

April 15, 2022

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
Laguna Niguel, CA 92677-0590



U.S. Citizenship
and Immigration
Services

SIX CONTINENTS HOTELS INC INTERCON
c/o JUSTIN COFFEY
CONSTANGY BROOKS SMITH & PROPHETE
P O BOX 98869
RALEIGH, NC 27624



WAC2214850889

Form I-129, Petition for a Nonimmigrant Worker

REQUEST FOR EVIDENCE

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE NUMBER. THE ORIGINAL NOTICE MUST BE SUBMITTED WITH THE REQUESTED EVIDENCE.

You are receiving this notice because U.S. Citizenship and Immigration Services (USCIS) requires additional evidence to process your form. Please provide the evidence requested below. Include duplicate copies if you are requesting consular notification.

Your response must be received in this office by July 11, 2022.

Please note that you have been allotted the maximum period allowed for responding to a Request for Evidence (RFE). The time period for responding cannot be extended. Title 8, Code of Federal Regulations (8 CFR) § 103.2(b)(8)(iv). Because many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible, but no later than the deadline provided above. If you do not respond to this notice within the allotted time, your case may be denied. The regulations do not provide for an extension of time to submit the requested evidence.

You must submit all requested evidence at the same time. If you submit only some of the requested evidence, USCIS will consider your response a request for a decision on the record. 8 CFR § 103.2(b)(11).

If you submit a document in any language other than English, the document must be accompanied by a full and **complete** English translation. The translator must certify that the translation is accurate and he or she is competent to translate from that language to English. **If you submit a foreign language translation in response to this request for evidence, you must also include a copy of the foreign language document.**

Processing of your Form I-129 will resume upon receipt of your response. If you have not heard from USCIS within **60 days of responding**, you may contact the USCIS Contact Center at **1-800-375-5283**. If you are hearing impaired, please call the USCIS Contact Center TDD at **1-800-767-1833**.

On March 1, 2022, your organization, SIX CONTINENTS HOTELS INC INTERCON (petitioner or petitioning organization), filed a Form I-129, Petition for a Nonimmigrant Worker with U.S. Citizenship and Immigration Services (USCIS), seeking to classify JEREMY SNIJDERS (beneficiary) as a nonimmigrant intracompany transferee (L-1A).

Documentation submitted with your petition indicates that your organization provides international hotel/restaurant. Your organization seeks to employ the beneficiary as a Director of Engineering from July 11, 2022 to July 10, 2024.

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

- Has been employed abroad continuously for one year by a firm, corporation, or other legal entity or parent, branch, affiliate, or subsidiary;
- Seeks 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 your organization and the beneficiary are eligible, additional information is required. This request provides suggested evidence that your organization may submit to satisfy each of the eligibility criteria described below. Your organization may:

- Submit one, some, or all of these items.
- Submit none of the suggested items and instead submit other evidence to satisfy the request.
- Explain how the evidence in the record already establishes eligibility.
- Request a decision based on the record.

Please note that, as the petitioner, your organization is responsible for providing evidence which shows your organization and the beneficiary meet all requirements and are eligible for the requested benefit at the time your organization filed the petition by a preponderance of the evidence. Please do not include copies of documentation previously submitted with your response.

Blanket Petition

USCIS acknowledges that you are requesting to extend your petition. The beneficiary has been employed in L-1 status since July 11, 2019. The beneficiary was admitted to the United States pursuant to a blanket L-1 petition receipt (SRC0315251069) filed by Six Continents Hotels, Inc. (InterContinental Hotels Group). When adjudicating a subsequent petition or application involving the same parties, USCIS will consider, but not defer to, previous eligibility determinations made by other U.S. government agencies. In this instant petition, eligibility determination will be made based on the evidence of record. Despite any prior approvals, the petitioner bears the burden to establish eligibility for each petition on its own merits, and an immigration benefit cannot be granted when the petitioner fails to meet the standard of proof, including a filing for extension. See INA § 291.

USCIS checks all petitions filed for this classification in its Validation Instrument for Business Enterprises (VIBE) system. VIBE uses commercially available data to validate basic information about organizations petitioning to employ foreign workers. For more information about this program, please visit the USCIS website at www.uscis.gov/VIBE.

L-1A Beneficiary Requirements

To qualify a beneficiary for L-1A classification, your organization must show that he or she:

- Will be employed in a managerial or executive position in the United States;
- Has prior education, training, and employment that qualifies him or her to perform the intended services in the United States; and
- Has at least one continuous year of full-time employment abroad with a qualifying organization:
 - Within the three years before application for admission to the United States; and
 - In a position that was managerial or executive, or involves specialized knowledge.

One Continuous Year of Employment Abroad: Your organization must show that the beneficiary has at least one continuous year of full-time employment abroad with a qualifying organization or organizations within the three years prior to his or her application for admission to the United States.

To satisfy this requirement, your organization submitted:

- Employment verification letter.

The evidence your organization submitted is insufficient. In support of the beneficiary's employment abroad you submitted an employment verification letter. However, the letter alone does not establish that the beneficiary has at least one (1) continuous year of full-time employment abroad. In response to the Request for Evidence (RFE) please provide documentation, such as copies of the beneficiary's earning statements or other evidence that sufficiently demonstrates that the beneficiary has been employed abroad for at least one (1) continuous year of full-time employment abroad. As such, the evidence of record is insufficient to establish that the beneficiary has been employed abroad by a qualifying organization for one (1) continuous year of full-time employment within the three (3) years preceding the application for admission into the United States. Your organization may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to:

- 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 detailed letter from the foreign entity's (or entities') Human Resource Department(s), signed by an authorized representative of the foreign entity (or entities) that discusses the beneficiary's work history there.

