U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF B- INC.

DATE: JUNE 14, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, which intends to operate a retail business, seeks to temporarily employ the Beneficiary as sales director of its new office[1] 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 had at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition. The Petitioner appealed that decision.

After a preliminary review of the record, we issued a notice of intent to dismiss and request for evidence (NOID/RFE) asking for additional clarification and documentation regarding the Beneficiary's employment history in China and the relationship between his two claimed foreign employers. In addition, although not addressed in the Director's decision, we advised the Petitioner that additional evidence would be needed to establish that it would be able to support the Beneficiary in a managerial or executive capacity within one year. The Petitioner did not respond to the NOID/RFE.

We may dismiss an appeal if the Petitioner does not respond to our request. The regulation provides, in pertinent part:

> If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons.

[1] The term "new office" refers to an organization which has been doing business in the United States 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 no more than one year within the date of approval of the petition to support an executive or managerial position.

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 lapsed, and we have yet to receive a response from the Petitioner.

We will dismiss the appeal as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i). 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 B- Inc.*, ID# 943660 (AAO June 14, 2018)