



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

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

MATTER OF M-, LLC

DATE: JUNE 13, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a manufacturer of electrical components, seeks to permanently employ the Beneficiary as its human resources manager 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 of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. The Director further found that “the evidence does not establish that this is a valid job offer and the beneficiary will be working for the petitioner full-time.” In the discussion of the U.S. job offer, the Director noted that the Beneficiary has been dividing her time between the United States and Mexico and the Petitioner “has not provided a timeline and schedules to establish the amount of time the beneficiary spends in each location.” The Director also questioned how the Beneficiary would manage subordinates employed by a Mexican affiliate, and found that “the management of employees who are not employed by the petitioning company . . . does not permit a beneficiary to be classified as a managerial employee.

On appeal, the Petitioner submits additional evidence¹ and asserts that “international travel and oversight of functions and professionals across international borders are not inconsistent with the existence of a permanent offer [of employment] in the United States.” The Petitioner notes that it clearly explained that the Beneficiary’s former position with its Mexican affiliate and current position in the United States are the same, and involve oversight of all human resources activities across a geographic region that includes company locations in both Mexico and the United States. Further, the Petitioner emphasizes that it has consistently stated that the company seeks to permanently relocate the Beneficiary’s human resources management role to the United States, where she will be required to oversee both Mexican staff and a growing team of U.S.-based human resources staff. The Petitioner states that the Petitioner and its Mexican affiliate “make up a jointly managed region within the organizational structure of [the Petitioner’s] family of companies” and suggests that the Director misunderstood this structure.

¹ The Petitioner submitted evidence both in support of the appeal and in response to a request for evidence (RFE) issued by our office.

In addition, the Petitioner contends that the Director erred by observing that the Petitioner “did not provide job duties, educational levels, salaries . . . of each subordinate that the beneficiary supervises,” noting that it did in fact provide organizational charts and formal job descriptions, as well as educational levels and salaries, for the Beneficiary’s subordinates.

Upon *de novo* review, we find that the Petitioner has correctly pointed to errors in the Director’s analysis, which does not adequately consider the Petitioner’s claims and supporting evidence. We find that the Petitioner has offered the Beneficiary full-time permanent employment in the United States and agree with the Petitioner that her continued oversight of employees based in Mexico does preclude such a finding.

We also find that the Petitioner has supplemented the record with sufficient evidence to establish that the Beneficiary was and would be employed in a managerial capacity as defined at section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A). The record establishes that the Beneficiary has managed and will continue to manage a department of the organization, supervise subordinate supervisors and professionals, make personnel decisions, and exercise authority over the day-to-day human resources activities of the company for her assigned region within the international organization. Further, the record establishes that she had and will have sufficient subordinate staff to relieve her from significant involvement in non-managerial tasks, such that her duties were and would be primarily managerial in nature.

In sum, we find that the Petitioner has overcome the grounds for denial. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of M-, LLC*, ID# 2338819 (AAO June 13, 2019)