U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36077307

Date: FEB. 20, 2025

Appeal of California Service Center Decision

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

The Petitioner, a provider of turnkey industrial automation solutions, seeks to temporarily employ the Beneficiary as a controls engineer 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 employee with "specialized knowledge" to work temporarily in the United States.

The Director of the California Service Center denied the petition, concluding the record did not establish that the Beneficiary possesses specialized knowledge, that he was employed abroad in capacity that was managerial, executive, or involved specialized knowledge, and that he will be employed in a specialized knowledge capacity in the United States. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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.

I. LAW

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 their 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 them to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3)(iv).

Under the statute, a beneficiary is considered to have specialized knowledge if they have: (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 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).

II. BACKGROUND

The record reflects that the Petitioner is an affiliate of the Beneficiary's foreign employer, a Mexican company incorporated in 2021. The Petitioner states that it is "[s]pecialize[d] in the design, manufacturing and selling of turnkey automation [applications]."

The Petitioner indicated on the Form I-129, Petition for a Nonimmigrant Worker, that its Mexican affiliate has employed the Beneficiary as a controls engineer since June 2022.[1] The Petitioner states the Beneficiary has been responsible for: troubleshooting proprietary industrial automation issues, performing root cause analysis and determining resolutions; analyzing, modeling and optimizing production performance using the company's proprietary New Automation Development; performing upgrades for existing equipment and deploying critical and high severity hot patches; training personnel on new product features and configuration options; documenting new feature requests; working with product management and engineering teams to design, develop, and deliver new features and product versions; and engineering and installing custom Electrical Control Panels, SCADA System Panels, HMI Panels MMI Boxes, Power Distribution, and ASRS Connectivity. The Petitioner indicates the Beneficiary will perform similar duties as a controls engineer in the United States.

The record reflects that the Beneficiary completed a bachelor's degree in mechatronics engineering at a Mexican university in June 2022.

III. SPECIALIZED KNOWLEDGE

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 the Petitioner cannot meet its burden to demonstrate that the Beneficiary's current foreign employment and proposed U.S. employment involve specialized knowledge.[2]

[1] In its initial supporting letter, the Petitioner stated that the Beneficiary joined the foreign entity in February 2022. On appeal, the Petitioner asserts that its affiliate initially hired the Beneficiary as a "trainee controls engineer" in February 2022 and submits an amended Form I-129 L Classification Supplement indicating his employment with the foreign entity since this date. The initial evidence included the Beneficiary's foreign payroll records, which indicate that he commenced employment with the Petitioner's Mexican affiliate as a controls engineer in the fabrication department on June 11, 2022. The Petitioner has not provided objective evidence to corroborate the earlier claimed start date in February 2022.

[2] The Petitioner does not claim that the Beneficiary has been employed abroad in an executive or managerial capacity.

The Director concluded that the Petitioner did not demonstrate, by a preponderance of the evidence, that the knowledge required to perform the duties of a controls engineer within its group of companies is distinct or uncommon from the knowledge possessed by similarly employed workers in the same industry, or that such knowledge otherwise equates to specialized knowledge. In reaching this conclusion, the Director emphasized that the Petitioner did not specifically compare the Beneficiary's knowledge, training, and experience with that of other company employees and other individuals working in the field and therefore did not meet its burden to establish that he has obtained knowledge that is either "advanced" or "special." The Director also determined that the Petitioner did not demonstrate the minimum amount of training and experience needed to acquire the claimed specialized knowledge.

On appeal, the Petitioner asserts that the Director misapplied the statutory and regulatory definitions of "specialized knowledge" and did not apply the preponderance of the evidence standard. It emphasizes its need for the Beneficiary's "proprietary and specialized knowledge" in the United States and maintains that he is one of few company employees in his position who possesses an advanced level of knowledge. The Petitioner submits a brief and copies of previously submitted evidence in support of the appeal.

For the reasons discussed below, we conclude that the Petitioner has not met its burden to demonstrate that the Beneficiary possesses specialized knowledge.

A. Evaluating Specialized Knowledge

Because both "special" and "advanced" are relative terms, evaluating whether a given L-1B beneficiary possesses "specialized knowledge" as defined in the statute and regulations inherently requires a comparison of the beneficiary's knowledge to that possessed by others. *See generally*, 2 *USCIS Policy Manual* L.4(B)(1), https://www.uscis.gov/policy-manual. With respect to either special or advanced knowledge, a petitioner ordinarily must demonstrate that the beneficiary's knowledge is not commonly held throughout the industry and cannot be readily imparted from one person to another. The ultimate question is whether the petitioner has met its burden to demonstrate by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that their position requires such knowledge.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge. We cannot make a factual determination regarding a 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 acquire specialized knowledge within the organization and demonstrate how and when the individual beneficiary gained such knowledge.

