U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF I-A-USA INC.

DATE: JULY 24, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, an advertising agency, seeks to temporarily employ the Beneficiary as its chief executive officer 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 Vermont Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary has been employed abroad, and will be employed in the United States, in a managerial or executive capacity. The matter is now before us on appeal.

While reviewing the record of proceeding, we discovered several potentially disqualifying issues that the Director did not mention in the denial notice. These issues concerned the relationship between the Petitioner and the foreign employer; the continuity of the Beneficiary's employment abroad; the Beneficiary's involvement with several other businesses; and a discrepancy in the Beneficiary's foreign job description. We sent the Petitioner a notice of intent to dismiss and request for evidence (NOID/RFE), allowing the Beneficiary an opportunity to respond to this information under terms set forth in the regulations at 8 C.F.R. § 103.2(b)(8) and (16). We have not received a response to the NOID/RFE.

If a petitioner does not respond to a request for evidence or a notice of intent to deny by the required date, we may deny the petition as abandoned, deny based on the record, or deny for both reasons. 8 C.F.R. § 103.2(b)(13)(i). Our NOID/RFE specifically informed the Petitioner that "we may dismiss your case if we do not receive your response to this NOID/RFE **within 87 days of the date on the cover letter**. This time period includes three days added for service by mail." (Emphasis in original). To date, more than 87 days have elapsed, and we have yet to receive a response from the Petitioner; therefore, we will dismiss the appeal as abandoned. Moreover, because the Petitioner did not submit evidence to resolve the deficiencies addressed in the NOID/RFE, the Petitioner did not establish that the Beneficiary is eligible for L-1A classification.

ORDER: The appeal is dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of I-A-USA Inc.*, ID# 1163278 (AAO July 24, 2018)