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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

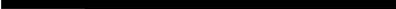


B4

DATE: APR 12 2012

OFFICE: TEXAS SERVICE CENTER

FILE: 

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.

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 The decision of the director will be withdrawn and the appeal will be sustained.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 operating in the United States as a textile manufacturing and trade firm. 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 a statement along with a statement from the petitioner disputing the director's findings and providing additional, more detailed information about the beneficiary's proposed position 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, this element must be reviewed in light of a comprehensive analysis of other relevant factors, including the organizational structure and the organization's overall ability to relieve the beneficiary from having to allocate the primary portion of his time to performing non-qualifying tasks. Additionally, no petitioner should be subjected to the unreasonable burden of having to establish that the beneficiary would allocate 100% of his time to managerial- or executive-level tasks. Unless the petitioner fails to establish that the beneficiary would primarily perform qualifying managerial or executive tasks, merely showing that some of the beneficiary's time would be allocated to non-qualifying tasks would not render that petitioner ineligible to classify the beneficiary as a multinational manager or executive.

The record is persuasive in showing that the petitioner is sufficiently complex in its hierarchical composition and is adequately staffed such that the beneficiary's position would not primarily involve the performance of

non-qualifying tasks. The record contains sufficient information about the petitioner's organizational hierarchy and the beneficiary's role with respect to an essential function, which he manages, as well as those individuals who carry out the underlying tasks associated with the essential function.

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 would more likely than not 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 will 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 sustained that burden.

ORDER: The appeal is sustained.