



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

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

In Re: 19646541

Date: MAR. 09, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, an advertising and marketing firm, seeks to continue the Beneficiary's temporary employment as a Senior Creative Copywrite/Senior Copy Manager under the L-1A nonimmigrant classification for intracompany transferees. 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 work temporarily in the United States in a managerial or executive capacity.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that (1) the Beneficiary was employed abroad in a managerial or executive capacity prior to his transfer to the United States in 2018, and (2) the Petitioner would employ him in a managerial or executive capacity under the extended petition. The matter is now before us on appeal.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we conclude that the Petitioner has met this burden.¹ Accordingly, we will sustain the appeal.

The record reflect that the Beneficiary would continue to be employed in the position of Senior Creative Copywriter/Senior Copy Manager for the Petitioner in the United States and that he was previously employed in a nearly identical position with the Petitioner's Brazilian affiliate. The Petitioner has consistently asserted that the Beneficiary has been and would be employed in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

To be eligible for L-1A nonimmigrant visa classification as a manager, the Petitioner must show that the Beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A)(i)-(iv) of the Act. If the Petitioner establishes that the offered position meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary will be

¹ The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

primarily engaged in managerial duties, as opposed to ordinary operational activities alongside the Petitioner's other employees. See *Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

The Petitioner indicates that the Beneficiary's primary responsibilities as a senior copy manager include: developing strategies for multimillion dollar creative campaigns; managing and supervising creative and production teams that include both professional and supervisory staff; managing relationships with clients and external partners; decision-making authority related to his client accounts; and authority to make and recommend personnel decisions related to hiring, promotion, discipline, and terminations. The Petitioner provided letters from authorized representatives of both the U.S. and foreign entities with detailed breakdowns of the Beneficiary's duties; organizational charts for both entities which show his placement within the creative teams' management hierarchy and identify his subordinate employees (including their names, job titles, qualifications and a brief summary of duties); and copies of professional resumes, payroll documentation and other evidence intended to corroborate the information provided on the organizational charts.

On appeal, the Petitioner asserts that the Director's decision does not adequately explain the reasons for denial, misapplies the statutory definition of managerial capacity, and erroneously disregards probative evidence that, considered in the aggregate, establishes by a preponderance of the evidence that the Beneficiary has been and would be employed in a managerial capacity as defined in the statute. Specifically, the Petitioner maintains that the Director erroneously required that it establish that every one of the Beneficiary's subordinates possess a bachelor's degree in a relevant field in order to establish that he supervises and controls the work of professional staff under section 101(a)(44)(A)(ii) of the Act and overlooked evidence that some of his subordinates in the U.S. and abroad are supervisors. The Petitioner further asserts that the Director summarily disregarded the submitted job descriptions as "generic" without conducting any meaningful analysis of the stated duties, other than reaching an erroneous conclusion that his responsibilities for supervising and coaching subordinate staff are inherently "non-qualifying" duties. Finally, the Petitioner maintains that the Director erred by repeatedly citing to *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988), made "unfounded claims of inconsistencies" in the submitted evidence, and in doing so excluded relevant, probative, credible evidence of the Beneficiary's continuing eligibility for the benefit sought.

Upon *de novo* review of the evidence relating to the Beneficiary's previous position abroad and current U.S. position, we conclude that the Beneficiary's job duties are consistent with the elements of the statutory definition of managerial capacity at section 101(a)(44)(A)(i)-(iv) of the Act. Although the Director characterized the submitted job descriptions as "generic," we disagree and find that the Petitioner has sufficiently explained the Beneficiary's actual duties within the context of its business and that such duties are, more likely than not, primarily managerial in nature. We further agree that there were no factual or evidentiary contradictions in the record or other basis for the Director to cite *Matter of Ho*, to question the validity of the evidence, or to determine that there were inconsistencies which would "cast doubt on the entire petition." In addition, we agree with the Petitioner's assertion that it is not obligated to establish that all of the Beneficiary's subordinates are professional employees in order to establish his eligibility for L-1A classification, especially considering credible organizational charts which reflect that the Beneficiary's roles in the U.S. and abroad included supervision of subordinate supervisors and were not limited to first-line supervision. Finally, we observe that the Director did not question the Beneficiary's authority to make or recommend personnel

decisions or his responsibility for exercising discretion over the day-to-day operations of the defined area of activity under his authority. *See* section 101(a)(44)(A)(iii) and (iv) of the Act.

Accordingly, we conclude that the Petitioner met its burden to establish the Beneficiary, more likely than not, was employed abroad and would continue to be employed in the United States in a managerial capacity.

ORDER: The appeal is sustained.