

**DRAFT TEMPLATE FOR COMMENT**

Posted: 04-04-2012

Comment period ends: 05-01-2012

**REQUEST FOR EVIDENCE**

**I-129 L-1 Intracompany Transferee  
L-1A New Office – Extension after the 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).

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 New Office Extension**

To extend an L-1 nonimmigrant who opened a new U.S. office, you must file a new petition and submit:

- Evidence that the U.S. and foreign entities are still qualifying organizations;
- Evidence that the U.S. entity has been doing business in the previous year;
- A statement of the beneficiary's duties for the previous year and in the future under the extended petition (to establish qualifying U.S. employment);
- A statement describing the new operation's staffing, including the number of employees and types of positions, accompanied by evidence of wages paid to employees; and
- Evidence of the financial status of the U.S. operation.

**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**

Based on the evidence currently in the record, it appears 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 or capital contribution in exchange for ownership, such as the following:
  - wire transfer receipts;
  - bank statements;
  - cancelled checks;
  - deposit receipts; or
  - evidence of the receipt of goods and their value..
- 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.
- The franchise purchase agreement, and documentation as evidence of the right and authority to direct the management and operation of the foreign entity.

### **Ownership and Control of the Qualifying U.S. Entity**

Based on the evidence currently in the record, it appears 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 in exchange for ownership, such as the following:
  - Wire transfer receipts;
  - Bank statements;
  - Cancelled checks;
  - Deposit receipts: or

- Customs forms showing receipt of goods and their value.
- Your most recent federal income tax returns, which demonstrate 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 and the limits of their liability.
- 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.

**Foreign Entity Doing Business.** You must show that a qualifying foreign entity continues doing business in at least one other country. The foreign entity does not have to be the same entity that employed the beneficiary abroad. However, if the foreign entity which established a qualifying relationship to the U.S. entity for the new office petition is no longer doing business, you must establish a qualifying relationship between the U.S. entity and a new foreign entity. (ISO should include the reason and the need for this documentation in the Ownership and Control of Qualifying Foreign Entity section of this template.)

Based on the evidence currently in the record, it appears 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)

- The foreign entity's most recent annual report.
- The foreign entity's most recent filing of tax documents.
- The foreign entity's audited balance sheets and statements of income and expenses for the past year.
- Purchase orders.
- Invoices.
- Bills of lading.
- U.S. Customs documentation.

**U.S. Entity Doing Business.** You must show the U.S. entity has been doing business for the previous year.

Based on the evidence currently in the record, it appears 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 annual report, which describes the state of the U.S entity's finances.
- Securities and Exchange Commission, Form 10-K.
- Federal or state income tax returns.
- Audited financial statements, including balance sheets and statements of income and expenses describing the U.S. entity's business operations.
- Major sales invoices identifying gross sales amounts reported on the income and expenses statement or on corporate income tax returns.
- Shipper's export declaration or shipper's export declaration for in-transit goods.
- The U.S. entity's U.S. Customs and Border Protection forms, Entry Summary and Customs Bond that show business activity.
- Business bank statements that show business activity.
- Vendor contracts

**Beneficiary's Duties.** You must submit a statement describing the beneficiary's duties for the previous year, and those to be performed under the extended petition.

Based on the evidence currently in the record, it appears you meet this requirement.

-OR-

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

-OR-

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

Statements should describe the beneficiary's duties for the previous year, and those to be performed under the extended petition. You may also submit any evidence in support of your statement that you deem appropriate to satisfy this requirement.

**New Operation Staffing.** You must submit a statement describing the staffing of the new operation. This should include:

- The number of employees;
- Types of positions; and
- Evidence of wages you paid to employees while the beneficiary is employed in a managerial or executive capacity.

Based on the evidence currently in the record, it appears 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 detailed statement listing the number of employees and the types of positions.
- The U.S. entity's Quarterly Wage Reports for all employees for the last four quarters that were accepted by the state. The forms should include the names, wages paid, and number of weeks worked for all employees.
- The U.S. entity's payroll summary, W-2's and W-3's showing wages paid to employees in the past year.
- A current organizational chart or diagram, showing the U.S. 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, and salary. Clearly identify the beneficiary's position in the chart. If applicable, indicate the number of employees he or she manages.

**Financial Status of the United States Operation.** You must show the financial status of the U.S. operation.

Based on the evidence currently in the record, it appears 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)

- Federal or state income tax returns,
- Audited financial statements, including balance sheet and statements of income and expenses describing normal business operations for the past year.
- Business bank statements that show business activity.

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