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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B4

[redacted]

DATE: FEB 03 2012

OFFICE: TEXAS SERVICE CENTER

[redacted]

IN RE: Petitioner:
Beneficiary: [redacted]

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:

[redacted]

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas 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 The decision of the director will be withdrawn and the appeal will be sustained.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 that provides design, construction, maintenance, and property management services. 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: 1) that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 2) that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief disputing the director's findings and pointing out facts in the record that address the relevant issues concerning the beneficiary's managerial capacity in his positions abroad and with the U.S. entity.

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 language of the statute is specific in limiting this provision to only those executives and managers who have previously worked for a firm, corporation or other legal entity, or an affiliate or subsidiary of that entity, and who are coming to the United States to work for the same entity, or its affiliate or subsidiary.

While the director was correct in emphasizing the descriptions of the beneficiary's duties with the foreign and U.S. entities, this element must be reviewed in light of a comprehensive analysis of other relevant factors, including the overall organizational structure and the beneficiary's placement therein. The record is persuasive in showing that both of the beneficiary's employers are sufficiently complex in their organizational compositions in that both are comprised of multiple managerial tiers and highly skilled professionals who carry out the services that each entity sells to its clientele. Although the petitioner has not provided organizational charts for either entity, the record contains sufficient information about their organizational hierarchies and the beneficiary's role with respect to the professionals he supervised in his position abroad and those he would supervise in his proposed position with the U.S. entity. Proper consideration of all these factors indicates that each entity is sufficiently staffed with individuals who are assigned to perform daily

non-qualifying tasks and relieve the beneficiary from having to allocate the primary portion of his time to such tasks.

Despite any shortfalls in the beneficiary's job descriptions, the information provided is sufficient to meet the preponderance of the evidence standard that the beneficiary was probably employed abroad and would most likely be employed in the United States in a qualifying managerial or executive capacity. *See* section 101(a)(44)(A) of the Act.

Accordingly, the AAO concludes that the petitioner has overcome the director's adverse findings and the denial must therefore be withdrawn.

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.