U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 11822509

Date: OCT. 19, 2020

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, describing itself as a global manufacturer and servicer of highly engineered precision products, seeks to temporarily employ the Beneficiary as a "Manager, Engineering" in the United States 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 Director of the California Service Center denied the petition, concluding the record did not establish, as required, that the Beneficiary was employed abroad full-time for one continuous year in the three years preceding the date the petition was filed. In addition, the Director determined the Petitioner did not establish that: (1) the Beneficiary was employed abroad in a position that was managerial, executive, or that involved specialized knowledge, 2) the Beneficiary was qualified to perform the intended services in the United States, and 3) the Beneficiary's position in the United States would involve specialized knowledge.

On appeal, the Petitioner asserts it has submitted sufficient personnel records and other supporting documentation to establish that the Beneficiary was employed abroad full-time for the required one year. Further, the Petitioner contends it provided substantial evidence to demonstrate the Beneficiary's specialized knowledge and qualifications, including a lengthy and detailed support letter explaining his more than 12 years of experience within the organization and laying out comparisons of his knowledge against the other engineers working within the organization.

Upon *de novo* review, we conclude that the Director improperly analyzed whether the Beneficiary's position in the United States would involve specialized knowledge since the petition in this matter is for an L-1A managerial or executive intracompany transferee visa. In the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner indicated in part 2, item 1 that it was filing an L-1A petition. Likewise, in section 1, part 13 of the L Classification Supplement to the Form I-129, the Petitioner did not answer the questions applicable to an L-1B specialized knowledge petition and in section 1, part 7 explained the Beneficiary's U.S. position as "manag[ing] a major function of the engineering activities" and "direct[ing] the development of system requirements and specifications." In addition, in response to the Director's notice of intent to deny (NOID), the Petitioner stated that the Beneficiary's "job title will change when he moves to the United States" noting that he would become an "engineering manager." It further emphasized that the Beneficiary would have "direct reports,"

including four "process improvement engineers," reflected as his subordinates in a provided U.S. organizational chart. The Petitioner also noted that "hiring [would] commence once the VISA is approved." For these reasons, we conclude that the Petitioner filed an L-1A managerial or executive intracompany transferee petition, not an L-1B specialized knowledge petition.

Therefore, we will withdraw the Director's decision and remand it for the entry of a new decision. Notwithstanding our withdrawal of the Director's decision, we find that the record as presently constituted is not sufficient to demonstrate that the Beneficiary would act in a managerial or executive capacity in the United States. For instance, it is noteworthy that the Petitioner stated the Beneficiary would not have any subordinates in the United States as of the date the petition was filed and otherwise did not sufficiently demonstrate that he would qualify as a function manager, as it only vaguely discussed him "managing a major function" in the Form I-129. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

Accordingly, we will remand the matter for the Director to consider the petition as an L-1A petition and to adjudicate in the first instance any additional issues as may be necessary and appropriate.

ORDER: The decision of the Director is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.