

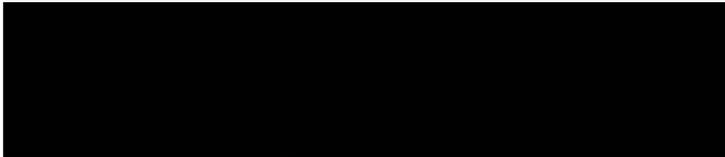
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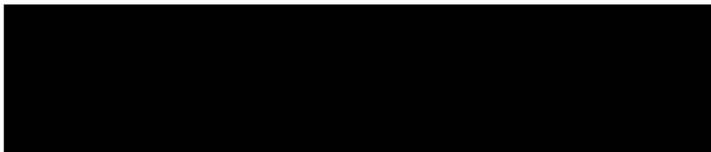
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FILE: WAC 07 169 50357 Office: CALIFORNIA SERVICE CENTER Date: DEC 12 2008

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(iii)

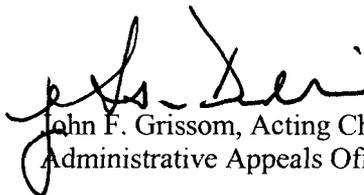
ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the matter is now before the *Administrative Appeals Office (AAO)* on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a textile importer and wholesaler that seeks to employ the beneficiary as a “quality expert trainee” for a period of 22 months. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(iii).

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director’s notice of intent to deny the petition (NOID); (3) the petitioner’s response to the director’s NOID; (4) the director’s denial letter; and (5) the petitioner’s Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The director denied the petition on four grounds: (1) that the petitioner had failed to establish that the beneficiary will use the training for employment abroad; (2) that the petitioner had failed to establish that the beneficiary would not engage in productive employment beyond that incidental and necessary to the training; (3) that the petitioner had failed to establish that the training is unavailable in the beneficiary’s home country; and (4) that the petitioner had failed to establish that the proposed training program is not on behalf of a beneficiary who already possesses substantial training and expertise in the proposed field of training.

On appeal, counsel contends that the director erred in denying the petition.

Section 101(a)(15)(H)(iii) of the Act, 8 U.S.C. § 1101(a)(15)(H)(iii), provides classification for an alien having a residence in a foreign country, which he or she has no intention of abandoning, who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment.

The regulation at 8 C.F.R. § 214.2(h)(7) states, in pertinent part, the following:

- (ii) Evidence required for petition involving alien trainee—
  - (A) Conditions. The petitioner is required to demonstrate that:
    - (1) The proposed training is not available in the alien’s own country;
    - (2) The beneficiary will not be placed in a position which is in the normal operation of the business and in which citizens and resident workers are regularly employed;

- (3) The beneficiary will not engage in productive employment unless such employment is incidental and necessary to the training; and
    - (4) The training will benefit the beneficiary in pursuing a career outside the United States.
  - (B) Description of training program. Each petition for a trainee must include a statement which:
    - (1) Describes the type of training and supervision to be given, and the structure of the training program;
    - (2) Sets forth the proportion of time that will be devoted to productive employment;
    - (3) Shows the number of hours that will be spent, respectively, in classroom instruction and in on-the-job training;
    - (4) Describes the career abroad for which the training will prepare the alien;
    - (5) Indicates the reasons why such training cannot be obtained in the alien's country and why it is necessary for the alien to be trained in the United States; and
    - (6) Indicates the source of any remuneration received by the trainee and any benefit which will accrue to the petitioner for providing the training.
- (iii) Restrictions on training program for alien trainee. A training program may not be approved which:
  - (A) Deals in generalities with no fixed schedule, objectives, or means of evaluation;
  - (B) Is incompatible with the nature of the petitioner's business or enterprise;
  - (C) Is on behalf of a beneficiary who already possesses substantial training and expertise in the proposed field of training;
  - (D) Is in a field in which it is unlikely that the knowledge or skill will be used outside the United States;

- (E) Will result in productive employment beyond that which is incidental and necessary to the training;
- (F) Is designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States;
- (G) Does not establish that the petitioner has the physical plant and sufficiently trained manpower to provide the training specified; or
- (H) Is designed to extend the total allowable period of practical training previously authorized a nonimmigrant student.

