

REQUEST FOR EVIDENCE

I-129 L-1 Intracompany Transferees: L-1A New Office (First Year)

You have filed Form I-129, Petition for Nonimmigrant Worker, seeking L-1 nonimmigrant classification for (insert beneficiary name) (beneficiary). You, (insert organization name, agent name, etc.), seek to employ the beneficiary as a (position title).

The L-1 classification may be granted to individuals who, within three years preceding the time of his or her application for admission into the United States:

- Have been employed abroad continuously for one year by a firm, corporation, or other legal entity;
- Seek to enter the United States temporarily to render services to a branch of the same employer, or a parent, affiliate, or subsidiary; and
- Will work in a capacity that is managerial or executive, or involves specialized knowledge.

To process your petition and determine if the beneficiary is eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each requested item. You may submit one, some, or all of these items. You may submit none of them, and instead submit other evidence to satisfy the request. You may also explain how the evidence in the record already establishes eligibility. Note, however, that you are responsible for providing evidence that best shows that you and the beneficiary meet all requirements. Evidence must show that both you and the beneficiary were eligible for the requested benefit when you filed Form I-129.

Request for Translations

All foreign language documents must have a complete English translation to establish eligibility. This includes any documents you submit in response to this Request for Evidence.

You submitted documents which are in a language other than English. In order for USCIS to consider this evidence, you must submit English language translations for each document. The translator must certify that:

- The translations are accurate and complete; and
- He or she is competent to translate from the foreign language into English.

General Requirements

For the beneficiary to be a manager or executive who will open or be employed in a new office in the United States, you must show that:

- Sufficient physical premises to house the beneficiary have been secured;
- A qualifying relationship between the U.S. entity and foreign entity exists;
- The beneficiary has been employed in an executive or managerial capacity for one continuous year in the three year period before the time of his or her application for admission to the United States;

- The proposed employment involves executive or managerial authority over the new office; and
- The proposed U.S. office will support an executive or managerial position within one year.

Sufficient Physical Premises. You must show that sufficient physical premises to house the beneficiary have been secured.

You meet this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to: (Delete any of the following that were already provided by the petitioner)

- A complete copy of the U.S. entity's lease, signed and dated by both the lessor and the lessee. This should indicate the total square footage of the premises, including all office, production, manufacturing, and warehouse spaces.
- A statement defining the U.S. worksite as a sales office, representative agency, distributorship, etc. This should explain the type of building the U.S. entity is occupying, such as an office suite, factory, warehouse, apartment, house, etc.
- A letter from the owner or property management company confirming the property owner allows a sublease to the U.S. entity (if applicable). The letter should also indicate that the U.S. entity is actually occupying and maintaining the sub-lease agreement.
- A copy of the contract between the owner and the lessee allowing sub-lease of the space, if applicable.
- Color photos of the U.S. entity's premises. We recommend that photos show the inside and outside of all factory, production, warehouse, and office spaces. Equipment, merchandise, products and employees should be visible. Also, include any company logos, emblems or signs displayed on and in buildings and on products.
- Copies of escrow documents or evidence of title, if the U.S. premises are owned or being purchased. Include information about the square footage of the premises.

Qualifying Relationship – Ownership and Control

To transfer an employee from a foreign entity to a U.S. entity as an L-1 nonimmigrant, a qualifying relationship must exist between the two entities. Qualifying relationships may occur between branches of the same employer, or amongst parent companies, affiliates, or subsidiaries. To show this relationship, you must provide evidence of ownership and control of these entities. For the purposes of L-1 classification, ownership means the legal right to have possession of an organization. Control means the legal or actual ability to exercise authority or influence over an organization.

Ownership and Control of Qualifying Foreign Entity

You meet this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to, copies of: (Delete any of the following that were already provided by the petitioner)

- The most recent Securities and Exchange Commission Form 10-K, which lists all affiliates, subsidiaries, and branch offices, and percentage of ownership.
- The most recent annual report, which lists all affiliates, subsidiaries, and branch offices, and percentage of ownership.
- A detailed list of owners, which includes the foreign entity's owners' names, and what percentages they own.
- Meeting minutes, which list the stock shareholders and the number and percentage of shares owned.
- Articles of incorporation and bylaws, including all amendments.
- Stock certificates, which have been issued to the present date, clearly indicating the name of each shareholder.
- A stock ledger, which shows all stock certificates issued to the present date, including total shares of stock sold, and names of shareholders.
- Proof of stock purchase.
- Your most recent income tax returns, which demonstrate the qualifying relationship to the foreign entity.
- The articles of organization, with the names of members and percentage of membership interests, issued by the foreign entity.
- The partnership agreement and registration documents, with the names of partners and the limits of their liabilities.
- The sole proprietorship registration documents, which indicate the ownership of the foreign entity.
- Evidence that the U.S. entity is authorized to operate as a branch office in (foreign country) by the appropriate (foreign nationality) agency.

