



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

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

In Re: 24228006

Date: FEB. 28, 2023

Appeal of Texas Service Center Decision

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

The Petitioner is an international manufacturer of electrical equipment that seeks to employ the Beneficiary temporarily as “chief commercial officer” of its new office<sup>1</sup> 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 Texas Service Center denied the petition, concluding that the record did not establish that the Beneficiary was employed abroad in a managerial or executive capacity. The Director determined that the Petitioner provided a “limited understanding” of the Beneficiary’s job duties and did not provide sufficient evidence that the Beneficiary “is acting in a high-level position” and has “authoritative capacity” to make “senior-level decisions.” The Director also questioned whether the foreign entity was adequately staffed to support the Beneficiary in an executive position,<sup>2</sup> noting that there is a lack of clarity as to whether the individuals previously named in the Petitioner’s supporting statement were employees of the Petitioner or the foreign entity.

The matter is now before us on appeal in support of which the Petitioner has provided clarifying information about the foreign entity’s staffing, demonstrating that the Beneficiary held a top position in the foreign entity’s commercial division, which was staffed with employees who carried out the organization’s sales and marketing functions from various places, including those outside of the foreign entity’s immediate location. The Petitioner also provides evidence of the Beneficiary’s authority over employee hiring and performance evaluations and elaborates on the Beneficiary’s job duties during his tenure abroad, showing that the Beneficiary made key contributions during weekly management meetings, made decisions as to which markets the company would target, and was

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<sup>1</sup> The term “new office” refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a “new office” operation no more than one year within the date of approval of the petition to support an executive or managerial position.

<sup>2</sup> The Petitioner claims that the Beneficiary was employed abroad in an executive capacity and does not claim that his position abroad was managerial in nature.

directly involved in planning the foreign entity's sales and marketing strategy, which he conveyed during briefings before the foreign entity's advisory board.

In sum, the Petitioner provides sufficient evidence to establish that the Beneficiary occupied a top position within a critical division of the organization and had a high level of discretionary authority over the operation of that division, which was adequately staffed with professionals and managers. Accordingly, we conclude that the Beneficiary was more likely than not relieved from having to primarily perform operational tasks of the commercial division he headed.

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 of the record, we conclude that the Petitioner provided sufficient evidence and established by a preponderance of the evidence that the Beneficiary was more likely than not employed in an executive capacity. Therefore, we will sustain the appeal.

**ORDER:** The appeal is sustained.