U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF N- LLC

DATE: NOV. 21, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a software development company, seeks to temporarily employ the Beneficiary as vice president of development and innovation of its new office[1] 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: (1) the Beneficiary has been employed abroad in a managerial or executive capacity; and (2) the new office will support a managerial or executive position within one year.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director erred by disregarding qualifying evidence, and by mischaracterizing other materials in the record.

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

On appeal, the Petitioner demonstrates that it had submitted sufficient information about the duties the Beneficiary and his subordinates both abroad and intended for the new office in the United States. The Beneficiary's oversight over supervisory and professional subordinates is consistent with the statutory definition of managerial capacity at section 101(a)(44)(A) of the Act. The Petitioner has shown that, while abroad, the Beneficiary was responsible for a significant portion of the foreign entity. With respect to his intended U.S. employment, the Petitioner's business plan and employment targets are reasonable with the resources shown to be available. The Director's findings about the small initial size of the Petitioner's staff did not take into account foreign workers who, although working abroad, would continue to fall under the Beneficiary's chain of authority.

[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

The Petitioner has provided sufficient information and evidence to establish the Beneficiary's managerial capacity, both in his past employment abroad and in his intended employment in the new office in the United States.

ORDER: The appeal is sustained.

Cite as *Matter of N- LLC*, ID# 1805507 (AAO Nov. 21, 2018)