U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-USA, INC.

DATE: MAY 9, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, an automotive solutions company, seeks to continue the Beneficiary's temporary employment as its "General Manager for Simulation, Engineering and Automation" 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's foreign and proposed positions have been and would be in a managerial or executive capacity.

On appeal, the Petitioner contends that the Director did not consider previously submitted evidence showing that the Beneficiary's foreign and U.S. positions involve overseeing managerial and professional employees. The Petitioner relies on the foreign entity's reporting structure and the job descriptions of the Beneficiary's foreign subordinates to support the claim that the Beneficiary assumes a senior-level position that fits the statutory criteria of managerial capacity. The Petitioner also provides additional information about the Beneficiary's proposed position and the job duties of his proposed support staff, explaining that the foreign entity's staff will continue to support the Beneficiary in his proposed position during the as the Petitioner continues to expand its U.S. operation. Lastly, the Petitioner discusses each of the Beneficiary's foreign and proposed job duties and lists the components of each duty, maintaining that all underlying operational tasks have been and will be performed by employees who are subordinate to the Beneficiary.

Upon *de novo* review, we find that the Petitioner has supplemented the record with additional evidence and pointed to previously submitted evidence, which shows that the Beneficiary's foreign and proposed positions meet the statutory definition of managerial capacity. We also find that the Director incorrectly applied the statutory definition of managerial capacity to subordinate employees who are not subject to the statutory criteria. In sum, we find that the Petitioner has overcome the grounds for denial. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of D-USA, Inc.*, ID# 3259945 (AAO May 9, 2019)