

I-140 E13 Multinational Executives and Managers
REQUEST FOR EVIDENCE

DRAFT TEMPLATE FOR COMMENT

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DRAFT

REQUEST FOR EVIDENCE

Form I-140, Immigrant Petition for Alien Worker E13 Multinational Executives and Managers

Required Introduction

Your organization, [insert organization name] (petitioner), filed an Immigrant Petition for Alien Worker (Form I-140), on [date petition was filed], with U.S. Citizenship and Immigration Services (USCIS), seeking to classify [insert name of beneficiary] (beneficiary) as a Multinational Executive or Manager Immigrant worker (E13).

The Form I-140 indicates the beneficiary will work as a/an [insert job title] in [insert field].

The E13 immigrant classification applies to individuals who worked in a managerial or executive capacity abroad for at least one year for a firm, corporation, other legal entity, or its subsidiary or affiliate. In addition, E13 immigrants must seek to continue rendering services to the same employer, or its subsidiary or affiliate, in a managerial or executive capacity. If the beneficiary is outside the United States, then the one year of qualifying employment must be within the three years prior to filing the petition. If the beneficiary is already in the United States working for the same employer, or a subsidiary or affiliate of the firm or corporation or other legal entity for which the beneficiary worked abroad, then the one year of qualifying employment must be within the three years prior to the beneficiary's entry as a nonimmigrant.

Additionally, your organization (the petitioner) must be multinational to qualify for the E13 immigrant classification. "Multinational" means that the qualifying entity, or its affiliate, or subsidiary, conducts business in two or more countries, one of which is the United States.

To process your petition and determine if your petition is approvable, additional information is required. This request provides suggested evidence that you may submit to satisfy each requested item. You may:

- Submit one, some, or all of these items.
- Submit none of the suggested items and instead submit other evidence to address the request and establish that the petition is approvable.
- Explain how the evidence in the record already establishes that the petition is approvable.
- Request a decision based on the record.

Please note you are responsible for providing evidence that establishes by a preponderance of the evidence that all requirements have been met in order for your petition to be approved. Evidence must show that both you and the beneficiary meet the requirements for the requested benefit as of the date you filed the Form I-140.

Also, statements made in cover letters should be supported with additional evidence.

USCIS checks all petitions filed for this classification in its Validation Instrument for Business Enterprises (VIBE) system. VIBE uses commercially available data to validate basic information about organizations petitioning to employ foreign workers. For more information about this program, please visit USCIS's website at www.uscis.gov/VIBE.

Request for English Translations

NOTE TO ISO: Only use this subsection if you are requesting a specific English Translation of a foreign document submitted without one. Delete, if you are not requesting a specific English Translation.

All foreign language documents must have a complete English translation.

You submitted the following documents which are in a language other than English.

- (Officer must list the documents.)
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Please submit English language translations for the document(s) noted above. In addition, the translator must certify that:

- The translations are accurate and complete; and
- He or she is competent to translate from the foreign language into English.

NOTE to ISO: Review and delete the following subsections if the petitioner has met the requirement addressed.

Petitioner Requirements

To qualify for the E13 classification, you must show:

- You offered the beneficiary a job to perform in a managerial or executive capacity;
- You, or an affiliate or subsidiary, conduct business in two or more countries, one of which is the United States;
- You have been doing business for at least one year;
- You are the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity which employed the beneficiary overseas; and
- You have the ability to pay the beneficiary's offered wage.

Offer of Employment. You must show you offered the beneficiary a job to perform in a primarily managerial or executive capacity. The job offer must be in the form of a statement which indicates that the beneficiary is to be employed in the United States in a primarily managerial or executive capacity. The job offer letter must clearly describe the duties to be performed by the beneficiary.

You did not submit evidence to meet this requirement

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)

The evidence you submitted is insufficient. [ISO MUST insert the reason(s) why the evidence listed under this subsection is insufficient to establish eligibility.]

