U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-W-A-C-

DATE: DEC. 28, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a professional recruitment and executive search solutions company, seeks to temporarily employ the Beneficiary as a "recruitment manager, IT sales department" under the L-1A nonimmigrant classification for intracompany transferees. 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 record did not establish, as required, that the Beneficiary is employed abroad in a managerial or executive capacity.

On appeal, the Petitioner states that the Director did not sufficiently address its assertion that the Beneficiary manages an essential function abroad. The Petitioner contends that it has submitted a detailed duty description for the Beneficiary and specific duty descriptions and performance reviews relevant to his subordinates which demonstrate that he primarily acts as a function manager.

Upon *de novo* review, we conclude that the Petitioner has overcome the sole basis for denial. The submitted evidence reflects that the Beneficiary was more likely than not employed abroad as a function manager primarily managing the foreign employer's information technology sales specialist department based in Spain.

Although the record indicates that the Beneficiary likely performs some non-managerial duties and the Petitioner acknowledges this, it also provided credible evidence that he has discretionary authority over four professionals who primarily handle the provision of IT recruitment services within his department. The Petitioner also submitted a sufficiently detailed explanation of the Beneficiary's duties which specifically describes how the Beneficiary delegates non-qualifying tasks within his function to subordinate recruitment consultants. In addition, the evidence demonstrates that the Beneficiary has full financial responsibility over his function, that he sets performance indicators for his subordinates and monitors their performance, and that he has discretionary authority on all matters related to his function. The Petitioner also provided detailed, credible duty descriptions for the Beneficiary's subordinates indicating that they more likely than not primarily relieve him from performing non-qualifying operational tasks. Therefore, the Petitioner has submitted sufficient evidence to establish that the Beneficiary exercises discretion over the day-to-

day operations of his information technology sales specialist department and demonstrated that he primarily manages the function, and acts at a senior level with respect to the function managed, consistent with the statutory definition of managerial capacity. *See* 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A).

The totality of the evidence establishes that the Beneficiary more likely than not acts in a managerial capacity abroad.

ORDER: The appeal is sustained.

Cite as *Matter of R-W-A-C-*, ID# 1841749 (AAO Dec. 28, 2018)