



**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 The decision of the director will be withdrawn and the appeal will be sustained.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 telecommunications manufacturer and developer. 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 record failed to establish that: 1) the petitioner had been doing business for at least one year prior to the filing of the petition pursuant 8 C.F.R. § 204.5(j)(3)(i)(D); and 2) the petitioner has an affiliate or parent-subsidiary relationship with the beneficiary's foreign employer.

On appeal, counsel submits a brief disputing the director's findings as well as additional documentation clarifying the petitioner's ownership and its business activities in the United States.

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.

In the present matter, the record shows that the petitioner originally claimed that 2008 was the year during which it was first established. However, on appeal, counsel asserts and provides sufficient documentary evidence to establish that the date indicated in the Form I-140 as the year in which the petitioner was established was incorrect. Rather, the petitioner's appellate Exhibit G shows that, in fact, the petitioner was organized as a limited liability company in the State of Delaware on June 22, 2005 and had actually existed as a business entity for approximately four years at the time the petition was filed. Other evidence shows that the petitioner was also doing business and thus meets the provisions of 8 C.F.R. § 204.5(j)(3)(i)(D).

Additionally, the petitioner provided corporate documents to show the petitioner's corporate acquisitions which resulted in its purchase of a group of companies, including the beneficiary's foreign employer. As such, the AAO finds that the petitioner has provided sufficient documentation to establish that the requisite qualifying relationship exists pursuant to 8 C.F.R. § 204.5(j)(3)(i)(C).

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 sustained that burden.

**ORDER:** The appeal is sustained.