



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

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

MATTER OF A-E-(N-A-), INC.

DATE: JUNE 13, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a manufacturer of electronic components for the communications, automotive and other industries, seeks to permanently employ the Beneficiary as a “Program Manager/Project Lead/Lead Software Engineer” 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 capacity. The Director’s determination was based on a finding that the Petitioner’s response to a request for evidence (RFE) did not include the requested information regarding the Beneficiary’s job duties in the U.S. and his former duties with the Petitioner’s foreign affiliate; the decision did not include an analysis of the submitted duties or references to other evidence in the record.

On appeal, the Petitioner submits additional supporting documentation and contends that the Director did not consider previously submitted evidence showing that both the Beneficiary’s U.S. position and previous position abroad involve the supervision of subordinate professionals. The Petitioner points to job descriptions of the Beneficiary’s subordinates and organizational charts illustrating the companies’ reporting structures to support the claim that the Beneficiary was and will be employed at a senior level with respect to critical engineering divisions that develop Bluetooth-enabled technologies for the petitioning group’s automotive industry clients.

The Petitioner also emphasizes that, contrary to the Director’s finding, it did in fact submit more detailed position descriptions for the Beneficiary’s current and prior positions in response to the Director’s RFE, and the descriptions were not identical to the initial descriptions. Finally, the Petitioner contends that the Director’s decision, which was limited to a few sentences of analysis, did not provide it with sufficient notice of the deficiencies that led to the denial of the petition.

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

also find that the Petitioner has supplemented the record with sufficient supporting documentation to establish by a preponderance of the evidence that the Beneficiary was employed abroad, and would be employed in the United States, 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 demonstrates that his current and former roles with the Petitioner's group have involved management of a defined engineering function or subdivision, supervision of subordinate professional personnel, the ability to recommend hiring decisions and other personnel actions, authority over the day-to-day operations of the engineering activities for which he has authority, and sufficient subordinate staff to relieve him from having to spend a significant portion of his time on engineering and other non-managerial tasks.

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

ORDER: The appeal is sustained.

Cite as *Matter of A-E-(N-A-), Inc.*, ID# 3626921 (AAO June 13, 2019)