



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

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

In Re: 23095674

Date: FEB. 9, 2023

Appeal of Texas Service Center Decision

Form I-140, Petition for Multinational Managers or Executives

The Petitioner is a multinational organization operating in the liquid fuels and chemicals industry. At the time of filing, it claimed a gross income of over \$20 billion and a staff of over 30,000 employees, 1200 of whom were claimed as employees of the U.S. entity. The Petitioner seeks to permanently employ the Beneficiary as its “VP Operations West Plan – Ethylene, Utilities & Maintenance” with a proffered wage of \$230,000 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 Texas Service Center denied the petition concluding that the Petitioner did not establish that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. The Director determined that the Petitioner provided inconsistent organizational charts pertaining to the Beneficiary’s foreign employment and determined that the Beneficiary’s job description indicates that he primarily performed “production related duties.” Likewise, the Director determined that evidence pertaining to the proposed employment included inconsistencies regarding the Beneficiary’s subordinate staff and contained a job description indicating that the Beneficiary’s proposed job duties would be primarily operational in nature.

On appeal, the Petitioner disputes the denial, pointing out that the Director incorrectly described the petitioning organization as a “financial advisory services and business process management,” which is inconsistent with information contained in the petition form. The Petitioner asserts that the Director’s error “casts doubt on the extensive and thorough review” of the petition. The Petitioner also addresses the Director’s confusion over an internal code representing an employee’s position title and corrects an error in a previously submitted organizational chart, highlighting the Beneficiary’s management of over 700 direct and indirect subordinates and asserting that the Beneficiary had ample support from those subordinates to relieve him from having to primarily perform non-managerial duties.¹ In addition, the Petitioner elaborates on the Beneficiary’s job duties and respective roles within the foreign and U.S. entities, asserting that the Beneficiary’s job description should be considered within the context of a more comprehensive review of the record. The Petitioner urges us to consider the Beneficiary’s oversight of \$71 million in “variable costs” and his organizational

¹ The Petitioner claimed that the Beneficiary’s employment abroad was in a managerial capacity.

placement as head of a critical division within the foreign entity, as demonstrated in several previously submitted organizational charts. Regarding the Beneficiary's proposed position, the Petitioner elaborates on aspects of the Beneficiary's proposed position, similarly highlighting the Beneficiary's oversight of a large budget totaling over \$160 million, as well as his top placement of a critical division and the layers of managers and professionals who would be subordinate to the Beneficiary and would elevate his position to that of an executive.²

In sum, the Petitioner has adequately described the critical nature of the Beneficiary's respective roles and established that the respective roles have and would be at the top of critical divisions of two complex organizational hierarchies. As such, the Petitioner provided sufficient evidence establishing that the Beneficiary was more likely than not employed abroad in a managerial capacity and would more likely than not be employed in the United States in an executive capacity.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, conclude that the Petitioner has met its burden of proof and we will therefore sustain the appeal.

ORDER: The appeal is sustained.

² The Petitioner claims that the Beneficiary's proposed employment in the United States would be in an executive capacity