U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF T-USA, INC.

DATE: MAY 24, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a pipes and fittings manufacturer, seeks to temporarily employ the Beneficiary as a manufacturing manager under the L-1A nonimmigrant classification for intracompany transferees. *See* 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 is 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 asserts that the Director erred by concluding that the Beneficiary's current and proposed positions are not managerial.

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

The Petitioner has established, by a preponderance of the evidence, that the Beneficiary is employed in a qualifying managerial capacity abroad and will be employed in a qualifying managerial capacity in the United States as defined at section 101(a)(44)(A) of the Act. The record does not support the Director's finding that the foreign parent and the Petitioner lack "an organizational structure sufficient to elevate the Beneficiary to a supervisory position that is managerial in nature." The Petitioner described the Beneficiary's current role abroad (production manager) as one in which he manages a critical function: the manufacturing process, including supervising a production team of approximately 360 direct and indirect reports.

With respect to the Beneficiary's proposed position in the United States (manufacturing manager), he will report directly to the general manager and will supervise four manufacturing teams consisting of four direct reports and more than 30 indirect reports. The Petitioner identified five employees who are all degreed professionals – three production supervisors, one maintenance supervisor, and one process engineer – who will relieve the Beneficiary from performing non-managerial duties. The

Petitioner provided specific examples of the types of non-managerial duties delegated to these staff members and established that the Beneficiary's actions will be higher-level managerial duties.

As such, the Petitioner has established that the Beneficiary is employed in a qualifying managerial capacity abroad and will be employed in a qualifying managerial capacity in the United States. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner in the instant case has sustained that burden.

ORDER: The appeal is sustained.

Cite as *Matter of T-USA, Inc.*, ID# 3259025 (AAO May 24, 2019)