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FILE: LIN 03 121 52195 Office: NEBRASKA SERVICE CENTER Date: JUN 16 2005

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

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

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, The Navigators, claims that it is a branch of The [REDACTED] located in Kenya. The petitioner is a non-profit interdenominational religious organization. The U.S. organization was established in the State of Colorado in 1956. In March 2003, the U.S. organization petitioned Citizenship and Immigration Services (CIS) to classify the beneficiary as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), as a specialized knowledge worker (L-1B). The petitioner seeks to employ the beneficiary's services as a new employee and as the U.S. entity's special ministry assistant.¹

On May 2, 2003, the director denied the petition because the petitioner failed to establish that the beneficiary had specialized knowledge or that she had been or would be employed in a capacity requiring specialized knowledge.

On appeal, counsel submits a brief refuting the director's findings.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Further, the regulation at 8 C.F.R. § 214.2(l)(3) requires that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section;
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

¹ Although the Act provides the R-1 nonimmigrant religious worker classification, the petitioner has elected to petition for the beneficiary as L-1 nonimmigrant intracompany transferee, a category that Congress originally created for multinational corporations. *See* H.R. Subcomm. No. 1 of the Jud. Comm., Immigration Act of 1970: Hearings on H.R. 445, 91st Cong. (November 12, 1969). The AAO notes that the petitioner has also filed a Form I-360 (LIN0226552593), Petition for a Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Act, on behalf of this beneficiary.

(iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

(iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive, or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The issue in this proceeding is whether the beneficiary possesses specialized knowledge and whether the proposed employment is in a capacity that requires specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the following:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

On the Form I-129 and in an attached memo, the petitioner described the beneficiary's proposed U.S. duties as:

Will assist the U.S. Director in implementing all aspects of the [organization's] mission, visions, values, and strategic directions. She will develop a network to provide personal and spiritual support for the [petitioner's] staff. She will serve the staff as a Minister at Large, as well as a mentor to several key leaders. She will design and teach Leader Development and Staff Training materials.

In addition, in an attached memo, the petitioner described the beneficiary's proposed U.S. duties in terms of the following functions:

1. To participate as a full member of the National Leadership Team.
2. To develop a network of relationships in the U.S. that will serve as a basis for providing relational support and personal funding over the coming years.

3. To mentor [REDACTED] her life and ministry.
4. To serve the staff of the collegiate ministry as a minister at large and as a mentor to selected staff (30% of the time).
5. To participate in the Leader Development Process as a leader at large and as a mentor to specific leaders.
6. To assist [REDACTED] the staff training process.
7. To colabor with [REDACTED] in the metro ministry as a leader and mentor to staff.
8. To serve as a counselor to the U.S. Director.

On March 13, 2003, the director requested additional evidence. In particular, the director requested evidence to show that the beneficiary possessed specialized knowledge of the product, service, research, equipment, techniques, management, or other interests and its application in international markets, or advanced level of knowledge or expertise in the organization's processes and procedures.

In response, the petitioner cited the March 9, 1994 [REDACTED] memorandum on the interpretation of specialized knowledge to support the petitioner's assertion that the beneficiary has knowledge that is not generally known. In addition, the petitioner stated, "the Beneficiary, like all Navigators staff, received extensive training prior to being selected as a full-time staff member in 1978" and "that Beneficiary received additional special training beyond the normal training given to all [the organization's] staff, additional training that she completed in 1981." The petitioner further stated that the beneficiary's "over forty years of experience with [the organization] make her an especially valuable asset to Petitioner." The petitioner submitted a copy of the beneficiary's resume and claimed that an additional letter of duies "further highlights the extraordinary accomplishments of Beneficiary in the international organization."

On May 2, 2003, the director denied the petition because the petitioner failed to establish that the beneficiary had specialized knowledge or that she had been or would be employed in a capacity requiring specialized knowledge. The director found that the petitioner failed to establish that the knowledge possessed by the beneficiary was specialized or that the position required someone with specialized knowledge. The director stated, "the record did not establish that the beneficiary's skills and abilities are substantially different from, or advanced in relation to other individuals working as special ministry assistants working in the same industry."

On appeal, counsel submits a brief asserting: 1) the beneficiary and petitioner's proposed position satisfy the specialized knowledge requirement; 2) the director's conclusions are arbitrary and capricious; and, 3) the director's asserted rationale reflects an unconstitutional intrusion into

petitioner's religious doctrine and leadership selection criteria.² Specifically, counsel refers to a 1994 INS memorandum as a guide for interpreting the statutory definition of specialized knowledge. Memorandum from James A. Puleo, Acting Associate Commissioner, *Interpretation of Specialized Knowledge*, CO 214L-P (March 9, 1994). In the memorandum, the Commissioner noted that specialized knowledge is not limited to knowledge that is proprietary, exclusive or unique, but also includes knowledge that is "different from that generally found in the particular industry." Counsel asserts that "the Petitioner has identified a number of indicators of special or advanced knowledge with respect to Petitioner's religious character and mission" and "the Beneficiary's long and distinguished record of ministry leadership and responsibility both reflect and contribute to her special knowledge of Petitioner's religious character and mission. Beneficiary is one of only a few members of Petitioner's religious order qualified to assume senior leadership responsibility." In addition, counsel asserts, "Because the proposed position has been uniquely created for Beneficiary's role in the senior leadership of Petitioner, the position clearly requires specialized knowledge. Specifically, the position requires Beneficiary's particular specialized knowledge."

Moreover, on appeal, counsel claims that the director mischaracterized and ignored the record. Counsel explains that "the beneficiary's specialized knowledge derives (in part) from the distinctive and advanced assignments and responsibilities that Beneficiary has held during the course of her employment." Counsel also stated that there is "no evidence in the record that suggest that there are any positions comparable to the 'special ministry assistant' position created for the beneficiary" because of the beneficiary's "unique skills and gifts."

In examining the specialized knowledge capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). As required in the regulations, the petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *See id.* On review, the record does not contain sufficient evidence to establish that the beneficiary possesses specialized knowledge. The petitioner has provided a broad description of the beneficiary's duties and qualifications and fails to articulate exactly how it is special. The petitioner has provided no evidence to establish that the beneficiary's duties are so exceptional and out of the ordinary that their implementation requires specialized knowledge. For example, the petitioner could have explained what specialized knowledge in particular is needed as "a leader at large" and as "a mentor to specific leaders."

² The AAO notes that on appeal, counsel claims that the denial of the petition raises an issue under the First Amendment of the United States Constitution. However, the AAO has no subject matter jurisdiction to determine the merits of a Constitutional issue. The jurisdiction of the Administrative Appeals Office is limited to that authority specifically granted to it by the Secretary of the United States Department of Homeland Security. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004). The jurisdiction of the AAO is limited to those matters described at 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003). Accordingly, the AAO cannot pass upon the constitutionality of the statute it administers and has no authority to address the petitioner's first amendment claim. Whether or not religious employees qualify for "L-1" classification does not relate to religious preference or practice and will be addressed in this decision pursuant to the criteria set forth in the statute and applicable regulations. *See generally, Matter of Church Scientology International*, 19 I&N Dec. 603 (Comm. 1988).

Moreover, the petitioner should have demonstrated how the beneficiary's knowledge compares to other ministry assistant within and outside the organization. For instance, the additional evidence might establish that the beneficiary possesses knowledge valuable to the petitioner's religious character and mission. Additionally, the evidence may demonstrate that the beneficiary has knowledge and expertise to the extent that the petitioning entity would experience a significant interruption of growth in order to prepare a U.S. religious worker to assume the beneficiary's proposed duties. Other than broad and vague descriptions, the petitioner provided nothing of this nature.

Further, the petitioner offers no explanation as to the specific educational or work qualifications necessary for a special ministry assistant. Nor does the petitioner provide documentation that the beneficiary received specialized training or international assignments focused specifically on the petitioner's mission. While counsel, on appeal, asserts that the beneficiary's "long and distinguished record of ministry leadership and responsibility both reflect and contribute to her special knowledge of Petitioner's religious character and mission," the lack of specificity pertaining to the beneficiary's work experience and training, particularly in comparison to others employed by the petitioner and in this religious organization, fails to distinguish the beneficiary's knowledge as specialized. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The 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).

In addition, the duties described for the position of special ministry assistant include "develop[ing] a network of relationships," "mentor[ing]," and "design[ing] and teach[ing] Leader Development and Staff Training materials." This description is ambiguous. The petitioner failed to explain how this knowledge appears to be uncommon within the petitioner's organization and the knowledge to gain the status of a special ministry assistant appears to be widely available. Although counsel claims that there are not "any positions comparable to the special ministry assistant position" and that the position was "created for the beneficiary" because of the beneficiary's "unique skills and gifts," the AAO is not persuaded that the beneficiary's created position is one requiring specialized knowledge and that another religious worker would not be qualified to perform the proposed duties such as "develop[ing] a network of relationships in the U.S." The record is not persuasive that the beneficiary would be employed in a capacity requiring specialized knowledge other than in a position title. The actual duties themselves reveal the true nature of the employment. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). Therefore, the director correctly concluded that the beneficiary failed to qualify as a specialized knowledge worker.

