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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

DATE: APR 12 2012

OFFICE: TEXAS SERVICE CENTER



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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is engaged in residential construction and design services, and it seeks to employ the beneficiary as an executive manager/senior project manager. 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 on the following grounds: (1) the petitioner failed to establish that the beneficiary will be employed in the U.S. in a qualifying managerial or executive capacity, (2) the petitioner failed to establish that the beneficiary's employment abroad was within a qualifying managerial or executive capacity for one year prior to entering the United States, and (3) the petitioner failed to establish that it has the ability to pay the beneficiary's proffered wage.

Upon review of the record, the AAO withdraws the director's decision and sustains the appeal. The Form I-129 indicates that the beneficiary will be employed in the position of senior project manager. The petitioner provided a detailed job description of the job duties performed by the beneficiary, a list of individuals supervised by the beneficiary and their job duties, and documentation regarding the business operations of the petitioner. The beneficiary has been and will be a manager and will not be obliged to spend the majority of his time performing non-qualifying duties.

In addition, the petitioner provided sufficient evidence that the petitioner was employed with the foreign company for one entire year in the 3 years preceding the time of the alien's application for classification and admission into the United States. The beneficiary held a managerial position with the foreign company from April 2007 until April 2008.

Finally, the petitioner provided financial documents of the foreign company and the petitioner to indicate that the petitioner has sufficient assets to pay the wages offered to the beneficiary.

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. Here, that burden has been met. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained.