



U.S. Citizenship
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FILE:

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OFFICE: NEBRASKA SERVICE CENTER

Date: **DEC 30 2008**

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)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation operating in the United States as a manufacturer of semiconductors. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. In denying the petition, the director found that the petitioner failed to establish that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief claiming that the director's paraphrased version of the beneficiary's job description omitted key terms that were necessary in conveying the beneficiary's managerial role in overseeing rather than primarily performing the job duties associated with an essential function.

Upon review of the record, the AAO concludes that the director's decision should be withdrawn. While the director properly sets out parameters that help to identify when someone is acting as a function manager, the AAO finds that too much emphasis was placed on the fact that the beneficiary was not at the highest-level position with respect to the function managed. Despite the fact that the beneficiary's superior has the highest-level position with respect to the essential function, the organizational chart submitted in response to the request for additional evidence indicates that the beneficiary's proposed position is at a senior level with respect to the essential function and that the petitioner is staffed with professional employees, who are charged with carrying out the complex duties associated with that function.

In summary, the AAO finds that the information provided by the petitioner with regard to its organizational hierarchy and the beneficiary's duties and responsibilities is sufficient to meet the preponderance of the evidence standard that the beneficiary would more likely than not be employed in the United States in a qualifying managerial capacity. *See* section 101(a)(44)(A) of the Act.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner in the instant case has met that burden.

ORDER: The appeal is sustained.