

Canadian L-1A Applications at the Port of Entry

Citizens of Canada have the unique ability to apply for some U.S. immigration statuses directly at the port of entry or pre-flight inspection. The L-1A Intra-company Transferee status for executives and high-level managers is one of those statuses that can be applied for at the port of entry. Given the recent heightened level of scrutiny being applied to L-1 applications, however, the relative ease in submitting the application should not be equated with meeting the required legal standards.

Generally, an applicant for L-1A Intra-company Transferee status must demonstrate that they have worked in an executive or high-level managerial position with the company abroad for at least one year out of the past six years (six months if there is an approved Blanket L petition). In addition, the applicant must demonstrate that they will be coming to the U.S. to work in an executive or high-level managerial position with a company that is related to the company abroad. Most of the heightened scrutiny surrounds the question of whether the position abroad and the intended position in the U.S. are in fact executive or high-level manager in nature.

L-1A applicants at the port of entry should focus not only on the nature of the job description, but also include descriptions of how that role fits and functions within the company. For example, does the applicant supervise other professional employees? This is normally demonstrated by showing the job descriptions and minimum requirements (such as a bachelor's degree) for each of the employees supervised. Another question to ask is whether the executive or high-level manager will be engaged in non-qualifying activities, such as making photocopies, scheduling business travel, etc. Thus, it may be advisable to show that the applicant also supervises administrative personnel who handle these activities on his or her behalf.

More recently, applicants have been asked to demonstrate the size and value of the business division or project that they will be overseeing in the U.S. For example, perhaps they are coming to the U.S. to oversee the company's entire North American operations. Or, they may be coming to the U.S. to oversee a project valued at \$2.1 billion. The assumption is that very few international companies would send a low-level employee to oversee such an important and expensive part of their business. In such a case, it would be advisable to carry copies of any contracts for the project or news articles describing the project.

When making an L-1A application at the port of entry, preparation well in advance is required. An applicant is expected to go beyond the job description to demonstrate eligibility. For assistance with your L-1A port of entry or pre-flight inspection applications, please contact attorney Myron Morales at info@mmoralespllc.com or visit our website at www.mmoralespllc.com.