U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF U-A-, INC.

DATE: SEPT. 12, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a seller of control automation technology products and services, seeks to employ the Beneficiary as its sales and marketing manager 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 was employed abroad and would be employed in the United States in a managerial or executive capacity.

On appeal, the Petitioner states that the Beneficiary has and would continue to assume the role of a function manger; it contends that the Director mischaracterized the Beneficiary's job descriptions and did not consider his foreign and proposed positions with respect to the wider qualifying international organization, as instructed in *Matter of Z-A-*, Inc., Adopted Decision 2016-02 (AAO Apr. 14, 2016). The Petitioner refers to a previous discussion in which it addressed the components of the entire organization, including its affiliates' operational and research and development teams. Upon review, we find that the Petitioner adequately explains how those teams will function to establish that they will continue to support the Beneficiary's proposed position in the United States.

The Petitioner also provides a comprehensive discussion of the underlying tasks that are associated with the essential sales function that the Beneficiary has and would continue to manage; in doing so, the Petitioner points out that the distributor partner companies that sell the Petitioner's products actually employ the managers and support staff who are responsible for carrying out the critical sales function along with other non-managerial tasks, such as training their own sales people on key product features and addressing end user customer service issues. Further, the Petitioner resubmits previous statements that described the Beneficiary's duties, focused on his critical role within the scope of the function he managed and would continue to manage, and pointed to the significant monetary impact of that function on the organization as a whole. Based on our analysis of the totality of the evidence, we find that the Petitioner has submitted sufficient evidence to establish that the Beneficiary assumed a function manager role during his employment abroad and would assume a similar role in his proposed position in the United States.

Upon *de novo* review, we find that the Petitioner has overcome the Director's decision. Therefore we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of U-A-, Inc.*, ID# 1623941 (AAO Sept. 12, 2018)