-AND-

You may still submit evidence to satisfy this requirement. Please submit the following:

- A statement from an authorized official of your organization which indicates that you will employ the beneficiary in the United States in a primarily managerial or executive capacity. Your statement must clearly describe the beneficiary's proposed job duties.

Qualifying Relationship. You must show you are the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity which employed the beneficiary abroad.

You did not submit evidence to meet this requirement.

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)

The evidence you submitted is insufficient. [ISO MUST insert the reason(s) why the evidence listed under this subsection is insufficient to establish eligibility.]

Insert if applicable: Additionally, USCIS's VIBE system was unable to validate a relationship between your U.S. and foreign entities.]

-AND-

You may still submit evidence to satisfy this requirement. Please submit the following:

- A statement from an authorized official of your organization which indicates that you are the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity which employed the beneficiary abroad.
- Documents which show who owns and controls your organization, and documents which show who owns and controls the beneficiary's former employer abroad. Documents may include, but are not limited to:
 - A detailed list of owners, including their percentages of ownership;
 - An annual report which lists all affiliates, subsidiaries, branch offices, and percentages of ownership;
 - Copies of, as applicable, Articles of Incorporation, corporate bylaws, meeting minutes, a stock ledger, all stock certificates, proof of stock purchase (such as copies of the original wire transfers, cancelled checks, deposit receipts, bank statements, or other documentary evidence if no money was exchanged in a stock transfer);
 - Copies of, as applicable, Articles of Organization, the Operating Agreement, and meeting minutes;
 - A copy of, as applicable, the partnership agreement;
 - A copy of, as applicable, the agreement with a worldwide coordinating organization, if your organization and the beneficiary's former employer abroad are both partnerships which market accounting services under the same internationally recognized name;
 - A copy of, as applicable, the joint venture agreement; and
 - A copy of, as applicable, the franchise agreement, including all addenda, attachments, additional statements, and exhibits.

Doing Business – Petitioner. You must show you were doing business for at least one year before you filed the petition, and that you continue to do business. “Doing business” means the regular, systematic, and continuous provision of goods and/or services by a firm, corporation, or other entity. It does not include the mere presence of an agent or office.

You did not submit evidence to meet this requirement.

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)
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The evidence you submitted is insufficient. [ISO MUST insert the reason(s) why the evidence listed under this subsection is insufficient to establish eligibility.]

Insert if applicable: Additionally, USCIS was unable to match your organization to an active organization in its VIBE system **OR** USCIS's VIBE system indicates that your organization is inactive and may be out of business.]

-AND-

You may still submit evidence to satisfy this requirement. Documents may include, but are not limited to:

- A statement from an authorized official of your organization which indicates that you have been doing business for at least one year.
- Documents to show you were doing business for at least one year before you filed the petition, and continue to do business. Evidence may include, but is not limited to, documents showing you:
 - Legally formed your organization and it is currently authorized to do business, such as copies of your:
 - Articles of incorporation;
 - Operating agreement;
 - Partnership agreement;
 - Local business license; and/or
 - Certificate of good standing;
 - Acquired and retain the necessary facilities, equipment, and staff to do business, such as copies of:
 - Leases for business premises;
 - Purchase agreements;
 - Your federal income tax returns;
 - Your Form 941, Employer's Quarterly Federal Tax Returns; and/or
 - Payroll records;
 - Regularly and systematically provide goods or services, such as copies of your:
 - Invoices;
 - Sales contracts;

- Import/ export license; and/or
- Contracts or agreements with shipping and receiving companies.

Multinational. You must show that you are a multinational organization. Multinational means that you, or an affiliate or subsidiary, conduct business in two or more countries, one of which is the United States.

You did not submit evidence to meet this requirement.

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)

-
-

The evidence you submitted is insufficient. [ISO MUST insert the reason(s) why the evidence listed under this subsection is insufficient to establish eligibility.]