Here, the Petitioner asserted that "the Beneficiary's special knowledge is exclusive to the company and the Beneficiary is one of the key employees within the organization that has acquired this special knowledge." It further claimed that "the special knowledge required to perform the duties of the proffered position cannot be performed by others within Petitioner's organization or by others within

the field or industry." Therefore, the Petitioner contends that the Beneficiary possesses both special and advanced knowledge.

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 held by other similarly employed workers in the same industry.

In its initial supporting letter, the Petitioner stated that the Beneficiary has "special knowledge of the company's proprietary advanced programming for streamlined industrial automation." In describing the Beneficiary's claimed special knowledge, the Petitioner provided a list of technologies, processes and solutions that included "Complete Logic Rewrite," "Manufacturing Controls Support," "Payload and Cycle Calculations," "Robot Path Planning and Robotic Deposition Manufacturing," "Industry 4.0," "Robotics Simulation," "MES & Integration," and "specialized processes for crafting electrical control panels for optimal operation." However, the Petitioner has offered no further explanation of this purported special knowledge and did not include supporting evidence describing the company, its products, technologies and services, or the proprietary nature of the claimed specialized knowledge and how it is differentiated within the industry.

As noted, we cannot make a factual determination regarding a 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. While a beneficiary's knowledge need not be proprietary or unique in order to be deemed specialized knowledge, the Petitioner specifically claimed that the proprietary nature of the knowledge is what differentiates it from that commonly found among other engineers in its industry who perform similar work. However, the Petitioner's generalized assertion that "[t]he majority of the technology that [the Beneficiary] will be using is proprietary to the company and therefore it is distinct and uncommon in comparison to that generally found in the controls engineering industry" is insufficient to meet its evidentiary burden. The lack of evidence in the record regarding the Petitioner's claimed proprietary technologies, solutions and processes hinders our ability to evaluate its claim that the Beneficiary's claimed proprietary knowledge qualifies as "specialized knowledge."

In evaluating whether a beneficiary possesses special knowledge, we also look for evidence that they possess knowledge of the company's products, services, research, equipment, techniques, or other interests that cannot be easily transferred or readily taught to another person with a similar background because it requires, for example, substantial training or work experience. The Petitioner's initial supporting letter indicated that the "minimum requirements to obtain special knowledge" include a four-year college degree in mechatronics or mechanical engineering, company training, and "at least one year of experience" working for the company in roles that include "customer deployment, support projects or engineering." The letter also includes a reference to "on-the-job training" undertaken by the Beneficiary. However, the Petitioner did not specify or explain when or how the Beneficiary acquired his claimed specialized knowledge, stating only that he "gained specialized knowledge" of the company's products and services through "his two year tenure" with its Mexican affiliate.

In a request for evidence (RFE), the Director observed that the Petitioner did not adequately explain how the Beneficiary's purported special knowledge could typically be gained within the organization, either through training, work experience or some combination of both, and emphasized that it did not document the Beneficiary's completion of any in-house training. Further, the Director noted that the Petitioner did not provide an explanation or evidence that would allow for a comparison between the Beneficiary's knowledge and that possessed by other similarly employed workers within the same industry.

The Petitioner submitted two additional letters in response to the RFE, but did not provide any other supplemental evidence. One letter was intended to address the Beneficiary's acquisition of the claimed specialized knowledge. Specifically, the Petitioner stated that he initially acquired company-specific knowledge at the Mexican affiliate's facility between July 2022 and December 2022, explaining as follows:

> [H]e gained knowledge from many different aspects applied throughout the automation industry. This includes but is not limited to electrical panel design created from a bill of materials, electrical panel design fabrication and wiring, programming devices in and attached to designed electrical panel including PLC's, Servo Drives, HMI's Programmable Safety Relays, and IPCs with proprietary code specific to [the company] written in an array of programming languages to control custom AGV's or AMR's.

The Petitioner also highlighted the Beneficiary's "complimentary knowledge from multiple disciplines including electrical design, mechanical design, electrical wiring, mechanical building as well as a deep understanding of computer programming in languages such as C#, C++, Python, and Java." The Petitioner maintains that this complimentary knowledge, combined with the Beneficiary's "deep knowledge" of the company's AGV/AMR positioning systems and related mathematical models makes him "an irreplaceable engineer in his position." The Petitioner stated it would take "no less than 2.5-3 years" to "fully train an engineer and transfer the knowledge" the Beneficiary possesses.

