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U.S. Citizenship  
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Services

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FILE: WAC 07 181 51633 Office: CALIFORNIA SERVICE CENTER Date: JUN 30 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:  
[Redacted]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, 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 manufacturer of doors, locks, and hardware that seeks to employ the beneficiary as a “logistics systems and inventory management trainee” for a period of twenty-two 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 request for additional evidence; (3) the petitioner’s response to the director’s request; (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 eight grounds: (1) that the petitioner had failed to adequately describe the career abroad for which the training will prepare the beneficiary; (2) that the petitioner had failed to set forth, with specificity, the type of training and supervision to be given, and the structure of the training program; (3) that the petitioner had failed to set forth the proportion of time to be devoted to productive employment; (4) that the petitioner had failed to show the number of hours that will be spent, respectively, in classroom instruction and in on-the-job training; (5) that the petitioner had failed to indicate the source of remuneration received by the trainee and any benefit which will accrue to the petitioner for providing the training; (6) that the petitioner had failed to establish that it has the physical plant and sufficiently trained manpower to provide the type of training specified in the petition; (7) that the petitioner had failed to establish that the proposed training program does not deal in generalities with no fixed schedule, objectives, or means of evaluation; and (8) that the petitioner had failed to establish that the proposed training program is not designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States.

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 April 23, 2007 letter of support, the petitioner stated the following:

[The petitioner] was incorporated in California in 1983. From the beginning, our management and staff have been dedicated to the needs of our customers. We currently have three warehouses nationally. Our corporate office and main facility is located in Commerce, California, with satellite warehouses on the East Coast.

[The petitioner] has focused on providing "Innovative and Value Added" hardware products and accessories to the builders industry. In accepting this charter [the petitioner] has continued to be the leader in import hardware.

With regard to why it is providing the training, the petitioner stated the following:

The purpose of the training program is to provide the trainee with essential knowledge in all areas of [the petitioner's] operations. Specifically, the training program will provide the trainee with a range of skills in the fields of operations, sales, financial management, customer service, human resource[,] and management techniques utilized by the company. This program is designed to prepare the trainee with eventual overseas assignment.

The training program will teach theoretical and practical knowledge and skills applicable to [the petitioner's] operations. Specifically, [the] objectives of the training program are (1) to provide the trainee the basic knowledge of company policies, operations system, particularly in the field of sales operations, human resources and management of our business, with [the] goal of applying these concepts to the international market; (2) to develop analytical and problem-solving skills; (3) to familiarize the trainee with the operations and management style of [the petitioner]; (4) to equip the trainee with the relevant practical knowledge in operations, administration, customer service, and management.

The petitioner described its proposed training program as follows:

The proposed training will last 22 months. The trainee will undergo academic instruction and practical training six hours per day, five days per week. Additionally, the trainee will be encouraged to augment classroom instruction by attending industry seminars, trade fairs, expositions[,] and other related events, as well as studying trade publications. Thus, the program consists of 30 hours a week supplemented by additional external training.

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, and 25% of the training will be in written and oral presentations, and in on-the-job 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.

As noted previously, the petitioner's proposed training program would last 22 months. It would be broken down into four sections: (1) The Company; (2) Training in Logistics Systems; (3) Training in Inventory Management Techniques: Planning, Replenishment, and Activities Control; and (4) Training in International Market Entry and Distribution. The first section of the proposed training program would last three months; the second would last eight months; the third would last eight months; and the fourth would last three 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.

The director found that the petitioner had failed to adequately describe the career abroad for which the training will prepare the beneficiary. 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.

In her July 31, 2007 request for additional evidence, the director stated the following:

Explain how the knowledge or skills acquired in the proposed training will benefit the beneficiary in pursuing a career outside the United States. Provide evidence to show that there is a career abroad for which the training will prepare the beneficiary.

In its October 18, 2007 response to the director's request for additional evidence, the petitioner stated the following:

After successful completion of the training, the trainee will return to her home country to initially establish a lead for the petitioner's expansion project. The beneficiary will not only perform the managerial tasks, but will initially serve as a training resource for [the] petitioner's future employees in the Philippines.