-AND-

You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to, documents showing the foreign organization was:

- Legally formed, and was authorized and continues to do business, such as copies of its:
 - Articles of incorporation;
 - Operating agreement;
 - Partnership agreement;
 - Local business license; and/or
 - Certificate of good standing;
- Acquired and retained the necessary facilities, equipment, and staff to do business and continues to do so, such as copies of its:
 - Leases for business premises;
 - Purchase agreements;
 - Tax returns; and/or
 - Payroll records;
- Regularly and systematically provided goods or services and continues to do so, such as copies of its:
 - Invoices;
 - Sales contracts;
 - Import/export license; and/or
 - Contracts or agreements with shipping and receiving companies.

NOTE to ISO: Review and delete the following subsections if the beneficiary has met the requirement addressed.

Beneficiary Requirements

To establish that the beneficiary is eligible for E13 classification, you must show that:

- The beneficiary will be employed in a primarily managerial or executive capacity;
- The beneficiary was employed abroad in a primarily managerial or executive capacity for one year within a specific three-year period; and
- The beneficiary was admitted in a nonimmigrant classification, if he or she is currently in the United States.

Proposed Employment. You must show the beneficiary will be employed in a primarily managerial or executive capacity.

You did not submit evidence to meet this requirement.

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)

The evidence you submitted is insufficient. **[ISO MUST insert the reason(s) why the evidence is insufficient to establish eligibility.]**

-AND-

You may still submit evidence to satisfy this requirement. Please submit:

- A statement from an authorized official of your organization which indicates that you will employ the beneficiary in the United States in a primarily managerial or executive capacity. Your statement must clearly describe the beneficiary's proposed job duties.
- Documentary evidence to establish that the beneficiary will be employed in a primarily managerial or executive capacity. Evidence may include, but is not limited to:

- An explanation of the specific daily tasks that are involved with the completion of each of the beneficiary's proposed duties and the percentage of time to be spent on each. Individual tasks should not be grouped together.
- A list of employees (and individual contractors) in the beneficiary's immediate division, department, or team. Include a summary of their job duties, educational level, salary, and whether they work full or part-time; and/or
- A description of your products and services, including the exact productive and administrative tasks necessary to produce the products and services. Explain who performs those tasks, and tasks related to goal-setting, policy-making, and discretionary decision-making.
- An organizational chart or diagram which:
 - Shows your structure and staffing levels;
 - Identifies the beneficiary's position; and/or
 - Lists all employees and contractors in the beneficiary's immediate division, department, or team by name and job title.
- Copies of the following relating to the beneficiary and his or her proposed subordinates, when applicable:
 - Payroll summary;
 - Form W-2, Wage and Tax Statement;
 - Form W-3, Transmittal of Wage and Tax Statements;
 - Form 1099-MISC, Miscellaneous Income; and/or
 - Form 941, Employer's Quarterly Federal Tax Return for the four quarters before you filed the petition. You may redact the employees' addresses and all but the last four digits of their social security numbers.
- Evidence to show the beneficiary will be a functional manager, if applicable, includes, but is not limited to, documents that indicate:
 - The specific function that the beneficiary manages;
 - How the function is essential to your organization;
 - How the beneficiary primarily exercises direction over the day-to-day operations of the function; and
 - How the beneficiary acts at a senior level with respect to your organization or the function.
- Evidence to show the beneficiary will be a first-line supervisor managing employees who are professionals includes, but is not limited to, documents that indicate:

- The occupations of the beneficiary's proposed employees require a baccalaureate degree as the minimum for entry into the field of endeavor.

Beneficiary's Employment Abroad. You must show the beneficiary was employed abroad in a primarily managerial or executive capacity for at least one year in the relevant three-year period:

- If the beneficiary is abroad, then the one year of qualifying employment must be within the three years prior to the filing of this petition; or
- If the beneficiary is already in the United States and working for the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity for which the beneficiary was employed abroad, then the one year of qualifying employment must be within the three years prior to the beneficiary's admission as a nonimmigrant.