In its May 1, 2007 letter of support, the petitioner stated the following:

[The petitioner] is a company engaged in [the] textile, wholesaling, converting, developing, importing[,] and exporting business. The types of fabrics it carries include polyester, rayon, spandex, twill, and premium denim fabrics. As a textile wholesaler, [the petitioner] purchases goods from overseas and distributes to local manufacturers for further processing according to their clients' specifications.

Over the past 11 years, [the petitioner] has established a reputation as one of the most innovative, trend setting textile and reliable importers, converters, and distributors of textile in the garment industry. With this, its business has expanded nationwide, with its exports destined for South America, Europe, and Asia. . . .

With regard to its objective in providing the training, the petitioner stated the following:

The trainee will be engaged in the quality expert training program with an exhaustive evaluation. The goal of the training is to prepare the trainee for placement abroad in the future affiliate office of the company with responsibilities including quality control of textiles and purchasing fabrics. The trainee will be trained in all areas of [the petitioner's] operations. . . .

The petitioner described its proposed training program as follows:

The proposed training will last 21 months. The trainee will undergo academic instruction and practical training six hours per day, five days per week. The trainee will continue further training sessions only upon successful completion of the prior training sessions. The trainee will receive approximately 75% academic training in class instructions and discussions, 10% of the training will be in written quality reports, 5% of the training will be on the trainee's oral presentations, and 10% will be supervised practical training. It should be noted that the trainee will not engage in any productive employment. The trainee will receive constant instruction and

supervision during the entire course of the training program. Any productive services the trainee will perform are incidental to this training and will be supervised by senior agents. . . .

As noted previously, the petitioner's proposed training program would last 22 months. It would be broken down into eight sections: (1) Introduction; (2) Quality Assurance of Textiles; (3) Quality Control of Textiles; (4) Quality Costs; (5) Total Quality Management; (6) Inventory of Textiles; (7) Quality in Purchase of Textiles; and (8) In-house Quality Standards and Technical Reports. The first section of the proposed training program would last one month; the second would last four months; the third would last four months; the fourth would last two months; the fifth would last three months; the sixth would last three months; the seventh would last two months; and the eighth would last two months.

Upon review, the AAO agrees with the director's finding that the petitioner's proposed training program does not meet the regulatory requirements to establish eligibility for the nonimmigrant visa. For ease of discussion, the AAO will first address the third ground of the director's decision: that the petitioner had failed to establish that the proposed training is unavailable in the Philippines, the beneficiary's home country. The AAO will then address the remaining grounds of denial in the order in which raised by the director.

The director found that the petitioner had failed to establish that the proposed training is unavailable in the Philippines, the beneficiary's home country. The AAO agrees. The regulation at 8 C.F.R. § 214.2(h)(7)(ii)(A)(1) requires a demonstration that the proposed training is not available in the alien's own country, and the regulation at 8 C.F.R. § 214.2(h)(7)(ii)(B)(5) requires the petitioner to submit a statement which indicates the reasons why the training cannot be obtained in the alien's country and why it is necessary for the alien to be trained in the United States.

In its May 1, 2007 letter of support, the petitioner stated the following:

Quality control in export training in textile importing and wholesale is not available in the Philippines as the training will first be focused on the U.S. market, its business environment and the sophisticated automotive industry. . . .

It is well known that [the] Philippines has problems with advanced education and training in technology . . . In order to excel in management analysis and logistics, one must be familiar with the use of computer[s] and [the] Internet. However, most Filipinos live below the poverty lines [sic] where computing and [the] Internet are unthinkable frivolities . . . In addition, the lack of facilities, schools that offer computers and access to the Internet also make the knowledge of computers [and] IT knowledge a luxury in the Philippines.

In his August 30, 2007 response to the director's request for additional evidence, counsel repeated the petitioner's earlier assertions and added the following:

Quality expert training in textile importing and wholesale is not available in the Philippines as the training will require the alien to have unlimited access to [the] Internet and other IT information. However, the alien's home country lacks the adequate infrastructure to deliver basic social services and adequate technologies. . . .

