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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
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FILE: [REDACTED]  
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Office: NEBRASKA SERVICE CENTER

Date: OCT 29 2007

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

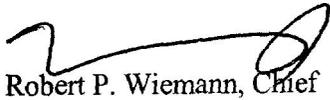
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



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.

  
Robert P. Wiemann, 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 appeal will be sustained.

The petitioner is a Utah corporation engaged in computer aided design engineering and development. It seeks to employ the beneficiary as its lead engineer. 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.

The director denied the petition based on two independent grounds of ineligibility: 1) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 2) the petitioner failed to establish that it would employ the beneficiary in a qualifying managerial or executive capacity. Among other issues, the director specifically noted that there was little specific information regarding the beneficiary's duties in relation to subordinate team members, that the petitioner did not establish that the team members were professional employees, and that the beneficiary's position description included a number of functional duties.

On appeal, counsel disputes the director's conclusions and submits a letter from the petitioner further explaining the business process and the beneficiary's role therein. The petitioner also submitted multiple exhibits in support of the appeal.

Upon review, the AAO will withdraw the decision of the director and sustain the appeal.

In response to the director's thorough and well-written denial, counsel has provided a brief addressing and overcoming all relevant points of contention with regard to the beneficiary's duties in the context of his role within the foreign organization as well as the U.S. entity. The petitioner has also provided a thorough explanation of the beneficiary's role with respect to others who carried out the essential daily job duties abroad and those who would do so within the petitioning organization. The petitioner has demonstrated that as lead engineer, the beneficiary is responsible for managing a critical project and directing a team of engineers and design staff. Based upon the sum of the documents submitted, the petitioner has established that the beneficiary was primarily employed abroad and would be primarily 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 sustained that burden.

**ORDER:** The appeal is sustained.