Further, when examining whether a beneficiary is eligible for L-1B classification, one of the factors the AAO will examine is whether the beneficiary is "key" personnel. In *Matter of Penner*, the Commissioner emphasized that the specialized knowledge worker classification was not intended for "all employees with any level of specialized knowledge." 18 I&N Dec. 49 (Comm. 1982). According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than just the "key" personnel that Congress specifically intended. The skills and knowledge necessary to function as a special

ministry assistant for the petitioning entity appear to be those that any worker could be trained to perform as adequately as the beneficiary, thereby; the beneficiary does not appear to be a “key” personnel. It is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary’s knowledge of the organization’s service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).

As stated by the Commissioner in *Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, “the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought.” Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business’ operation.

Id. at 53. In the present matter, the evidence of record demonstrates that the beneficiary is more akin to an employee whose skills and experience enable her to further the organization’s mission, rather than an employee who has unusual duties, skills, or knowledge beyond that of a skilled worker.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term “specialized knowledge” is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc.*, “[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning.” 745 F. Supp. at 15. The Congressional record specifically states that the L-1 category was intended for “key personnel.” See generally, H.R. REP. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term “key personnel” denotes a position within the petitioning company that is “of crucial importance.” *Webster’s II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered “important” to a petitioner’s enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of “crucial importance” or “key personnel” must rise above the level of the petitioner’s average employee. Accordingly, based on the definition of “specialized knowledge” and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner’s workforce.

Here, the petitioner has provided no documentation to establish that the beneficiary’s knowledge is more advanced than other workers of the religious organization. Again, the petitioner has not provided any information pertaining to the other workers employed by the petitioner. Nor did the petitioner distinguish the beneficiary’s knowledge, work experience, or training from the other

employees. The lack of evidence in the record makes it impossible to classify the beneficiary's knowledge as advanced, and precludes a finding that the beneficiary's role is "of crucial importance" to the organization. Going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). While it may be correct to say that the beneficiary is a skilled worker with a long record of ministry leadership, this is not enough to bring the beneficiary to the level of "key personnel."

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). The decision noted that the 1970 House Report, H.R. No. 91-851, stated that the number of admissions under the L-1 classification "will not be large" and that "[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service." *Id.* at 51. The decision further noted that the House Report was silent on the subject of specialized knowledge, but that during the course of the sub-committee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed "L" category. In response to the Chairman's questions, various witnesses responded that they understood the legislation would allow "high-level people," "experts," individuals with "unique" skills, and that it would not include "lower categories" of workers or "skilled craft workers." *Matter of Penner*, *id.* at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., *Immigration Act of 1970: Hearings on H.R. 445*, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for "all employees with any level of specialized knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, "[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees." 18 I&N Dec. at 119. According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than the "key personnel" that Congress specifically intended. 18 I&N Dec. at 53; *see also*, *1756, Inc.*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend all employees with specialized knowledge, but rather to "key personnel" and "executives.")

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc. v. Attorney General*, *supra* at 16.

Finally, with regard to counsel's reliance on the 1994 Associate Commissioner's memorandum, the memorandum was intended solely as a guide for employees and will not supersede the plain language of the statute or the regulations. Although memoranda may be useful as a statement of

policy and as an aid in interpreting the law, such documents are not binding on any CIS officer as they merely indicate the writer's analysis of an issue. The regulation at 8 C.F.R. § 103.3(c) provides that only "designated [CIS] decisions are to serve as precedents" and "are binding on all [CIS] employees in the administration of the Act." Therefore, by itself, counsel's assertion that the beneficiary's qualifications are analogous to the examples outlined in the memorandum is insufficient to establish the beneficiary's qualification for classification as a specialized knowledge professional. As discussed, the petitioner has not submitted probative evidence to establish that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known in the alien's field of endeavor.

After careful consideration of the evidence, it is concluded that the beneficiary does not possess specialized knowledge; nor would the beneficiary be employed in a capacity requiring specialized knowledge. For this reason, the appeal will be dismissed.