In her January 2, 2008 denial, the director stated the following:

[T]he petitioner has not adequately described the career abroad for which this training program will prepare the alien. The petitioner states that "By providing the training to [the beneficiary], it would further her knowledge as a Logistics System and Inventory Manager, and it would benefit our company when our branch office/agent is set up." From this statement it would appear that a branch office does not currently exist in the beneficiary's home country. In addition, the record contains no evidence of pending

contracts, a business plan[,] or facility photographs that indicate where or when the stated branch office will come into existence. Therefore, at this time the petitioner has not established that there is currently a career abroad for which the beneficiary will utilize her learned knowledge upon completion of the petitioner's training program. Consequently, the petitioner has . . . not shown eligibility at the time of filing.

Counsel states the following on the Form I-290B:

Alien has no prior experience in logistics and inventory management. The purpose of the training is for alien to acquire the necessary knowledge for inventory management/logistics systems in hardware products and supplies so that she may assist the petitioner when its branch office is set up in the Philippines. The alien will perform managerial tasks and establish a lead for the petitioner's expansion project. Without the training, the alien wouldn't even have the opportunity to serve as an expert in the logistics and inventory management position. Thus, USCIS's conclusion that the training will not provide the alien an opportunity for a career abroad is erroneous.

In his appellate brief, counsel states that the proposed training "will make [the] beneficiary a more marketable person." He also states the following:

The purpose of the training is that after successful completion of the training, Beneficiary would return to her home country to initially establish a lead for the Petitioner's expansion project. If Beneficiary chooses to work for the Petition [sic] when she returns to the Philippines, she would not only perform the managerial tasks, but also will initially serve as a training resource for [the] Petitioner's future employees in the Philippines.

Petitioner had enclosed a letter from Foxboro Global Logistics Corp., a Filipino logistics company, in its response to the Request for Evidence . . . The President of Foxboro Global Logistics Corp. stated that the proposed training will be beneficial to the Beneficiary in looking for a job in the Philippines. It also stated that upon her return to the Philippines after completion of her training in the U.S., she would be offered a job at Foxboro Global Logistics Corp. to contribute the knowledge she had gained from the training.<sup>1</sup>

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<sup>1</sup> Counsel is referencing a March 20, 2007 letter from [REDACTED], president of the Foxboro Global Logistics Corporation. Counsel's assertion that this letter states that the beneficiary "would be offered a job" at the company is incorrect. Mr. [REDACTED] makes no such offer. Rather, he congratulates the beneficiary for establishing a link with the petitioner, states that he believes the beneficiary has the character, experience, and education to excel at the training program, predicts that the "industry she will be next employed in" will benefit greatly from her training, and predicts that the Philippines will benefit from her training as well. The letter contains no job offer, as asserted by counsel. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

Not only could the Beneficiary have a new career in developing a new branch office for the Petitioner, she also would have a job offer from a logistics company in the Philippines. Without the proposed training, [the] Beneficiary would not have the opportunity to serve as an expert in the logistics and inventory management position. USCIS's conclusion that the training will not provide [the] Beneficiary an opportunity for a career abroad is erroneous.

The AAO finds counsel's argument deficient. Counsel's assertion that the beneficiary "will make [the] beneficiary a more marketable person" 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 her newfound training, and thus implying that she could work for an entity other than the petitioner, conflicts with assertions made by counsel and the petitioner elsewhere in the record. Both counsel and the petitioner have made repeated assertions regarding the lack of computer and internet training in the Philippines. For example, the petitioner stated the following in its letter of support:

It is well known that [the] Philippines has problems with advanced education and training in technology and other fields primarily because of poor elementary and secondary education, lack of qualified faculties and shortage in facilities and weaknesses in planning, budgeting[,] and implementing processes. In order to excel in management analysis and logistics, one must be familiar with the use of the Internet. However, most Filipinos live below the poverty lines [sic] where computing and [the] Internet are unthinkable frivolities. The lack of adequate infrastructure to deliver basic social services also contributes to the inadequate technologies. 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.