Ownership and Control of the Qualifying U.S. Entity

You meet this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to, copies of: (Delete any of the following that were already provided by the petitioner)

- The most recent Securities and Exchange Commission Form 10-K, which lists all affiliates, subsidiaries, and branch offices, and percentage of ownership.
- The most recent annual report, which lists all affiliates, subsidiaries, and branch offices, and percentage of ownership.
- Meeting minutes, which list the stock shareholders and the number and percentage of shares owned.
- Articles of Incorporation, which have been date-stamped “endorsed-filed” by the appropriate state official.
- Stock certificates, which have been issued to the present date, clearly indicating the name of each shareholder.
- A stock ledger, which shows all stock certificates issued to the present date, including total shares of stock sold, and names of shareholders.
- Proof of stock purchase or capital contribution, such as the following:
 - Wire transfer receipts;
 - Bank statements;
 - Cancelled checks; or
 - Deposit receipts.
- Your most recent federal income tax returns, which demonstrate a qualifying relationship to the foreign entity.
- The articles of organization, with the names of members and percentage of membership interests issued by the entity.
- The partnership agreement and registration documents with the names of partners.
- Sole proprietorship registration documents, which indicate the ownership of the entity.
- Evidence that the foreign entity has been authorized to operate as a branch office in the state of [STATE] by the appropriate state agency.
- The franchise purchase agreement, and documentation as evidence of the right and authority to direct the management and operation of the U.S. entity.

Beneficiary’s One-Year Employment Abroad. You must show the beneficiary has at least one continuous year of full-time employment abroad with a qualifying organization. This employment must have occurred within the three years before his or her application for admission to the United States.

The beneficiary meets this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to: (Delete any of the following that were already provided by the petitioner)

- Copies of the beneficiary's pay records.
- Copies of the beneficiary's personnel records.
- Copies of the beneficiary's training records.
- A letter from the beneficiary's supervisor(s) describing the beneficiary's experience with the foreign entity.
- A letter from the foreign entity's Human Resource Department that discusses the beneficiary's work history there.

Managerial or Executive Position Abroad. The beneficiary must have at least one continuous year of full-time employment abroad with a qualifying organization within the three years before his or her application for admission to the United States. The position must have been managerial or executive.

The beneficiary meets this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to: (Delete any of the following that were already provided by the petitioner)

- Copies of the beneficiary's training, pay, or other personnel records. These should show the beneficiary was employed in a managerial, executive, or specialized knowledge position abroad.
- An organizational chart or diagram, showing the foreign entity's organizational structure and staffing levels. List all employees in the beneficiary's immediate division, department, or team by name, job title, summary of duties, education level, and salary. Clearly identify the beneficiary's position in the chart.

(ISO - If the beneficiary's employment abroad was in a managerial position, select Option 1 below; if the beneficiary's employment abroad was in an executive position, select Option 2 below; or if the petitioner did not clarify if employment abroad was either managerial or executive, select both Option 1 and 2 below. Delete what is not needed.)

(Option 1)

- A letter from an authorized representative of the foreign entity describing the beneficiary's managerial decisions made on the entity's behalf. The letter should describe the beneficiary's typical managerial duties, and the percentage of time spent on each. In addition, the letter should address the following:

- How the beneficiary managed the organization, department, subdivision, function, or component of the organization he or she oversaw;
- How the beneficiary supervised and controlled the work of other supervisory, professional, or managerial employees, or managed an essential function, department or subdivision of the organization;
- Whether the beneficiary had the authority to hire and fire or recommend similar personnel actions (such as promotion and leave authorization), if other employees were directly supervised (or if no other employee was directly supervised, how the beneficiary functioned at a senior level within the organizational hierarchy or with respect to the managed function); and
- How the beneficiary made decisions on daily operations of the activity or function under his or her authority. If the beneficiary was a first-line supervisor, submit evidence showing the employees supervised were professionals.

