U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 15276937

Date: JAN. 7, 2021

Appeal of Texas Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, an importer and distributor of commercial stainless steel kitchen equipment, seeks to continue the Beneficiary's temporary employment as its president under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity.[1] Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

Following a post adjudicative site visit and further review of the record, which included evidence provided in response to a notice of intent to revoke, the Director of the Texas Service Center determined that the record lacked evidence showing that the Beneficiary has a sufficient support staff, thereby leading to the conclusion that the Beneficiary would perform "many" of the Petitioner's operational tasks. The Director also determined that the Beneficiary's job description was vague and did not substantiate her claimed leadership role in setting the organization's policies, sales targets, and financial objectives. In light of these findings, the Director revoked approval of the petition.

On appeal, the Petitioner disputes the revocation, arguing that the Director placed undue emphasis on the number of employees listed on the company's payroll summary and did not properly consider other evidence in the record, which indicates that the Petitioner has consistently used an outsourced accounting firm as well as an outside sales and marketing company to carry out operational tasks that are critical to its operation. The Petitioner notes that its parent entity, which is a manufacturer and supplier of stainless-steel kitchen equipment, has invested over $8 million to purchase a warehouse and inventory for the Petitioner's U.S. operation. The Petitioner also highlights the volume of business the foreign entity currently conducts, stating that the Petitioner's U.S. presence would further the foreign entity's goal of expanding throughout North America, beyond the midwestern portions of the United States, where its U.S. clients are currently based.

[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for the period October 1, 2017, until September 30, 2018. A "new office" is an organization that has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position.

Upon *de novo* review, the record shows that the Petitioner provided sufficient evidence to support its claims. Although the Director considered the Beneficiary's job description, it does not appear that he properly considered other relevant evidence, such as the detailed communications between the Beneficiary and her support staff as well as the Petitioner's use of contracted service providers beyond the in-house employees named in its payroll summary. Such evidence indicates that the Beneficiary has and continues to assume a senior leadership role within the organization. It also indicates that the Petitioner more likely than not had sufficient support from a combination of in-house employees and contracted service providers to relieve the Beneficiary from having to primarily engage in daily operational tasks. Furthermore, adequate consideration of the full scope of the operation indicates that the Petitioner is part of a broader international organization that includes an established foreign parent entity, which operates in the same industry as the Petitioner and is able to manufacture and supply the Petitioner with the inventory it requires to meet the needs of its existing and prospective clients in the United States.

In light of the above, we find that the Petitioner has satisfied the preponderance of the evidence standard of proof. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.