



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

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

In Re: 21128509

Date: DEC. 19, 2022

Appeal of California Service Center Decision

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

The Petitioner, a passenger vehicle manufacturer, seeks to temporarily employ the Beneficiary as a cross architecture systems lead in the United States under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition, concluding the Petitioner did not establish that: 1) the Beneficiary is qualified to perform the duties of the intended position in the United States, and 2) the proposed U.S. position would involve specialized knowledge.

On appeal, the Petitioner points to the Beneficiary's salary and contends that it is larger compared to other similarly placed individuals in the profession and reflects the importance of his role. The Petitioner contends that the Beneficiary was responsible for contributions of major operational significance and training highly experienced colleagues. The Petitioner also emphasizes company awards and recognition the Beneficiary has received and asserted that he holds specialized knowledge that can only be obtained while working for the company.

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

## **I. LEGAL FRAMEWORK**

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 his or her 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 him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

## II. BACKGROUND

The Petitioner indicated that it and the foreign employer, and its affiliated companies around the world, operate numerous large-scale vehicle assembly plants, component manufacturing facilities, and sophisticated research and development laboratories related to the manufacture of brand name passenger vehicles. The Petitioner stated that the Beneficiary holds “unique ability to validate and release propulsion system technical specifications and ensure passenger vehicle engines, automatic transmissions, and engine control modules meet regional and...country emissions requirements.” The Petitioner explained that the Beneficiary previously worked for the foreign employer in a managerial capacity, beginning in 2008, where he was “responsible for all aspects of management, direction, and control of Propulsion Systems Execution” overseeing approximately 13 subordinates and tasked with leading and setting the timing of “development plans for all new and next generation [company] propulsion systems in Indian and export markets.”

The Petitioner indicated that the Beneficiary’s position in the United States bears core technical similarities to his prior managerial role abroad, noting he is tasked with defining and participating “in the approval of initiatives by senior leadership in [company] Global Propulsion Vehicle Strategy (GPVS) and Vehicle Execution (VPE) decision making forums.” The Petitioner stated that the Beneficiary would “continue to drive and ensure that propulsion system technical specifications (P-STTS), engine subsystem technical specifications (SSTS), transmission SSTS, and electrification SSTS are deployed...as part of [the company’s] overall corporate initiative to centrally consolidate all product development requirements.” The Petitioner explained that the Beneficiary coordinates with program management and finance teams to develop technical solutions and financial impacts; and that he develops solutions and recommendations for senior leadership. The Petitioner emphasized that the Beneficiary is considered by his colleagues as an expert in “the engineering and integration of innovative, next-generation [company] vehicle propulsion system architectures.” It further pointed to his nearly 13 years of experience with the company, and his receipt of a [redacted] award for outstanding technology contribution to the successful launch of the [redacted] in 2009 while he was employed abroad.

Later in response to the Director’s request for evidence (RFE), the Petitioner further elaborated on the Beneficiary’s knowledge, stating that his role was unique and that its very creation was “a product of [the company’s] Operational Excellence...methodology, to improve the efficiency and effectiveness of complex propulsion system across carline and cross architectural [redacted] with significant impact.” The Petitioner indicated that the company created the [redacted] as an “internal [company] comprehensive and highly complex study process to identify, define, and create technical solutions and product change content to vehicle systems due to complex and uncertain regulatory changes.” The Petitioner explained that the Beneficiary, in his role in the United States as a nonimmigrant, developed an internal company process document from January to June 2021 “as a comprehensive overview of the internal [company] [redacted] process.”

The Petitioner then provided details regarding nine [redacted] the Beneficiary led, including the [redacted] emissions, [redacted] emissions, [redacted] emissions, purge pump removal corporate cost reduction,

and powertrain thermal cooling optimization taskforce [redacted] The Petitioner stated that the Beneficiary trained professional colleagues and pointed to a “Powertrain and Electrification [redacted] [redacted] Process Flow Chart” he created to the purpose of training “professional engineering leaders and subject matter experts in responsibilities of each function of the [company] [redacted] process.” The Petitioner indicated that the Beneficiary, as a subject matter expert in the company’s [redacted] process, trained managers with 15-25 years of experience, including a senior manager, an engineering group manager, a propulsion planning manager, a program manager, and a global vehicle system engineering manager.