The Petitioner's response to the RFE did not clarify how or when the Beneficiary acquired his claimed specialized knowledge or how such knowledge could typically be gained within the organization. Rather, the Petitioner's statements regarding the amount and type of training and experience required to acquire the claimed specialized knowledge are inconsistent. As noted, the Petitioner initially stated that an individual could acquire specialized knowledge through completion of a relevant engineering degree, an unspecified amount of company training, and one year of work experience. In response to the RFE, the Petitioner indicated that the Beneficiary gained his company-specific knowledge at its affiliate's Mexican facility between July and December 2022, before being assigned to provide engineering solutions to clients. However, the Petitioner did not describe the nature, scope, or length of this claimed in-house training or document what specific training the Beneficiary has completed during his tenure with its foreign affiliate.

Finally, the Petitioner alternately claimed that it would take up to three years to transfer the knowledge the Beneficiary possesses to another engineer, a claim that is not persuasive based on the facts presented. As noted, the record shows that the Beneficiary himself had only 23 months of experience as a controls engineer with the Petitioner's affiliate at the time of filing in May 2024. In addition, this claim that it would take three years to transfer the Beneficiary's knowledge to another engineer is

contrary to the Petitioner's initial statement that the "minimum requirements to obtain special knowledge" include a four-year college degree in mechatronics or mechanical engineering and "at least one year of experience" working with the company.

It is the Petitioner's burden to describe how an employee can acquire specialized knowledge within the organization and demonstrate how and when the Beneficiary gained such knowledge. Based on the varying claims addressed above, none of which are adequately supported by objective evidence, the Petitioner has not met this burden. We do not doubt that the Beneficiary has acquired company-specific knowledge that compliments his university studies and the mechanical and electrical engineering design and programming skills he acquired there. Nor do we question that the Beneficiary is likely well-qualified to perform the intended duties in the United States. However, the Petitioner has not provided sufficient explanation or evidence to demonstrate that the knowledge he possesses is truly distinct or uncommon compared to that held other similarly educated and employed engineers throughout its industry. Nor has the Petitioner established that the Beneficiary's knowledge, due to its complexity or the amount of company-specific training required, could not be readily imparted to another engineer with a similar educational background and prior industry experience.

Based on the foregoing discussion, we conclude that there are unresolved ambiguities in the record regarding the nature, scope and length of training provided to the petitioning organization's controls engineers. As such, the evidence of record does not sufficiently establish how long it would take an individual who meets the company's hiring criteria to acquire the knowledge needed to perform the duties of the position. Further, the record lacks information and documentation regarding the amount, type and nature of any specific training completed by the Beneficiary. Finally, while completion of company-specific training may support a claim of specialized knowledge, the Petitioner must still establish that the training conveyed knowledge that is distinct from what is commonly held in the industry and knowledge that could not be readily imparted to similarly qualified employees from outside the company. Here, the Petitioner has not provided sufficient evidence in support of its claim that it has developed proprietary technologies, solutions and processes that differentiate it from other companies providing similar services, such that the proprietary knowledge possessed by its employees could be deemed specialized knowledge.

Due to these deficiencies, we cannot make any meaningful comparison between the Beneficiary's knowledge and the knowledge held by other similarly employed workers in the industry and cannot conclude that the knowledge the Beneficiary possesses of the company products and services is "special knowledge." Merely stating that a beneficiary's knowledge is somehow different from others does not, in and of itself, establish that he or she possesses specialized knowledge. As emphasized above, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge.

C. Advanced Knowledge

For similar reasons, the Petitioner has not demonstrated, by a preponderance of the evidence, that the Beneficiary possesses advanced knowledge.

With respect to "advanced knowledge," 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.

The Petitioner stated in its initial letter that the Beneficiary "has advanced knowledge of the company's processes and procedures" that is "greatly developed and further along in complexity and understanding than generally found within our company." It further indicated that he holds "advanced knowledge of the company's automation and robotics services, support procedures and escalation rules of engagement" and that he acquired such knowledge based on his "on-the-job training, skills, and experience." The Petitioner emphasized that other "individuals within the company do not have this advanced knowledge and expertise of these processes and procedures." It further stated:

> The Beneficiary's on-the-job training, skills and experience includes additional knowledge with respect to the company's configurations, design and troubleshooting techniques, that is far greater than the baseline training provided to others within the company. Through this training and specialization, the Beneficiary has become the most qualified Controls Engineer in [the company's] proprietary techniques. Furthermore, as part of the team, the Beneficiary is also able to provide training and guidance/direction to others with respect to the technology.

The Petitioner also described the Beneficiary as a "key employee" whose "career has advanced more quickly through increasingly more responsible engagement[s]."

