



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

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

In Re: 22377020

Date: OCT. 6, 2022

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner is an IT company with a 53-person staff. It seeks to continue to employ the Beneficiary temporarily as its “vice president business development” under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary would be employed in the United States in a managerial capacity.¹ The Director questioned whether the Beneficiary would have authority to hire and fire personnel and determined that the Beneficiary spends “a small portion” of his time managing personnel. The Director further found that the Beneficiary’s job duties overlap with those of his subordinates and questioned whether the subordinates support and elevate the Beneficiary to a managerial level, concluding that the Beneficiary would not primarily perform managerial job duties.

On appeal, the Petitioner contends that sufficient evidence has been submitted to establish that the Beneficiary manages the business development “arm” of the organization and has authority to supervise and hire and fire professional employees within that division. The Petitioner explains that its organizational chart does not include the organization at large, but rather focuses on the “direct hierarchy” that is most relevant to the Beneficiary of this petition. Further, by submitting numerous email communications between the Beneficiary and various subordinates, including [REDACTED], as well as a sworn statement from its chief commercial officer (CCO), the Petitioner has addressed the Director’s concern regarding an incongruity that pertains to the staffing hierarchy among the Beneficiary’s list of subordinates. Both the emails and the statement from the CCO indicate that the previously noted inconsistency was likely an unintended error and that the Beneficiary more likely than not oversees [REDACTED] a senior consultant, along with six other individuals whom the Petitioner’s organizational chart depicts as the Beneficiary’s subordinates, including three account managers, one senior account manager, and two senior business developers.

¹ The Petitioner claims that the Beneficiary’s U.S. employment has been and would be in a managerial capacity and does not claim that the Beneficiary would be employed in an executive capacity.

Further, while the Beneficiary's job duties and those of his subordinates are similarly client-driven, the record contains sufficient evidence showing that there are key distinctions between the Beneficiary's role and the respective roles of his subordinates. For instance, the roles of the subordinates involve more direct client interaction and lack the Beneficiary's level of discretionary authority over personnel and matters concerning the direction of the business development division. The Beneficiary's role, on the other hand, involves managerial input concerning action plans and achievement goals, oversight of proposals and account management, and discretion over subordinate personnel, including, for instance, hiring and firing personnel, "redefin[ing] the team structure," and developing team members towards improved performance.

Lastly, the Petitioner points out that the nature of its business – data and analytics – as well as "the realities of the market," leave it well positioned to have employees who work and are managed in a remote setting. The Petitioner offers a multitude of email communications demonstrating a critical aspect of employee interactions, particularly between the Beneficiary and his various subordinates, thus demonstrating the Beneficiary's ability to oversee his subordinates remotely.

Upon *de novo* review, we conclude that the Petitioner has adequately addressed the Director's concerns and provided sufficient evidence to clarify the Beneficiary's managerial role and duties with respect to the business development division and the subordinates who carry out the operational duties of that division.

In sum, the Petitioner provided sufficient evidence and established by a preponderance of the evidence that the Beneficiary would more likely than not be employed in a managerial capacity. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.