The Petitioner further compared the Beneficiary to his colleagues, noting that his role as an architecture propulsion systems lead was “unique,” and that the closest comparable colleagues are its propulsion system executing vehicle system engineers (VSEs). The Petitioner submitted a “Skills Comparison Matrix” comparing the Beneficiary’s skills and experience to the VSEs and asserted that his knowledge “far surpasses that the his [company] VSE colleagues in highly complex, technical skillsets, processes, tools, such as advanced propulsion systems integration, propulsion systems aftertreatment technologies, emissions evaluation test procedures, engine calibration, and propulsion system product content optimization for fuel economy targets, as well as internal [company] regulatory compliance operations.” The Petitioner further stated that the Beneficiary’s skill level and expertise in the company’s specific propulsion system architecture engineering processes, and practices, and procedures is “greater than that which is normally found in the [company] organization.” The Petitioner submitted several printouts of company recognitions the Beneficiary received for his work on projects from his colleagues and other senior managers. Lastly, the Petitioner emphasized what it asserted was the Beneficiary’s high compensation according to U.S. Department of Labor (DOL) salary statistics for the region where he will work in the United States, noting that he would be paid more the highest Level IV<sup>1</sup> wage for mechanical engineers.

### III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he would be employed in a specialized knowledge capacity. As a threshold matter, if the Beneficiary does not possess specialized knowledge, then his position in the United States would not involve specialized knowledge as necessary to qualify him.

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, 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, or both prongs, of the statutory definition of specialized knowledge. Specialized knowledge is also defined 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

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<sup>1</sup> The “Prevailing Wage Determination Policy Guidance” issued by the DOL provides a description of the wage levels. DOL’s wage-level guidance specifies that a Level IV designation is reserved for positions involving competent employees using advanced skills and diversified knowledge to solve unusual or complex problems. U.S. Dep’t of Labor, Emp’t & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at [http://fledatacenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](http://fledatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf).

level of knowledge or expertise in the organization's processes and procedures. 8 C.F.R. § 214.2(l)(1)(ii)(D).

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 an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

#### A. Advanced Knowledge

We will first discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge is "advanced." 8 C.F.R. § 214.2(l)(1)(ii)(D). On appeal, the Petitioner again emphasizes the Beneficiary's nearly 13 years of progressive experience with the company, his high remuneration, the awards and recognitions he has received for his work within the company, and asserts that he "possesses a level of knowledge of [the company's] complex international vehicle powertrain engineering processes and products that is superior to his similarly situated [company] colleagues."

Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. 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. Also, 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. *See generally 2 USCIS Policy Manual L.4, <https://www.uscis.gov/policymanual>.*

First, the Petitioner has not sufficiently clarified the nature of the Beneficiary's advanced knowledge within the company. For instance, in support of the petition, the Petitioner emphasized the Beneficiary's "unique ability to validate propulsion system technical specifications and ensure that passenger vehicle engines, automatic transmissions, and engine control modules meet regional and per-country emissions requirements." However, later in response to the RFE, the Petitioner pointed more to the Beneficiary's knowledge of the company's [redacted] process and his drafting of an internal process document, specifically the "Powertrain and Electrification [redacted] Request Process Flow Chart." The Petitioner further emphasized his work on several [redacted] projects involving emissions, "purge pump removal cost reduction," and "powertrain thermal cooling optimization." In addition, the Petitioner stated that the Beneficiary's skill level and expertise in the company's "propulsion system architecture engineering processes, practices, and procedures are greater than that which is normally found in the company." Now, on appeal, the Petitioner indicates that the Beneficiary "possesses a level of knowledge of [the company's] complex international vehicle

powertrain engineering processes and products that is superior to his similarly situated [company] colleagues.”

The Petitioner sets forth a wide array of knowledge for the Beneficiary, from propulsion systems, foreign country emissions requirements, a powertrain and electrification flow chart, the process of utilizing company [redacted] and now on appeal “complex international vehicle powertrain engineering processes and products.” Therefore, it is not sufficiently clear within what area the Beneficiary’s advanced knowledge lies when compared to his similarly placed colleagues; namely, whether it is in propulsion system architecture, powertrains, emissions, the [redacted] process itself, or a combination of this knowledge. Further, the Petitioner has not sufficiently articulated how the Beneficiary gained knowledge of these various technical and process concepts greatly developed in comparison to that of his colleagues, other than by vaguely pointing to his 13 years of experience and asserting that he trained several other senior managers. However, the Petitioner provided little supporting documentation to substantiate the Beneficiary’s provision of training to other senior managers.