\* \* \*

[The] Philippines has problems with advanced education and training in healthcare and other fields primarily because of poor elementary and secondary education. . . .

The use of [the] Internet for medical research and management is essential to provide the best medical services to the patients. . . .

Computer use in the medical field is also necessary as experience and solutions in handling unknown diseases and sickness can easily be accessible to the medical providers worldwide. . . .

\* \* \*

Most, if not all, of the petitioner's healthcare and management training will be conducted on computers. Thus, the necessary training to be provided to the beneficiary is not available in the Philippines. . . .

In her October 31, 2007 denial, the director stated the following:

In its review, USCIS finds that the evidence submitted by the petitioner is vague and general and insufficient to establish that quality control training is not available in the Philippines. Furthermore, USCIS finds that the petitioner's contention that computers are unavailable in the Philippines to be a gross exaggeration of the facts.

In his appellate brief, received at the AAO on December 31, 2007, counsel reiterates his previous assertions and adds, in pertinent part, the following:

USCIS's reasoning for saying the Internet and computer[s] are not unavailable in the Philippines is overreaching and ignorant . . . It is true that computers and [the] Internet ARE available in the Philippines, but they are scarce and rare. Their availability is not enough. . . .

Petitioner is not contending that computers are not available in the Philippines. Petitioner is merely stating a general fact that based on the articles and reports from other organizations that computers and [the] Internet, which are required for quality control training, are scarce and rare in the Philippines. The access to computers and [the] Internet is not available to everyone in the Philippines, thus making the effective training unavailable in the Philippines. . . .

The record does not support counsel's analysis. First, the AAO finds counsel's assertion that the beneficiary's training "will first be focused on the U.S. market, its business environment and the sophisticated automotive industry" deficient. Counsel has submitted no evidence to establish that the United States textile market, the United States business environment, or the United States automotive industry are different from those of the Philippines. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Further, given that the petitioner is not engaged in the healthcare industry, it is unclear to the AAO why the beneficiary would need to access the internet in order to provide medical services to patients or receive "the petitioner's healthcare and management training." The relevancy of counsel's assertions regarding "training in healthcare" and "computer use in the medical field" is also unclear. Similarly, given that the petitioner is not engaged in the automotive industry, the relevancy of counsel's assertions regarding "the sophisticated automotive industry" is also unclear.

Moreover, the AAO agrees with the director's assessment that the petitioner has failed to satisfy its burden. For example, counsel stated that computer and IT knowledge is "a luxury" in the Philippines and that, for most Filipinos, "computer and Internet surfing are unthinkable frivolities,"<sup>1</sup> and submits evidence regarding its educational system.<sup>2</sup> The issue to be addressed is not whether the Filipino economy is less advanced than that of the United States. Nor is the issue whether every single person in the Philippines has access to a computer. The issue is whether similar training is available in the Philippines. The Philippines possesses many well-established, and well-respected, colleges and universities. Many of these schools offer computer training.<sup>3</sup> The AAO also takes note here that many United States firms have outsourced information technology functions to the Philippines.<sup>4</sup> This does not necessarily demonstrate that training programs similar to that proposed

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<sup>1</sup> As of April 2007, the Philippines had 14,000,000 internet users. See <http://www.internetworldstats.com/asia.htm> (accessed November 24, 2008).

<sup>2</sup> A simple google search reveals that many colleges and universities offer undergraduate and graduate training in computer science. See, e.g. [http://www.engg.upd.edu.ph/cs/undergraduate\\_program.html](http://www.engg.upd.edu.ph/cs/undergraduate_program.html) (accessed November 24, 2008); see also [http://www.engg.upd.edu.ph/cs/graduate\\_program.html](http://www.engg.upd.edu.ph/cs/graduate_program.html) (accessed November 24, 2008); see also <http://www.ics.uplb.edu.ph> (accessed November 24, 2008).

<sup>3</sup> The AAO notes that, according to his college transcript, the beneficiary was able to access two computer education classes during the 1992-93 academic year, over fifteen years ago.

