U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF I-R-, INC.

DATE: NOV. 27, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a market research company, seeks to temporarily employ the Beneficiary as a media consultant/statistical modeler 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 was employed abroad in a managerial or executive capacity. In addition, the Director concluded that the Petitioner did not demonstrate that the Beneficiary would be employed in the United States in a managerial or executive capacity.

On appeal, the Petitioner contends that the Director incorrectly concluded that the Beneficiary did not oversee professional subordinates abroad and also that he would not supervise professionals in the United States. The Petitioner also states that the Director overemphasized certain operational duties in the Beneficiary's foreign and U.S. duty descriptions and notes that it is only required to demonstrate that he would spend a majority of his time on managerial duties.

Upon *de novo* review, we conclude that the Petitioner has submitted sufficient evidence to establish that the Beneficiary acts abroad, and would act in the United States, as a personnel manager. Although the Petitioner submits duties and evidence indicating that the Beneficiary likely performs some non-qualifying operational duties abroad, such as those related to statistical modeling, it also provided credible documentary evidence reflecting that he primarily delegates these tasks to the seven professional members of the "Lift Development Team" he oversees abroad. The Petitioner also submits credible duty descriptions for the analysis modelers he oversees and evidence corroborating the claims that these subordinate positions require bachelor's degrees for minimum entry. Therefore, the evidence demonstrates that the Beneficiary acts as a personnel manager abroad overseeing professional subordinates. Section 101(a)(44)(A) of the Act.

For similar reasons, we also conclude that the Beneficiary would likely act in a managerial capacity in the United States. Similar to the Beneficiary's foreign employment, the evidence demonstrates that the Beneficiary would oversee a team of professionals and direct the company's newly created

"Lift Development Team" in the United States. Again, although the Beneficiary's duties indicate that he would likely perform some non-qualifying operational duties in the United States such as building complex statistical algorithms, it also provided credible duties and other documentary evidence demonstrating that he would more likely than not be primarily relieved from non-qualifying duties by the professional members of the team he would oversee. The Petitioner also sufficiently established that the Beneficiary's subordinates in the United States are required to hold bachelor's degrees; and therefore, are considered professionals as defined by the regulations. *Cf.* 8 C.F.R. § 204.5(k)(2) (defining "profession" to mean "any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation").

Therefore, the totality of the evidence establishes that the Beneficiary more likely than not acts in a managerial capacity abroad and he will act in a managerial capacity in the United States.

ORDER: The appeal is sustained.

Cite as *Matter of I-R-, Inc.*, ID# 1847627 (AAO Nov. 27, 2018)