



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

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

In Re: 24187857

Date: JAN. 23, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Petition for Multinational Managers or Executives

The Petitioner, a semi-conductor manufacturer, seeks to permanently employ the Beneficiary as its Director, Finance under the first preference immigrant classification for multinational managers or executives. 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 record did not establish that the Beneficiary was employed abroad, or would be employed in the United States, in a managerial capacity. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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, we will sustain the appeal.

An immigrant visa is 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. Section 203(b)(1)(C) of the Act; *see also* 8 C.F.R. § 204.5(j).

Here, the Petitioner claims that the Beneficiary was employed abroad, and would be employed in the United States, in a managerial capacity. The record reflects that he was employed by the Petitioner's subsidiary in Ireland in the capacity of Sales Finance Manager from 2013 until his transfer to the United States in L-1 nonimmigrant status in 2016. He is currently employed in the offered position of Director, Finance for Sales and Marketing, based at the petitioning company's worldwide headquarters in California.

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; supervises and controls the work of other supervisory, professional, or managerial employees, or

manages an essential function within the organization, or a department or subdivision of the organization; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

On appeal, the Petitioner contends that the Director's decision was not based on a review of the totality of the evidence and did not provide an adequate basis for the denial of the petition. The record supports the Petitioner's assertion that the Director's decision heavily relies on boilerplate language, lacks references to the specific statements and supporting documentation submitted by the Petitioner, and, as such, does not appear to be based on a complete review of the information and evidence provided in support of the petition.

In its initial submission and in its response to a request for evidence, the Petitioner submitted detailed letters explaining the nature of its business, the structure of its multinational organization and the role of the finance function in that organization. The evidence includes specific descriptions of the Beneficiary's U.S. job duties, job duties for his subordinates in the United States and abroad, and a comprehensive explanation of the duties the Beneficiary performed prior to his transfer to the United States. The Petitioner also submitted organizational charts and supporting evidence demonstrating the Beneficiary's interactions with both senior executives and with his subordinates, as well as copies of the subordinates' resumes, business documents corroborating the nature of their job duties, and an explanation of how their assigned duties support his managerial role. In addition, the Petitioner provided a detailed chart describing the company's career ladder for finance professionals within its worldwide organization. This evidence indicates that the Beneficiary's current U.S. role and previous position abroad are at the senior management and management levels, respectively.

Based on our de novo review of the previously submitted evidence, which is corroborated by additional evidence on appeal, the Petitioner has established that the Beneficiary, in his role as Director, Finance, will more likely than not be employed in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

Specifically, the record reflects that the Beneficiary manages the Petitioner's sales and marketing finance function by leading the provision of high-level financial strategy and analysis relied upon by both senior executives and by the leadership of the company's sales and marketing organization, which is responsible for over \$2.5 billion in annual revenue. As part of his responsibilities, he supervises a team of supervisory and professional employees who perform non-managerial tasks associated with this function. Moreover, the record reflects that the Beneficiary occupies a senior position within both the organization and with respect to the finance function. In a company with over 7000 employees, he reports to the company's executive leadership team and works closely with business unit executives. The record demonstrates that the Beneficiary exercises discretion over the sales and marketing finance function he manages by delegating tasks and establishing and implementing processes and procedures for its day-to-day management.

Finally, the Petitioner has established that the Sales Finance Manager position the Beneficiary held for more than one year prior to his transfer to the United States was substantially similar to his current

position. Therefore, it has demonstrated by a preponderance of the evidence that he was employed abroad in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

Accordingly, we will withdraw the Director's decision and sustain the appeal.

**ORDER:** The appeal is sustained.