



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

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

In Re: 6961003

Date: DEC. 22, 2020

Appeal of Texas Service Decision

Form I-140, Petition for Multinational Managers or Executives

The Petitioner, a musical equipment wholesaler, seeks to permanently employ the Beneficiary as “CEO/President” under the first preference immigrant classification for multinational executives or managers. Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish, as required, that: (1) the foreign entity is conducting business and thus the Petitioner is not a multinational company; and (2) the Beneficiary would be employed in the United States in a managerial or executive capacity.

On appeal, the Petitioner refers to specific evidence previously submitted, submits additional evidence, and asserts that the Director erred by disregarding information and evidence that corroborates the Petitioner’s assertions.

Upon *de novo* review, we conclude that the Petitioner has overcome the grounds for denial. We will sustain the appeal.

## I. LEGAL FRAMEWORK

Section 203(b)(1)(C) of the Act makes an immigrant visa available to a beneficiary who, in the three years preceding the filing of the petition, has been employed outside the United States for at least one year in a managerial or executive capacity, and seeks to enter the United States in order to continue to render managerial or executive services to the same employer or to its subsidiary or affiliate.

A United States employer may file Form I-140, Immigrant Petition for Alien Worker, to classify a beneficiary under section 203(b)(1)(C) of the Act as a multinational executive or manager. This classification does not require a labor certification.

The petition must include a statement from an authorized official of the petitioning United States employer which demonstrates that the beneficiary has been employed abroad in a managerial or executive capacity for at least one year in the three years preceding the filing of the petition, that the beneficiary is coming to work in the United States for the same employer or a subsidiary or affiliate of the foreign

employer, and that the prospective U.S. employer has been doing business for at least one year. *See* 8 C.F.R. § 204.5(j)(3).

## II. MULTINATIONAL BUSINESS

As this visa classification is for a multinational executive or manager, the Petitioner must establish that the Petitioner and at least one other foreign qualifying entity is doing business. In this matter, the Director did not consider the documents initially submitted establishing that the Beneficiary's foreign employer and the Petitioner both were conducting business when the petition was filed. The record includes numerous sales and purchase invoices, tax returns, payroll records, and financial statements establishing both the Petitioner and the Beneficiary's foreign employer were conducting business. The Director did not request more information on this issue in the request for evidence. On appeal, the Petitioner provides numerous documents including sales invoices, purchase orders, financial statements, corporate tax returns, and other documents demonstrating that the foreign entity continued to operate and conduct business throughout the pendency of the petition. As the record also establishes that the Petitioner continues to conduct business, the Petitioner is a multinational company and is eligible to petition for the Beneficiary as a multinational executive or manager.

## III. U.S. EMPLOYMENT IN AN EXECUTIVE CAPACITY

Upon *de novo* review, we conclude that the record is sufficient to establish that the Beneficiary would more likely than not act in an executive capacity in the United States. The Petitioner submitted a detailed and credible duty description for the Beneficiary in the United States showing he will be primarily engaged in qualifying executive tasks directing the management of the organization and establishing the goals and policies of the organization. Section 101(a)(44)(B) of the Act. In addition, the record also includes evidence that more likely than not the Petitioner has a sufficient number of employees that will relieve him from primarily performing non-qualifying operational level tasks. The record sufficiently establishes that the Beneficiary exercises wide latitude in discretionary decision making and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization. *Id.* The evidence is sufficient to demonstrate that the Beneficiary will be employed in a qualifying position in the United States. 8 C.F.R. § 204.5(j)(2).

## IV. CONCLUSION

The totality of the evidence establishes that the Beneficiary will more likely than not be employed in an executive capacity in the United States and that the Petitioner is part of a multinational organization. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden.

**ORDER:** The appeal is sustained.