petitioner established that the Beneficiary has been employed abroad in a position involving specialized knowledge for at least one year in the three years preceding the filing of the petition.

For the reasons discussed, the Petitioner has not established that the Beneficiary acquired specialized knowledge during her period of employment abroad and therefore cannot meet this requirement. However, we will address the Petitioner's claim that the Director erred by requiring that the Beneficiary had a full year of continuous employment during which she was "performing in a specialized knowledge capacity." The Director focused on the Petitioners claim that the Beneficiary underwent 12 to 16 weeks of intensive training upon being hired and determined that this training period could not count towards her one year of specialized knowledge employment.

The Petitioner states that the Beneficiary received "on the job" training under supervision, during which time she was performing the duties of a recruiter while acquiring and using the claimed specialized knowledge. As noted, the Petitioner's training program is not well explained or documented in the record. The record tends to support the Petitioner's claim that any training the Beneficiary received more likely than not occurred on-the-job. For example, as a recruiter, the Beneficiary was required to review a minimum number of résumés each week, and the Petitioner submitted a log showing that the Beneficiary was meeting this minimum from her second week on the job. We agree with the Petitioner's suggestion that training that occurs on the job, in conjunction with a beneficiary's regular duties can be counted towards the one year of foreign employment requirement where the position otherwise involves specialized knowledge. However, we cannot conclude that the Beneficiary's recruiter position involved specialized knowledge. Therefore, while we disagree, in part with the Director's reasoning, we find that the Petitioner did not establish that the Beneficiary's one year of foreign employment involved the required specialized knowledge.

III. CONCLUSION

The appeal will be dismissed because the Petitioner has not established that the Beneficiary possesses specialized knowledge.

ORDER: The appeal is dismissed.

Cite as *Matter of P- LLC*, ID# 257371 (AAO Apr. 26, 2017)