U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-E-I-R-I-N-A-

DATE: NOV. 6, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR NONIMMIGRANT WORKER

The Petitioner, a research and technology institute in smart grid development, seeks to extend the Beneficiary's temporary employment as its chief financial officer (CFO) 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 California Service Center revoked the approval of the extension petition,[1] concluding that the record did not establish, as required, that the Beneficiary's U.S. position qualifies as a managerial or executive position. On appeal, the Petitioner submits additional evidence and asserts that the Beneficiary will serve as a function manager in the United States. Upon *de novo* review, we will sustain the appeal.

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.*

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the

[1] Under U.S. Citizenship and Immigration Services regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, a director must issue a notice of intent to revoke (NOIR) that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B). Here, the NOIR was properly issued by the Director.

day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* sections 101(a)(44)(A)(i) and (ii) of the Act. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act. If a petitioner claims that a beneficiary will manage an essential function, it must clearly describe the duties to be performed in managing the essential function. In addition, the petitioner must demonstrate that:

> (1) the function is a clearly defined activity; (2) the function is "essential," i.e., core to the organization; (3) the beneficiary will primarily *manage*, as opposed to *perform*, the function; (4) the beneficiary will act at a senior level within the organizational hierarchy or with respect to the function managed; and (5) the beneficiary will exercise discretion over the function's day-to-day operations.

Matter of G- Inc., Adopted Decision 2017-05 (AAO Nov. 8, 2017).

Here, the Petitioner has established by a preponderance of the evidence that the Beneficiary will serve as a function manager in the United States. It has meaningfully described her duties as CFO; it has clearly defined the financial function that is essential to its global operations; it has established that the Beneficiary will primarily manage its financial function as opposed to performing the function;[2] it has established that the Beneficiary will act at a senior level with respect to the function managed; and it has established that the Beneficiary will exercise discretion over the day-to-day operations of its financial function.

The Petitioner has established by a preponderance of the evidence that the Beneficiary will serve as a function manager in the United States. We will therefore sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of G-E-I-R-I-N-A-*, ID# 5718449 (AAO Nov. 6, 2019)

[2] The Beneficiary also manages the Department of General Administration and co-manages the Department of Legal Affairs, the duties of which primarily relate to the Petitioner's financial operations.