Further, the Petitioner indicated that this training reflected the Beneficiary’s “knowledge and acumen and status as a subject matter expert in the [company] [redacted] Process.” Again, this statement suggests that the Beneficiary’s advanced knowledge is based in the [redacted] process itself and its application in creating technical solutions, rather than specific technical subject matter as asserted elsewhere, such as propulsion systems, emissions, emissions requirements, powertrains, electrification, or other specific technical aspects related to passenger vehicles. Similarly, the Petitioner emphasized the Beneficiary drafting an internal company process document from January to June 2021 “as a comprehensive overview of the internal [company] [redacted] process and a “Powertrain and Electrification [redacted] Process Flow Chart,” but it does not sufficiently explain the impact of these documents nor how they demonstrate the Beneficiary’s advanced knowledge in comparison to his colleagues. The Petitioner also emphasized several times on the record that the Beneficiary received the [redacted] in 2009 while employed with the foreign employer. However, this award was related to “creating an important technical solution that enabled the timely launch of the [redacted] sedan program.” Although we do not doubt that this award is likely a prestigious honor within the company, it is not clear how this reflects his greater level of knowledge in propulsion systems, emissions, emissions requirements, powertrains, electrification, [redacted] or other specific technical aspects related to passenger vehicles. Again, it is difficult to make a factual determination regarding a given beneficiary’s specialized knowledge if the petitioner does not, at a minimum, articulate with specificity, and in layman’s terms, the actual nature of the beneficiary’s knowledge.

The Petitioner also did not sufficiently establish how the Beneficiary’s knowledge is greatly developed as compared to similarly placed colleagues within the organization by providing probative comparisons of his knowledge against that of his colleagues. Determining whether knowledge is “advanced” inherently requires a comparison of the beneficiary’s knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. *Id.* However, the Petitioner provided little specific comparisons of the Beneficiary’s knowledge and experience against that of his colleagues within the greater organization. For instance, the Petitioner points to the Beneficiary’s 13 years of experience, but it provides no indication as to how this compares to his colleagues. The Petitioner did submit a comparative analysis chart providing a generic comparison of the Beneficiary’s

knowledge against that of other “Propulsion System Executing Vehicle Engineers (VSEs),” but this document does not credibly differentiate him from his colleagues. For example, the Petitioner indicates that the Beneficiary’s position, cross architecture propulsion systems lead, is “unique,” but it does not articulate how many other such employees exist within its greater organization or how his experience, training, and education compares to these employees. The Petitioner did not provide the experience, education, duties, training, salaries, or other probative specifics about the Beneficiary’s colleagues or other VSEs within the organization, including the members of his immediate department, to credibly differentiate his knowledge and experience.

To illustrate, the Petitioner points to the Beneficiary’s claimed high remuneration, but it provides no salaries for his similarly placed colleagues to set him apart. Likewise, the Petitioner emphasizes the Beneficiary’s receipt of the [REDACTED] award and recognition he received for his work on several projects. However, again, it is not clear how the Beneficiary awards and recognition demonstrate that his knowledge is greatly developed in comparison to his colleagues. In fact, the Petitioner stated that the [REDACTED] award is given to the top one percent of foreign employer employees, “or [to] around 30 of the organization’s approximately 3,000 employees” on an annual basis. This suggests that the award has been given to over 300 individuals just within the Beneficiary’s former foreign employer since he received this award, and this represents only one [REDACTED] affiliate amongst likely numerous others within the company’s large multinational organization. The Petitioner provides two “spontaneous recognition awards” the Beneficiary received in 2009 and 2011 while working for the foreign employer but provides little explanation as to how this differentiates him from his similarly placed colleagues within the company. The Petitioner also submitted several printouts from its internal system showing the Beneficiary’s colleagues praising his work on several different projects. However, again, there is little indication how this demonstrates that the Beneficiary’s knowledge is greatly developed in comparison to the colleagues, including those giving him recognition, or indeed, his colleagues on his teams which also received the same recognition in several of the provided printouts.

The lack of specific comparisons between the Beneficiary and his similarly placed colleagues is noteworthy since the record indicates that there are numerous others within the greater organization who likely have extensive knowledge of the company’s products and processes. For instance, the Petitioner stated that it employs 164,000 individuals worldwide and over 85,000 in the United States alone. Therefore, without specific comparisons of the Beneficiary against even those in his own department, it is reasonable to conclude that there are likely many others within the company’s greater organization with high levels of knowledge of its propulsion systems, emissions, emissions requirements, powertrains, electrification, mega studies, or other specific technical aspects related to passenger vehicles.