Note: A professional is an individual who is a member of the professions, such as architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(Option 2)

- A letter from an authorized representative of the foreign entity describing the beneficiary's executive decisions made on their behalf. The letter should describe the beneficiary's typical executive duties, and the percentage of time spent on each. In addition, the letter should address:
 - How the beneficiary directed the management of the organization, or a major component or function of the organization;
 - How the beneficiary established the goals and policies of the organization, component, or function;
 - How the beneficiary exercised wide latitude in discretionary decision-making; and
 - Whether the beneficiary received only general supervision or direction from higher level executives, the board of directors, or stockholders.

One Year Requirement. You must show the new office will support an executive or managerial position within one year of petition approval. You must show this with evidence regarding:

- The proposed nature of the office describing the entity, its organizational structure, and its financial goals;
- The size of the U.S. investment and the financial ability of the foreign entity to pay the beneficiary and to begin doing business in the United States; and
- The organizational structure of the foreign entity.

You meet this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to: (Delete any of the following that were already provided by the petitioner)

Information regarding the proposed nature of the new office, describing the scope of the entity, its organizational structure, and its financial goals:

- An original letter from the foreign entity explaining the need for the new office in the United States. The letter should indicate the proposed number of employees and types of positions they will hold; the amount of the U.S. investment; and the financial ability of the foreign company to pay the beneficiary and commence doing business in the United States. In addition the letter should explain how the proposed business venture will, within one year, support a managerial or executive capacity position.
- A copy of the feasibility study by which the foreign parent company determined the need for, and the probability that the proposed United States company would support, a manager or executive within one year of approval of the petition.
- A copy of the business plan for commencing the start-up of the new office in the United States. The plan should include a timetable for each proposed action for the one year starting with the date of filing the Form I-129.
- Minutes of the meetings for the foreign entity to illustrate the discussions to form the U.S. entity.
- A copy of the proposed United States line and block organizational chart, showing ALL hierarchy and staffing levels. List all proposed employees by name, job title, summary of duties, educational level, and salary.

Information regarding the size of the U.S. investment and the financial ability of the foreign entity to remunerate the beneficiary and commence doing business in the United States:

- Proof of capital contribution to the U.S. entity, such as the following:
 - Initial wire transfers;
 - Cancelled checks;
 - Deposit receipts; or
 - Bank statements originating in the United States detailing monetary amounts for the capital contribution.
- Documents to show the foreign entity has paid for services to commence business at the United States location such as utilities, payroll, legal and accounting fees, lease agreement, etc.
- Foreign entity's most recent filing of tax documents.
- Foreign entity's audited balance sheets and statements of income and expenses showing the foreign entity's financial position.
- Foreign entity's most recent annual report, which describes the state of the foreign entity's finances.

- Foreign entity's business bank statements for the last three months.
- U.S. entity's business bank statements, if available.
- Current letters from the U.S. entity's bank indicating when the account was opened, current status, and average balance. Have the bank include a list of names for all persons authorized to access all accounts and their affiliation to the foreign or U.S. entity.
- U.S. entity's most recent federal income tax return, if applicable.

Information regarding the organizational structure of the foreign entity:

- A copy of the foreign entity's organizational chart/diagram, showing ALL the organization's organizational hierarchy and staffing levels.

Beneficiary is Owner or Major Stockholder of Company

If the beneficiary is an owner or major stockholder of the company, you must provide additional evidence. Specifically, you must show:

- The beneficiary's service will be used for a temporary period; and
- The beneficiary will be transferred to an assignment abroad upon completion of the temporary services in the United States.

You meet this requirement.

-OR-

You did not submit evidence for this requirement. You may still submit evidence to satisfy this requirement.

-OR-

The evidence you submitted is insufficient. (ISO should explain what evidence was submitted and why it is insufficient to establish eligibility.) You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to: (Delete any of the following that were already provided by the petitioner)

- A contract showing the assignment at the foreign entity and expected date of return.
- A statement by the U.S. entity explaining the plan to replace the beneficiary's services upon return to the foreign entity.
- A statement by the representative of the foreign entity. The statement may include:
 - An explanation regarding how the beneficiary's duties will be covered during his period away;
 - The expected return date of the beneficiary to the foreign entity; and
 - The position the beneficiary will return to.