<sup>4</sup> See, e.g., [http://www.businessweek.com/print/globalbiz/content/sep2006/gb20060919\\_639997.htm](http://www.businessweek.com/print/globalbiz/content/sep2006/gb20060919_639997.htm) (accessed November 24, 2008): "[The] Philippines gets high marks for its large educated talent pool and English language skills . . . [t]he recent growth spurt in the outsourcing industry in the

here exist in the Philippines, but it does undermine the evidence submitted by the petitioner. Given that the premise of the petitioner's argument regarding the unavailability of operations management and logistics systems training in the Philippines is its assertion regarding the unavailability of computer training in the country, the failure to provide evidence of such undermines its claim. The petitioner has not established that similar training is unavailable in the Philippines. It has not satisfied 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(1) or 214.2(h)(7)(ii)(B)(5).

Having addressed the third ground of the director's decision, the AAO will next address the first, second, and fourth grounds of her denial in the order in which they were discussed by the director.

The director also found that the petitioner had failed to establish that the beneficiary will use the training for employment abroad. The AAO agrees. The regulation at 8 C.F.R. § 214.2(h)(7)(ii)(A)(4) requires the petitioner to demonstrate that the proposed training will benefit the beneficiary in pursuing a career outside the United States, and the regulation at 8 C.F.R. § 214.2(h)(7)(ii)(B)(4) requires the petitioner to describe the career abroad for which the training will prepare the alien.

As noted previously, the petitioner stated in its May 1, 2007 letter of support that the objective of the proposed training program was to prepare the beneficiary for placement in its "future affiliate office." Further, on its attachment to the Form I-129, the petitioner stated the following:

If the beneficiary completes the training program successful[ly], a job offer in our branch office in the Philippines will be offered to the trainee. The beneficiary will research and set up a branch office for the company and lead a new team to expand our business.

In her August 2, 2007 notice of intent to deny the petition, the director stated the following:

The petitioner states that the goal of the training program is to prepare the trainee for placement abroad "in a future affiliate office of our company." Presently, the petitioner's only facility is in Los Angeles, CA. As such, the record is insufficient to establish that there will actually be a career abroad for which the training will prepare the alien.

In his August 30, 2007 response to the director's notice of intent to deny, counsel stated the following:

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Philippines has been fueled not by traditional low-valued-added call centers but by more higher-end outsourcing such as legal services, Web design, medical transcription, software development, animation, and shared services. . . ." See also [http://www.computerworld.com/action/article.do?command=viewArticle\\_TOC&specialReport+ID=360&articleID=84815](http://www.computerworld.com/action/article.do?command=viewArticle_TOC&specialReport+ID=360&articleID=84815) (accessed November 24, 2008): "[T]he Philippines' popularity [for IT outsourcing is due to] its English proficiency, a highly skilled workforce (380,000 college graduates annually) . . . [T]here are about 10,000 software programmers nationwide."

With the training in quality control, it will make [the beneficiary] a more marketable candidate when he returns to his home country.

Counsel also submitted a letter from Kids On-Line Children's Wear, in the Philippines, indicating that that company would employ the beneficiary as a quality expert upon his return to the Philippines.

In her October 31, 2007 denial, the director stated the following:

Initially, the petitioner stated that that goal of the training is to prepare the trainee for placement abroad in a "future affiliate office of the company." USCIS found that presently, the petitioner's only facility is in Los Angeles, CA. . . .

\* \* \*

On September 11, 2007, the petitioner responded to the [notice of intent to deny] by stating that the proposed petition "will make him a more marketable candidate when he returns to his home country."

\* \* \*

In this case the petitioner has changed the purpose of the beneficiary's training program. It does not appear that the beneficiary will apply the skills gained from the training program to work at the petitioner's alleged affiliate location in the Philippines, as originally stated on the petition. As such, the record is insufficient to establish that the training program will benefit the trainee in a career abroad.

Counsel states the following on appeal:

Quality control can be found in almost all professions. It is especially critical in [the] marketing and wholesale fields. Although Beneficiary has many years of experience in engineering, he has no formal training in quality control. Without such knowledge, beneficiary's advancement in that field is limited. It is not likely that Beneficiary would be offered a management position if he has only limited knowledge in quality control.