Although the Beneficiary’s experience appears noteworthy, it is difficult to discern whether it is greatly set apart from his colleagues as the Petitioner provides little specific information or evidence related to the experience and education of his colleagues. We have little doubt that the Beneficiary is likely a valuable employee, but the Petitioner has not met the regulatory requirement of demonstrating with documentary evidence that the Beneficiary’s knowledge of the organization’s processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer’s operations. For the foregoing reasons, the Petitioner did not establish that the Beneficiary possesses advanced knowledge.

## B. Special Knowledge

We will next discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge is "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

Determining whether a beneficiary has "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. 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 special knowledge. *See generally 2 USCIS Policy Manual L.4*, <https://www.uscis.gov/policymanual>.

The Petitioner asserts on appeal that the Beneficiary's knowledge is distinct and uncommon in comparison to the knowledge of other similarly employed workers in the industry. Upon review, the Petitioner has not established that the Beneficiary's knowledge is special as defined by the regulations. First, as we discussed at length in the previous section, the Petitioner does not clearly describe the Beneficiary's knowledge in easily understandable terms, but submits a array of technical aspects, processes, and projects that he has worked on over the last 13 years. The Petitioner emphasizes the Beneficiary's awards and recognition but does not sufficiently explain how this reflects knowledge that is distinct or uncommon within the industry. Likewise, the Petitioner emphasized training the Beneficiary provided to other senior managers but did not corroborate this provision of training through supporting documentation. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

Even if we accept that the Petitioner holds knowledge of specific proprietary products, methods, and processes specific to the company, and that the Beneficiary has knowledge of them, this alone is not sufficient to establish that his knowledge is distinct or uncommon in the industry. In fact, it is common in nearly every industry for companies to hold unique or proprietary knowledge and to work on highly complex products and services. The Petitioner must set the Beneficiary apart from similarly placed workers within the industry and demonstrate that his knowledge as distinct or uncommon in comparison.

However, the Petitioner provides little supporting evidence beyond its assertions to substantiate that the Beneficiary's knowledge is uncommon in the industry. The Petitioner did not specifically compare the Beneficiary's education, experience, and training to similarly placed engineers in the industry, an industry including many other automobile manufacturers and likely numerous engineers. The Petitioner only submitted job postings for the Beneficiary's position in its region, indicating that it required 60 months' experience in propulsion systems and meeting emissions requirements. The Petitioner contends that it received "zero applicants" for the Beneficiary's position, both outside and

within the company. However, it is not clear how this demonstrates uncommon knowledge when compared to other similarly placed engineers within the automobile industry. The Petitioner also emphasizes that the Beneficiary is paid above that of a typical Level IV wage for a mechanical engineer in its region according to the DOL and that this is reflective of his “high remuneration for expert services.” However, given that the Beneficiary’s proffered wage is \$118,903 and the prevailing wage in the Petitioner’s region for Level IV mechanical engineers is \$112,507, his salary level does not appear uncommon in comparison.<sup>2</sup> Further, without supporting evidence to the contrary, it is reasonable to conclude that there are very likely numerous other mechanical engineers working for both the Petitioner and other similarly placed automobile manufacturers within the industry who earn salaries more than the Level IV prevailing wage for their region, or who are “fully competent” and use “advanced skills and diversified knowledge to solve unusual or complex problems,” or who have knowledge and experience required for a Level IV mechanical engineer. Therefore, the Petitioner’s contention that the Beneficiary is set apart from his similarly placed colleagues in the industry based on his salary is not convincing.

Therefore, the Petitioner did not sufficiently articulate how the Beneficiary’s education and experience is uncommon when compared to other similarly placed colleagues within the industry. Without objective evidence to the contrary, it is reasonable to conclude that there are many other engineers who have extensive experience in their company’s products and processes. Therefore, the Petitioner has not established that the Beneficiary’s knowledge is “special” as defined by the regulations.

#### IV. CONCLUSION

Again, as a threshold matter, if the Beneficiary does not possess specialized knowledge, then his position abroad and in the United States would not involve specialized knowledge as necessary to qualify him. For the foregoing reasons, the Petitioner has not sufficiently established, when considering the totality of the circumstances, that the Beneficiary possesses specialized knowledge. For this reason, the appeal must be dismissed.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> See [https://www.flcdatcenter.com/OesQuickResults.aspx?code=17-2141&area=\[ \]&year=22&source=1](https://www.flcdatcenter.com/OesQuickResults.aspx?code=17-2141&area=[ ]&year=22&source=1) (last visited Dec. 19, 2022).