U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-S-, INC.

DATE: NOV. 15, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, an electronic commerce company, seeks to temporarily employ the Beneficiary as its "Capacity Planning Manager III" 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 would be employed in a managerial or executive capacity under an approved petition.

On appeal, the Petitioner points to the Beneficiary's comprehensive job description, which it previously provided, contending that the Director neglected to properly consider that job description, the Beneficiary's critical role within the scope of the function he will manage, and the significant monetary impact of that function on the organization as a whole. The Petitioner provides additional information about the Beneficiary's essential function and points to previously submitted evidence about the Beneficiary's relationship with subordinates who will support his position and the duties of those subordinates.[1]

The Petitioner also discusses the reporting structure surrounding the Beneficiary's proposed position and clarifies that despite the lack of "geographical proximity" between the Beneficiary and his support staff, the direct line of management will remain the same and the Beneficiary's subordinate team in India will relieve the Beneficiary from having to primarily focus on non-managerial job duties. The Petitioner goes on to list the various "senior leadership" positions with whom the Beneficiary will communicate in the course of executing his function management duties. In sum, the Petitioner adequately highlights the Beneficiary's role within the wider qualifying international organization and establishes that the Beneficiary will manage an essential function, while

[1] The Director incorrectly applied the definition of managerial capacity to the Beneficiary's subordinate, finding that his direct subordinate would not function in a primarily managerial capacity. The Petitioner need not establish that a beneficiary's subordinates meet the statutory definition in order to demonstrate that the beneficiary meets the statutory criteria, which need only be applied to the proposed position.

subordinates within the organization will carry out the underlying duties of that function. *See Matter of Z-A-*, Inc., Adopted Decision 2016-02 (AAO Apr. 14, 2016).

Upon *de novo* review, we find that the Petitioner has overcome the basis for denial. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of A-S-, Inc.*, ID# 1633879 (AAO Nov. 15, 2018)