Counsel reiterated this paragraph in his response to the director's request for additional evidence, and added the following:

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. . . .

The Philippines does not have the resources and technology of its own but has to be dependent on imported technologies to advance its own development in the technological world.

\* \* \*

[T]he technical education and accessibility to computers and other information needed in the healthcare field are very limited in the Philippines. Most, if not all, of the petitioner's logistics and management training will be conducted on computers. Thus, the necessary training to be provided to the beneficiary is not available in the Philippines.

On appeal, counsel states the following:

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 logistics and inventory management training, are scarce and rare in the Philippines [sic]. The access to computers and [the] Internet is not available to everyone 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 she would be able to fill in the Philippines as a result of having obtained the training, if she 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.

For all of these reasons, the AAO finds counsel's argument that the proposed training "will make [the] beneficiary a more marketable person" deficient.

Given the goals and objectives of the petitioner as set forth in the record of proceeding, it is unclear to the AAO why the beneficiary would need to provide "medical services to the patients" or why the beneficiary would need to handle "unknown diseases and sicknesses." It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591. The AAO agrees with the director's analysis regarding the lack of career opportunities in the Philippines. Since the beneficiary's newfound knowledge (the knowledge that cannot be obtained in the Philippines) will be specific to the petitioner, it appears that an operation run by the petitioner would be the only setting in which she 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 her 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. Nor has the petitioner submitted any evidence, beyond the assertions of record, to demonstrate that it is in the process of setting up operations in the Philippines. 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)). The petitioner has not satisfied 8 C.F.R. § 214.2(h)(7)(ii)(A)(4).

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 set forth, with specificity, the type of training and supervision to be given, and the structure of the training program. The AAO agrees. 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 director stated the following in her denial:

Careful review of the outline provided [in the] record indicates that the petitioner has not demonstrated the existence of an actual training program . . . The petitioner has only explained who will be responsible for the beneficiary's overall supervision. Absent from the record is evidence of any formal training materials, books, or testing instruments . . .

[T]he record is insufficient to establish that the petitioner has set forth, with specificity, the training program being offered including the type of training and supervision to be given. . . .

The AAO agrees with the director's analysis. Although the petitioner expands its training program outline on appeal, the information contained in the record of proceeding remains 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 eight months. The petitioner's expanded description of its training program submitted on appeal provides objectives, the names of five trainers, a three-page glossary of basic terms, a table of logistics evolution, a five-page summary of MAS90, described by the petitioner as "an ERP tool used by multi-scale businesses to help enhance both strategic and operations management," and a summary of skills to be learned. However, the petitioner does not explain how, or when, the beneficiary will utilize this information over the course of the eight months. Again, the AAO has little idea of what the beneficiary would actually be doing on a day-to-day basis during this time. Moreover, while the petitioner provides the names of five trainers, it offers no information regarding who will be instructing the beneficiary at specific times. The petitioner is not required to provide an exhaustive account of how the beneficiary is to spend every minute of the training program, but the description provided is inadequate.

The petitioner's description remains deficient; the record 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. The petitioner's description of how the beneficiary would spend this period of time consists of summary outlines without specific descriptions of the daily training program.

The AAO finds this description deficient. Again, the petitioner is not required to provide an exhaustive account of how the beneficiary is to spend every minute 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. The petitioner has failed to satisfy 8 C.F.R. § 214.2(h)(7)(ii)(B)(1).

The director also found that the petitioner had failed to set forth the proportion of time to be devoted to productive employment. The AAO disagrees. Both counsel and the petitioner have asserted that the proposed training program will not involve productive employment. Given the goals and objectives of the training program as set forth in the record of proceeding, the AAO finds this assertion reasonable. Therefore, the AAO withdraws that portion of the director's decision finding otherwise.