In the RFE, the Director advised the Petitioner that its initial evidence did not sufficiently demonstrate how the Beneficiary's duties abroad contrasted with those of other controls engineers or other similarly employed staff working in the same project, team, department or division within the Petitioner's organization. The Director observed that the Petitioner would need to provide additional explanation and evidence in support of its claim that the Beneficiary's knowledge is advanced in comparison to the knowledge held by others within the company.

A letter from the Petitioner's Mexican affiliate, submitted in response to the RFE, emphasized that the Beneficiary's role as a controls engineer is "a specialized position within the company." The letter provided additional insight into the nature of some of the Beneficiary's duties, but does not compare his duties, or the knowledge required to perform such duties, to that of other engineering staff within the Mexican company or the Petitioner's broader organization.

The other letter submitted response to the RFE emphasized that the Beneficiary has used his company-specific knowledge to implement automated engineering solutions for clients "across industries such as automotive, food and beverage and agriculture," explaining:

> Each one of the aforementioned aspects are specialized in their own right and are at most types performed by an individual engineer of [the Mexican affiliate] but [the Beneficiary] does them all, which sets him apart from his peers. Along with this, he has been instrumental in applying new mathematical techniques to our proprietary AGV/AMR control code to smooth out movements performed by the AGV/AMR. This is a skill and knowledge specific to [the Beneficiary].

The Petitioner further explained that the "new mathematical techniques" were "acquired and developed during his college studies" and leveraged in performing his duties as a controls engineer, stating that these "innovations have enhanced our engineering capabilities, particularly in AGV/AMR path planning and movement trajectory."

While the Petitioner reiterates these statements on appeal, the record does not contain sufficient evidence to support its claim that the Beneficiary possesses advanced knowledge of the company's processes and procedures in comparison to other similarly employed workers within the organization.

Although requested by the Director, the Petitioner did not provide information and evidence that would allow a comparison between the Beneficiary and others working in similar positions within the organization in terms of their duties, internal training, experience, and any advanced knowledge. Evidence must support the Petitioner's claim that the Beneficiary's knowledge is apart from the basic knowledge possessed by others in the petitioning organization and the relevant industry. Merely stating that a beneficiary's knowledge is greatly developed does not, in and of itself, establish that he possesses advanced knowledge.

We acknowledge the Petitioner's claim that the Beneficiary is "the most qualified Controls Engineer in [the company's] proprietary techniques" related to the company's "automation and robotics services, support procedures and escalation rules of engagement." The Petitioner also asserted that the Beneficiary's on-the-job training and experience included "additional knowledge with respect to the company's configurations, design and troubleshooting techniques, that is far greater than the baseline training provided to others within the company" and that his career "has advanced more quickly." Finally, we acknowledge the Petitioner's claim that the Beneficiary has the singular ability to program autonomous mobile robots and guided vehicles using mathematical and coding skills he acquired during his university studies.

However, the Petitioner did not provide evidentiary support for these assertions by submitting the requested information regarding other staff employed within the organization, their job duties, the relative types and amount of training they received, or their job-related assignments. Advanced knowledge need not be narrowly held within the organization. But in this case, the Petitioner has not claimed that all of its controls engineers possess advanced knowledge. Rather, it distinguishes the Beneficiary as having a combination of education, training, and experience that resulted in his possession of advanced knowledge relative to his peers yet declines to offer the types of evidence that would support this comparison. Again, the Petitioner cannot established eligibility based on a generalized claim that the Beneficiary's knowledge is advanced.

As noted, the record does not document or explain with specificity the company's in-house training program, the Beneficiary's completion of specific in-house training, his claimed on-the-job training, the specific projects or assignments he has worked on to date, or his purported quick advancement through the company in terms of his assigned responsibilities. Nor does the record contain evidence or information that would allow us to compare his knowledge or expertise to that of other engineering staff within the Petitioner's organization. Although the Petitioner highlights the knowledge and mathematical skills the Beneficiary developed by completing a degree in mechatronics engineering, the record indicates that this degree is the company's standard minimum educational requirement for his position.

The evidence is therefore insufficient to support the Petitioner's claim that the Beneficiary's expertise in the organization's processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the organization. While the Beneficiary's knowledge of certain internal procedures may be advanced compared to a new hire, the Petitioner must still show that he possesses advanced knowledge in comparison to similarly employed workers within the foreign entity and that the knowledge he possesses could not be readily transferred to another employee with a similar technical skill set. The Petitioner did not provide the information needed to make such a comparison and has not established that the Beneficiary possesses advanced knowledge.

IV. CONCLUSION

For the reasons discussed, the Petitioner has not established that the Beneficiary possesses specialized knowledge. As this issue is dispositive of the Petitioner's appeal, we need not further address whether he has been employed abroad in a position involving specialized knowledge or would be employed in the United States in a specialized knowledge capacity. We therefore reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.