U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-, LLC

DATE: NOV. 19, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a software development and consulting business, seeks to temporarily employ the Beneficiary as its chief technology officer (CTO) 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 denied the petition, concluding that the record did not establish, as required, that the Beneficiary has been employed abroad, or would be employed in the United States, in a managerial or executive capacity.

On appeal, the Petitioner submits additional evidence and asserts that it has established that the Beneficiary has been and would be working in a managerial capacity.

Upon *de novo* review of the record, we will sustain the appeal. The Beneficiary has served as the chief technology officer for the Petitioner's Indian subsidiary since its founding and the Petitioner now seeks to transfer this position to its U.S. operations to perform similar functions. The Petitioner has provided additional information regarding the Beneficiary's proposed role in the United States and his employment history with the foreign entity sufficient to establish that he has been employed in India, and will be employed in the United States, in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

The totality of the evidence supports the Petitioner's claim that the Beneficiary: manages and will continue to manage all technology-related activities and resources of the multinational business; has and will have the authority to hire and fire employees; supervises subordinate professionals in India and will supervise professionals in the United States; and exercises discretion over the day-to-day operations of the foreign entity and will do the same for the Petitioner with respect to software product development, service delivery, and internal technological requirements. While the record reflects that the Beneficiary spends a portion of his time on higher-level technical functions, the Petitioner met its burden to establish that he supervises professional staff and contractors who relieve him from involvement in routine operational functions, and that his duties have been and will be primarily managerial.

ORDER: The appeal is sustained.

Cite as *Matter of M-, LLC*, ID# 1797146 (AAO Nov. 19, 2018)