



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

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

In Re: 28694400

Date: DEC. 8, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Multinational Managers or Executives)

The Petitioner, a haircare products wholesaler, seeks to permanently employ the Beneficiary as its CEO 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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner had been doing business for at least one year at the time of filing. On appeal, the Petitioner submits additional documentation and asserts that the evidence of record establishes that it was doing business for at least one year before the petition was filed and continues to do business.

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.

To establish eligibility for this classification, the Petitioner must establish that the prospective U.S. employer has been doing business for at least one year at the time of filing. 8 C.F.R. § 204.5(j)(3)(i)(D). Doing business means the regular, systematic and continuous provision of goods and/or services and does not include the mere presence of an agent or office. *See* 8 C.F.R. § 204.5(j)(2).

The Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, in December 2022, and therefore must demonstrate that it had been doing business as defined in the regulations since December 2021. In denying the petition, the Director reviewed assorted documentation and concluded that it was insufficient to establish that the Petitioner was doing business for at least one year before the filing of the instant petition. On appeal, the Petitioner submits additional documentation showing that the Petitioner has been conducting business at all times pertinent to this petition. The Petitioner has provided relevant, probative, and credible evidence establishing its eligibility for the benefit requested. Accordingly, we will withdraw the Director's finding to the contrary.

The Petitioner has established by a preponderance of the evidence that it was doing business for at least one year prior to filing the petition.

ORDER: The appeal is sustained.