You did not submit evidence to meet this requirement.

-OR-

To satisfy this requirement, you submitted:

- (Officer must list the evidence submitted to meet this requirement.)
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The evidence you submitted is insufficient. [ISO MUST insert the reason(s) why the evidence listed under this subsection is insufficient to establish eligibility.]

-AND-

You may still submit evidence to satisfy this requirement.

Note to ISO: Please choose the applicable paragraph depending on whether the Beneficiary is in the U.S. or not:

If the beneficiary is in the U.S. working for the petitioner then use below paragraph:

- The record shows that the beneficiary is already in the U.S. working for the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity that employed the beneficiary overseas. Therefore, please submit a statement from an authorized official of your organization which demonstrates that the beneficiary worked abroad in a primarily managerial or executive capacity for your organization, your affiliate, or your subsidiary

for at least one year in the three years preceding the beneficiary's admission as a nonimmigrant.

If the beneficiary is outside the United States then use below paragraph:

The record shows that the beneficiary is outside the United States. Therefore, please submit a statement from an authorized official of your organization which demonstrates that in the three years immediately preceding the filing of this petition the beneficiary has been employed for at least one year in a primarily managerial or executive capacity with your firm, corporation, or other legal entity, or with your affiliate or your subsidiary.

-AND-

Additionally, please submit documentary evidence to establish that the beneficiary was employed in a primarily managerial or executive capacity with the qualifying foreign employer. Evidence may include, but is not limited to:

- An explanation of the specific daily tasks that were involved with the completion of each duty and the percentage of time spent on each duty. Individual tasks should not be grouped together.
 - A list of employees (and individual contractors) in the beneficiary's immediate division, department, or team. Include a summary of their job duties, educational level, salary, and whether they worked full or part-time.
 - A description of your products and services, including the exact productive and administrative tasks necessary to produce the products and services. Explain who performed those tasks, and tasks related to goal-setting, policy-making, and discretionary decision-making.
 - An organizational chart or diagram that corresponds with the beneficiary's employment abroad, which shows the foreign organization's structure and staffing levels and identifies the beneficiary's position.
 - Copies of the payroll summary for the beneficiary and his or her subordinates.
- Evidence to show the beneficiary was a functional manager, if applicable, includes, but is not limited to, documents that indicate:
 - The specific function that the beneficiary managed;
 - How the function is essential to the organization;
 - How the beneficiary primarily exercised direction over the day-to-day operations of the function; and
 - How the beneficiary acted at a senior level with respect to the organization or the function.

- Evidence to show the beneficiary was a first-line supervisor managing employees who were professionals includes, but is not limited to, documents that indicate:
 - The occupations of the beneficiary's employees require a baccalaureate degree as the minimum for entry into the field of endeavor.

Nonimmigrant Admission. The record indicates that the beneficiary is in the United States. Therefore, USCIS requests that you submit evidence to show when the beneficiary was admitted to the United States as a nonimmigrant. This evidence is needed so that USCIS can determine the relevant three year period to examine when determining whether the beneficiary has the requisite one year of managerial or executive experience with a qualifying foreign entity.

Evidence may include, but is not limited to, a copy of the beneficiary's:

- Form I-94, Arrival/Departure Record; and/or
- Passport showing the nonimmigrant admission.

Note: Evidence should show the specific date and nonimmigrant classification of the beneficiary's admission.

Note to ISO: General Reminders section should be included in every RFE

General Reminders

If you are submitting evidence in response to this request please also submit the following:

- An index of the evidence and include corresponding tabs for each section of evidence.
- Clear and legible copies of the evidence. If clear and legible copies are not possible, submit the original documents. These originals will be returned, if requested.
- Full English language translation(s) of evidence submitted to the USCIS containing a foreign language. The translator must certify that: The translations are accurate and complete; and he or she is competent to translate from the foreign language into English.