U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-USA, LLC

DATE: APR. 4, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a company that sells automotive parts, seeks to continue the Beneficiary's temporary employment as its chief executive officer under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary's proposed position in the United States will be in a managerial or executive capacity.

On appeal, the Petitioner provides additional information about the Beneficiary's position and job duties as well as the job duties of his support staff. The Petitioner also points to errors in the Director's analysis, stating that the Director overlooked previously submitted evidence about the proposed position and did not consider that in addition to five in-house employees, the Beneficiary would be supported by U.S.-based subcontractors and staff from the foreign affiliate.

Upon *de novo* review, we find that the Petitioner has correctly pointed to errors in the Director's analysis, which does not adequately consider the Petitioner's claims and supporting evidence. We also find that the Director incorrectly applied the statutory definition of managerial capacity to subordinate employees who are not subject to the statutory criteria. The Petitioner has supplemented the record with sufficient evidence that establishes that the Beneficiary would more likely than not be primarily performing executive job duties. In sum, we find that the Petitioner has overcome the grounds for denial. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of D-USA, LLC*, ID# 2880058 (AAO Apr. 4, 2019)