



U.S. Department of Justice  
Immigration and Naturalization Service

BOH

OFFICE OF ADMINISTRATIVE APPEALS  
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Washington, D.C. 20536



**PUBLIC COPY**

File: EAC 98 144 52305 Office: VERMONT SERVICE CENTER Date:

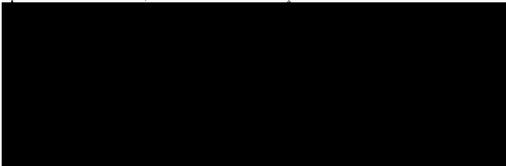
FEB 1 2001

IN RE: Petitioner:  
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(C)

IN BEHALF OF PETITIONER:



identification data deleted to  
prevent clearly unwarranted  
disclosure of personal privacy

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The petitioner, [REDACTED] performs aircraft engine overhaul and assembly. It seeks to employ the beneficiary as the senior manager of purchasing, and therefore, endeavors to classify the beneficiary as a multinational manager pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C).

The director of the Vermont Service Center denied the I-140 petition because the petitioner failed to establish that the beneficiary is currently and will continue to be employed in a primarily managerial capacity. On appeal, counsel submits a brief. The petitioner submits an affidavit from the beneficiary's immediate supervisor, attesting to the beneficiary's role within the organization.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

\* \* \*

(C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

The issue to be examined in this proceeding is whether the beneficiary manages as essential function, as claimed by the petitioner in the I-140 petition. In denying the petition, the director found that the beneficiary worked more as a specialized-knowledge employee rather than as a manager. The director's denial also indicates because the beneficiary's immediate supervisor (general manager) was the recipient of an approved I-140 petition as a multinational manager or executive, the petitioner's organizational structure (five employees) could not support another primarily managerial position.

On appeal, counsel argues that the beneficiary manages an essential

function, which is the purchasing activities. According to counsel, the beneficiary manages a purchasing budget of \$100 million, supervises two professional employees and one non-professional employee, and is the most senior individual within the purchasing division's hierarchy.

Counsel's arguments are persuasive.

The evidence in the record establishes that the beneficiary manages a function of the petitioner, which is its entire purchasing operations; supervises and controls the work of two professional employees; has the requisite authority over personnel decisions within the function he manages; and exercises discretion over the day-to-day operations of the purchasing department through his subordinate employees. The beneficiary, therefore, works in a primarily managerial capacity for the petitioner.

The petitioner has overcome the objection of the director. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has met that burden.

**ORDER:** The appeal is sustained.