The AAO finds counsel's argument deficient. Counsel's assertion that the beneficiary "will make [the] beneficiary a more marketable candidate" is deficient for two reasons. First, this vague reference to an undefined position is too general of a description to satisfy the regulation. Second, stating that the beneficiary would become "more marketable" as a result of his newfound training, and thus implying that he could work for an entity other than the petitioner, conflicts with assertions made by counsel and the petitioner elsewhere in the record. As noted previously, both counsel and

the petitioner have made repeated assertions regarding the lack of computer and internet training in the Philippines.

Given the assertions of counsel and the petitioner regarding the lack of access to computers in the Philippines, and that the lack of access to such technology is so acute in that country that the beneficiary is unable to find training there (and must travel to the United States in order to receive it), it is unclear to the AAO what type of position he would be able to fill in the Philippines as a result of having obtained the training, if he is not to work for the petitioner. The petitioner has not established that companies or organizations would employ the beneficiary in the Philippines with access to the computers and information technology that the beneficiary will use during her training. Nor does the letter from Kids On-Line Children's Wear indicate how the beneficiary will use his newfound skills; nor does it indicate that the company possesses the sophisticated computer and internet resources which, according to the petitioner, are so lacking in the Philippines.

For all of these reasons, the AAO finds counsel's argument that the proposed training "will make [the] beneficiary a more marketable candidate" deficient. The AAO also finds the record insufficient to establish that the beneficiary will use his newfound training abroad with regard to the original objective of the proposed program, which was to "prepare the trainee for placement abroad in the future affiliate office of the company with responsibilities including quality control of textiles and purchasing fabrics," and to ensure that "the trainee will be trained in all areas of [the petitioner's] operations." Since the beneficiary's newfound knowledge (the knowledge that cannot be obtained in the Philippines) would be specific to the petitioner, it appears that an operation run by the petitioner would be the only setting in which he would be able to use the knowledge.

A petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). In this particular case, since the proposed training is specific to the petitioner, and the only setting in which the beneficiary would utilize his skills would be for the petitioner in the Philippines, the petitioner must document that it actually has plans to commence operations in the Philippines upon completion of the training. The record, as presently constituted, contains no information or evidence of the petitioner's expansion plans, beyond training the beneficiary. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

For all of these reasons, the petitioner has failed to establish that its proposed training program will benefit the beneficiary in pursuing a career outside the United States. It has failed to satisfy 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(4) and 214.2(h)(7)(ii)(B)(4).

The director also found that the petitioner had failed to establish that the beneficiary would not engage in productive employment beyond that incidental and necessary to the training, as required by 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(3). The AAO disagrees. The petitioner addressed this issue in its

letter of support and, while the assertions made in that letter have not satisfied other regulatory criteria at issue in this case, they do satisfy 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(3). The AAO, therefore, withdraws that portion of the director's decision finding otherwise.

Finally, the director found that the petitioner had failed to demonstrate that its proposed training program was not on behalf of a beneficiary who already possesses substantial training and expertise in the field. The AAO agrees. The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(C) precludes approval of a training program which is on behalf of a beneficiary who already possesses substantial training and expertise in the proposed field of training.

As noted previously, the proposed training program consists of eight phases: (1) Introduction; (2) Quality Assurance of Textiles; (3) Quality Control of Textiles; (4) Quality Costs; (5) Total Quality Management; (6) Inventory of Textiles; (7) Quality in Purchase of Textiles; and (8) In-house Quality Standards and Technical Reports. The beneficiary earned a degree in industrial engineering from Saint Louis University, in the Philippines, in 1994. The beneficiary's transcript is a part of the record, but the AAO takes particular note of his coursework in computer science and quality control. Further, the beneficiary worked as a Materials Management/Logistics Group Supervisor between 1997 and 2002, and as a Warehouse Controller between 2002 and 2003.

