U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-USA, INC.

DATE: JUNE 27, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner,[1] a hospitality management company, seeks to temporarily employ the Beneficiary as its general manager officer under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) § 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: (1) the Beneficiary was employed abroad in a managerial or executive capacity; and (2) the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity.

On appeal, the Petitioner submits a brief and additional evidence, and asserts that the Director erred by concluding that the Beneficiary's foreign and proposed U.S. positions are not managerial or executive.

Upon *de novo* review, we will sustain the appeal.

The Petitioner has provided additional explanations on appeal regarding the nature of the foreign and proposed U.S. roles and has now established by a preponderance of the evidence that the Beneficiary has been and will be employed in a managerial capacity as defined at section 101(a)(44)(A) of the Act. The record shows that the Petitioner employs over 70 employees and is part of a Canadian hospitality company that runs hostels, restaurants, and a tour company. The Petitioner has demonstrated that the Beneficiary will primarily manage its operation in [redacted] California, rather than primarily performing routine operational duties associated with that location. The Petitioner identified the subordinate managers as well as their corresponding duties and how they will relieve the Beneficiary from primarily performing operational duties related to running the [redacted] operation. The Petitioner has also demonstrated by a preponderance of the evidence that the Beneficiary will exercise

[1] The Petitioner identified its name as "[redacted]" on the Form I-129, Petition for a Nonimmigrant Worker, and as [redacted] the Canadian parent company, on the Form I-290B, Notice of Appeal or Motion. The record shows that the former is the correct name.

discretion over the day-to-day operations of the [redacted] operation. With respect to the foreign employment, we also find that the Petitioner has overcome this issue for reasons similar to those discussed above.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of S-USA, Inc.*, ID# 3259601 (AAO June 27, 2019)