The director also found that the petitioner had failed to show the number of hours that will be spent, respectively, in classroom instruction and in on-the-job training. The AAO disagrees. The petitioner stated that the beneficiary would spend 2242 hours of the proposed training program in classroom instruction, and 560 hours in on-the job training. The AAO finds no reason to doubt these figures and, accordingly, withdraws that portion of the director's decision finding otherwise.

The director also found that the petitioner had failed to indicate the source of remuneration received by the trainee and any benefit which will accrue to the petitioner for providing the training. The AAO disagrees. The petitioner indicates that the beneficiary will receive a yearly salary of \$20,800. The petitioner has also described its plans for the beneficiary after she returns to the Philippines. While those plans may not have satisfied other regulatory criteria at issue in this case, they do satisfy C.F.R. § 214.2(h)(7)(ii)(B)(6), and the AAO withdraws that portion of the director's decision finding otherwise.

The director also found that the petitioner had failed to establish that it has the physical plant and sufficiently trained manpower to provide the type of training specified in the petition. The AAO agrees. The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(G) precludes approval of a petition in which the petitioner has not established that it has the physical plant and sufficiently trained manpower to provide the training specified.

In her request for additional evidence, the director requested a copy of the petitioner's Form DE-6, California Quarterly Wage Report, as well as a line and block organizational chart. Regarding the organizational chart, the director requested one that:

shows [the petitioner's] hierarchy and staffing levels and that includes the current names of all executives, managers, supervisors, and employees within each department or subdivision. Clearly identify the beneficiary's position in the chart. List all employees by name and job title. Also include a brief description of job duties, educational level, annual salaries/wages (in United States Dollar equivalents) and immigration status (L-1, H-1B, B-1, E-1, E-2, F-1, permanent resident, citizen, etc.) for all employees [underlining in original].

In response, the petitioner submitted an October 22, 2007 letter in which it stated the following:

[W]e find your request unreasonably overbroad, burdensome, and constitutes an invasion of privacy to our employees. But in order to comply with your request, we submit an Organizational Chart with names and job titles for the key personnel at the company.

We respectfully ask you not to deny our petition based on our concern and hesitation in providing confidential information about our employees to USCIS.

The organizational chart submitted by the petitioner did not provide job duties, educational levels, annual salaries, or immigration status for the employees it named.

The information requested by the director would corroborate the petitioner's statement on the Form I-129 that it employs 50 people and was within the director's discretion to request. Moreover, job duties, educational levels, salaries, and immigration status would have allowed the director to determine whether the petitioner in fact has the personnel to provide the training set forth in the petition. The petitioner identified no specific statutory or other authority to invoke a privilege or immunity against disclosure in these proceedings, other than the vague statement that the request was an "invasion of privacy."

The petitioner may not unilaterally make a determination that a requested item is "unreasonably overbroad, burdensome" and refuse to submit that item while offering no substitute or alternative evidence to satisfy the concern of the director. Without information regarding the backgrounds of the petitioner's employees, the record, as it currently stands, fails to establish that anyone on the petitioner's staff is qualified to provide the training set forth in this petition. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

Moreover, the petitioner has failed to explain how, if the petitioner's president will "oversee the training and supervise the beneficiary at all times," for a period of 22 months, the president's normal workload will be performed during that time. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). The petitioner has failed to establish that it has sufficiently trained manpower to provide the training described in the petition. It has failed to satisfy 8 C.F.R. § 214.2(h)(7)(iii)(G).

The director also found that the petitioner had failed to establish that the proposed training program does not deal in generalities with no fixed schedule, objectives, or means of evaluation. The AAO agrees. 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 here incorporates 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 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).

The director also found that the petitioner had failed to establish that the proposed training program is not designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States. The AAO disagrees. The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(F) requires the petitioner to demonstrate that the proposed training program is not designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States. The record does not indicate that the petitioner's motivation for designing the training program is to recruit and train aliens for the ultimate staffing of its

domestic operations in the United States. Accordingly, the AAO withdraws that portion of the director's decision finding otherwise.

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. The petition may not be approved, and the AAO will not disturb the director's denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

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