



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF O-E-USA, LLC

DATE: SEPT. 12, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, which explores and mines oil, gas, and minerals, seeks to permanently employ the Beneficiary as its president under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director, Texas Service Center, denied the petition, concluding that the evidence of record did not establish that: (1) the Petitioner has a qualifying relationship with the Beneficiary's foreign employer; (2) the Beneficiary will be employed in the United States in a managerial or executive capacity; (3) the Beneficiary has been employed abroad in a managerial or executive capacity; (4) the Petitioner has been doing business for at least one year prior to the petition's filing date; and (5) the foreign employer continues to do business.

The matter is now before us on appeal. We will summarily dismiss the appeal.

On Part 2 of Form I-290B, Notice of Appeal or Motion, the Petitioner checked box b, which states: "I am filing an **appeal** to the AAO. My brief and/or additional evidence will be submitted to the AAO within 30 calendar days of filing the appeal." More than the requested 30 days have elapsed since the appeal's filing date, and the record does not contain any further brief or evidence in support of the appeal. Therefore, we consider the record of proceeding to be complete as presently constituted.

Part 4 of the Form I-290B instructed the Petitioner to "[p]rovide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed." The Petitioner wrote two sentences, which read:

Petitioner . . . continues to qualify as a subsidiary of its parent company operating abroad, the Beneficiary's employer while in Colombia. USCIS' denial of Form I-140 does not adequately analyze the evidence in support of these contentions; moreover, USCIS fails to consider the evidence in its entirety, which collectively illustrate the Beneficiary's ongoing qualifications.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The Petitioner's statement on Form I-290B does not identify any erroneous conclusion of law or fact. The assertion that the Petitioner "continues to qualify" presupposes eligibility; it does not explain how the Director erred in coming to a different conclusion. The assertion that the Director "fail[ed] to consider the evidence in its entirety" is a general statement, which does not specifically identify any evidence that overcomes the stated grounds for denial. The Director issued a 12-page decision, which discussed several pieces of evidence in considerable detail. The Petitioner offers no rebuttal to the Director's discussion, instead making only a blanket statement that the Director erred and did not sufficiently consider unspecified evidence in the record.

The Petitioner has not specifically identified any erroneous conclusion of law or statement of fact as a basis for the appeal. As noted, the Petitioner stated that it would provide a brief or additional evidence in support of the appeal, but those materials are not in the record. Therefore, consistent with 8 C.F.R. § 103.3(a)(1)(v), the appeal will be summarily dismissed.

Further, we note that the record of proceeding does not demonstrate that the Petitioner meets all eligibility requirements. For example, the Director, in denying the petition, stated that the Petitioner had submitted conflicting evidence regarding the ownership structure of the foreign company and the petitioning entity.<sup>1</sup> To support this conclusion, the Director cited statements by the Petitioner, the Petitioner's website, and the Petitioner's operating agreement. The Director also observed that the Petitioner submitted two different versions of its 2012 income tax return, containing conflicting information about ownership. The Director concluded that "[t]he petitioner failed to submit documentary evidence to show that the foreign organization owns the petitioner's common stock."

The Petitioner's statement on appeal does not address any of the specific points raised by the Director. The assertion that the Director did not consider all the relevant evidence does not rebut the Director's specific observations and conclusions regarding the evidence identified in the Director's analysis. Therefore, the Petitioner has not offered a substantive response to the Director's findings.

The Director cited five grounds for denial of the petition. The Petitioner's two-sentence statement on appeal addresses only one of those grounds, as discussed above. The Petitioner did not respond to the Director's findings on the other four stated grounds for denial.

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<sup>1</sup> To establish a "qualifying relationship" under the Act and the regulations, a petitioner must show that the beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. a U.S. entity with a foreign office) or related as a "parent and subsidiary" or as "affiliates." See generally section 203(b)(1)(C) of the Act; 8 C.F.R. § 204.5(j)(3)(i)(C).

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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; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of O-E-USA, LLC*, ID# 13734 (AAO Sept. 12, 2016)