Beyond the decision of the director, the petitioner has failed to establish that a qualifying relationship exists between the petitioner and foreign entity. On the Form I-129, the petitioner claimed that the U.S. organization is a "branch" of the foreign organization.

In defining the nonimmigrant classification, the regulations specifically provide for the temporary admission of an intracompany transferee "to the United States to be employed by a parent, *branch*, affiliate, or subsidiary of [the foreign firm, corporation, or other legal entity]." 8 C.F.R. § 214.2(l)(1)(i) (emphasis added). The regulations define the term "branch" as "an operating division or office of the same organization housed in a different location." 8 C.F.R. § 214.2(l)(1)(ii)(J). CIS has recognized that the branch office of a foreign corporation may file a nonimmigrant petition for an intracompany transferee. *See Matter of Kloetti*, 18 I&N Dec. 295 (Reg. Comm. 1981); *Matter of Leblanc*, 13 I&N Dec. 816 (Reg. Comm. 1971); *Matter of Schick*, 13 I&N Dec. 647 (Reg. Comm. 1970); *see also Matter of Penner*, 18 I&N Dec. 49, 54 (Comm. 1982) (stating that a Canadian corporation may not petition for L-1B employees who are directly employed by the Canadian office rather than a United States office). When a foreign company establishes a branch in the United States, that branch is bound to the parent company through common ownership and management. A branch that is authorized to do business under United States law becomes, in effect, part of the national industry. *Matter of Schick*, *supra* at 649-50.

However, if the petitioner submits evidence to show that it is incorporated in the United States, then that entity will not qualify as "an . . . office of the same organization housed in a different location," since that corporation is a distinct legal entity separate and apart from the foreign organization. *See Matter of M*, 8 I&N Dec. 24, 50 (BIA 1958, AG 1958); *Matter of Aphrodite Investments Limited*, 17 I&N Dec. 530 (Comm. 1980); and *Matter of Tessel*, 17 I&N Dec. 631 (Act. Assoc. Comm. 1980). If the claimed branch is incorporated in the United States, CIS must examine the ownership and control of that corporation to determine whether it qualifies as a subsidiary or affiliate of the overseas employer.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); *see also Matter of Siemens Medical Systems, Inc.*,

19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

As general evidence of a petitioner's claimed qualifying relationship, stock certificates, corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must be examined to determine the total number of shares issued, the exact number issued to the shareholder, and the subsequent percentage ownership and its effect on corporate control. Additionally, a petitioning company must disclose all agreements relating to the voting of shares, the distribution of profit, the management and direction of the subsidiary, and any other factor affecting actual control of the entity. *See Matter of Siemens Medical Systems, Inc., supra*. Without full disclosure, CIS is unable to determine the elements of ownership and control. For this additional reason, the petition may not be approved.

In the present matter, the petitioner is a non-profit corporation organized in the State of Colorado and the beneficiary's overseas employer is a "Limited" company organized in Kenya. Although both companies share the same organizational purpose and name, there is insufficient evidence to establish that they have common ownership and control. Accordingly, the petitioner has not satisfied the technical requirements of 8 C.F.R. § 214.2(I)(1)(i).

Although not directly addressed by the director, the AAO finds that the petitioner has failed to establish that the beneficiary has been employed in a capacity requiring specialized knowledge with the foreign entity. The petitioner described the beneficiary's foreign duties on the Form I-129 and in a document describing the breakdown of the hours she spends on each duty. For example, the beneficiary is described as one who provides "spiritual direction and coaching and mentoring," "leads through teaching, training and transmitting . . . core values," "meet[s] with key leaders," and spends four to six hours a day when not traveling "[p]rocess[ing], reply[ing], and act[ing] on correspondence; do[ing] bible studies; [w]ork[ing] on papers; [p]repar[ing] for trips; prepar[ing] conference messages; prepar[ing] for meetings." These duties do not demonstrate that the beneficiary has been employed in a specialized knowledge capacity. Based upon the petitioner's description, the beneficiary appears to spend the majority of her day involved in the administrative tasks of the organization. The petitioner has not submitted any evidence of the knowledge and expertise required for the beneficiary's position that would indicate that the beneficiary is one distinguishable as "a special ministry assistant" as compared to other personnel within this type of organization. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). In sum, the petitioner has failed to demonstrate that the beneficiary meets the criteria of a specialized knowledge worker. For this additional reason, 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 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).

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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.