As was noted earlier in this decision, the premise of the petitioner's argument regarding the unavailability of similar training in the Philippines is its assertion regarding the unavailability of computer training in that country. The petitioner, therefore, has made computer training a central component of the training program. The petitioner, however, has not established that the beneficiary lacks training in information technology. The record lacks information regarding the types of computer hardware and software used by the beneficiary in the Philippines, and the types of computer hardware and software that the petitioner utilizes in the United States. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

A proposed training program must provide actual training to the beneficiary and not simply increase his proficiency or efficiency. *Matter of Masauyama*, 11 I&N Dec. 157 (Reg. Comm. 1965); *Matter of Sasano*, 11 I&N Dec. 363 (Reg. Comm. 1965); *Matter of Koyama*, 11 I&N Dec. 424 (Reg. Comm. 1965). The record establishes that the beneficiary has substantial training and expertise in the field. Accordingly, approval of the petitioner's proposed training program is precluded by 8 C.F.R. § 214.2(h)(7)(iii)(C).

Pursuant to the above discussion, the AAO agrees with the director's decision that the proposed training program does not meet the regulatory requirements for approval of the nonimmigrant visa.

Beyond the decision of the director, the AAO finds that the petition may not be approved for three additional reasons.

The regulation at 8 C.F.R. § 214.2(h)(7)(ii)(B)(1) requires the petitioner to describe the type of training and supervision to be given, and the structure of the training program. The information contained in the record of proceeding is vague in nature, and leaves the AAO with very little idea of what the beneficiary would actually be doing on a day-to-day basis. For example, the second section of the proposed training program would last four months. However, the record contains no information regarding what the beneficiary would actually be doing during this time. Instead, the petitioner's description of this section of the proposed training program consists of less than six pages of reading material. This reading material is not linked to the beneficiary's daily routine in any meaningful way, and it is unclear how the petitioner would stretch this material to cover four months. No information, such as sample lesson plans, is submitted to make up for this lack of detail. The petitioner's description is deficient, as it fails to provide the AAO with any meaningful description of what the beneficiary would actually be doing.

The petitioner's description of the rest of its proposed training program suffers similar deficiencies. Lists of goals and objectives are not substitutes for descriptions of how those goals and objectives are to be accomplished; the petitioner has not explained what the beneficiary will actually be doing during this time. The petitioner is not required to provide an exhaustive account of how the beneficiary is to spend every minute, or even every single day, of the training program. However, the petitioner has failed to provide a meaningful description, beyond generalities, of what the beneficiary would actually be doing, on a day-to-day basis, for much of the proposed training program. It has failed to satisfy 8 C.F.R. § 214.2(h)(7)(ii)(B)(1). For this additional reason, the petition may not be approved.

The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(A) precludes approval of a petition that deals in generalities with no fixed schedule, objectives, or means of evaluation. The AAO incorporates here its previous discussion regarding the petitioner's vague and generalized description of its training program. While the petitioner is not required to provide an exhaustive account of how the beneficiary is to spend every minute, or even every single day, of the training program, the petitioner has failed to provide a meaningful description, beyond generalities, of what the beneficiary would actually be doing, on a day-to-day basis, for much of the proposed training program. It has failed to establish that its proposed training program does not deal in generalities. The petitioner has failed to satisfy 8 C.F.R. § 214.2(h)(7)(iii)(A). For this additional reason, the petition may not be approved.

Finally, the regulation at 8 C.F.R. § 214.2(h)(7)(ii)(B)(6) requires the petitioner to indicate the source of any remuneration received by the trainee and any benefit which will accrue to the petitioner for providing the training. As noted previously, the objective of the training program at the time the petition was filed was to train the beneficiary on the petitioner's business operations, particularly on its computer systems, so that he could take a position in the petitioner's future affiliate in the Philippines. However, by the time of counsel's response to the director's notice of intent to deny the petition, the career abroad for which the training would prepare the beneficiary was either an undefined position for which the beneficiary would simply be "a more marketable candidate" or a position as a quality expert with Kids On-Line Children's Wear. If the proposed training exists simply to make the beneficiary a more marketable candidate, or to train the

beneficiary to work for Kids On-Line Children's Wear in the Philippines, then the benefit which will accrue to the petitioner for providing the training is unclear to the AAO. The petitioner has failed to satisfy 8 C.F.R. § 214.2(h)(7)(ii)(B)(6). For this additional reason, the petition may not be approved.

For all of these reasons, the petition may not be approved. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a de novo basis).

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed. The petition is denied.