Managerial, Executive, or Specialized Knowledge Position Abroad: The beneficiary must have at least one continuous year, within the three years prior to his or her application for admission to the United States, of full-time employment with a qualifying foreign organization. The foreign position must have been primarily managerial or executive in nature, or involved specialized knowledge. You may not combine some of the requirements for one of these position types with some of those of another. Hybrid positions that meet some, but not all of the criteria required to establish separately that the person worked primarily in a managerial, executive or specialized knowledge position, will not establish eligibility.

To satisfy this requirement, your organization submitted:

- Counsel's cover letter; your letter of support, dated February 3, 2022; organizational chart.

The evidence your organization submitted is insufficient. You provided a description of the beneficiary's duties. However, the submitted description of the beneficiary's position abroad describes generalized duties and responsibilities. In addition, description of the beneficiary's duties does not identify the percentage of time the beneficiary spent performing the duties. Therefore, USCIS cannot determine whether the beneficiary primarily performed managerial duties or routine operational tasks. Consequently, without additional details and documentation concerning the beneficiary's managerial duties at the foreign entity, including how, and at what frequency the stated duties were performed, USCIS cannot determine that the beneficiary was employed abroad in a primarily managerial capacity.

In addition, you indicate that the beneficiary was employed abroad in a managerial capacity as a "Chief Engineer." In support of the petition you submitted an organizational chart to illustrate the beneficiary's position and the number and types of employees. The organizational chart you submitted suggest that the beneficiary oversaw ten (10) subordinate employees. However, you did not provide a description of duties for the beneficiary's subordinate staff and describe how the subordinate staff supported the beneficiary's managerial position and relieved him from primarily performing the day-to-day, non-qualifying duties of the business. As such, the evidence you submitted does not establish that the beneficiary supervised and controlled the work of other supervisory, professional, or managerial employees.

Furthermore, you suggest that the beneficiary "supervised and controlled the work of several layers of reports and had the authority to hire and fire and recommend other personnel actions." However, you did not submit documentary evidence to support your assertions. As such, the evidence you submitted does not establish that the beneficiary had the authority to hire and fire or recommend personnel actions. In addition, the evidence you submitted does not establish that the beneficiary managed the organization, department, subdivision, function, or component of the organization he or she oversaw.

As such, you have not established that the foreign business had an organizational structure sufficient to elevate the beneficiary to a position that was primarily managerial. Without more detailed information accompanied by credible probative material documentation that demonstrates and supports your claims of managerial capacity, USCIS cannot determine that the beneficiary was employed abroad in a primarily managerial capacity. Your organization may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to:

- Copies of the beneficiary's training, pay, or other personnel records.
- An organizational chart or diagram, showing the foreign entity's organizational structure and staffing levels. Clearly identify the beneficiary's position in the chart.
- A list of all employees in the beneficiary's immediate division, department, or team, by name, job title, summary of duties, education level, and salary.

Foreign position primarily managerial:

- A letter from an authorized representative of the foreign entity describing the beneficiary's managerial position abroad. The letter should describe the beneficiary's typical managerial duties, and the percentage of time spent on each. In addition, the letter should address:
 - 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. A "professional" is an individual who is a member of the professions, which includes but is not limited to architects, engineers, lawyers,

physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries. If the beneficiary was a first-line supervisor, submit evidence showing the supervised employees were professionals.

- Whether the beneficiary had the authority to hire and fire, or recommended hiring and firing as well as other personnel actions (such as promotion and leave authorization), if other employees were directly supervised (or if no employees were directly supervised, how the beneficiary functioned at a senior level within the organizational hierarchy or with respect to the managed function).
- How the beneficiary made decisions on daily operations of the activity or function under his or her authority.
- If the beneficiary managed a function, explain and provide documentary evidence to establish that the specific function is critical or essential to the foreign entity and that the beneficiary was in a high-level position within the foreign entity, or in a position directly related to a function necessary for the provision of an end product or service of the company. Your explanation should identify the function with specificity and describe the critical or essential nature of the function and how it relates to the provision of such end product or service. In addition, provide a detailed description of the percentage of time the beneficiary spent performing such duties to demonstrate that the beneficiary primarily managed the function rather than primarily performed the non-qualifying day-to-day duties of the function.
- If the beneficiary supervised other supervisory, managerial, or professional employees, you may, but are not required to, submit copies of performance appraisals or reviews conducted by the beneficiary for any such subordinate employees or any evidence that demonstrates the beneficiary has sufficient managerial authority over subordinate employees and is engaged in the hiring and firing of subordinates or recommends the hiring and firing of subordinates as well as other personnel actions.

Foreign position primarily executive:

- A letter from an authorized representative of the foreign entity describing the beneficiary's executive position abroad. 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.

Foreign position involved specialized knowledge:

- A letter from an authorized representative of the foreign entity describing the specialized knowledge duties of the position abroad. The letter should also describe the percentage of time spent on each duty. In addition, the letter should:
 - Identify which of the petitioning organization's products, services, tools, research, equipment, techniques, management, or processes and procedures involved in the beneficiary's job duties required specialized knowledge;
 - Explain how the knowledge or expertise identified was either "special" or "advanced";
 - State the minimum time required to obtain this knowledge, including training and actual experience accrued after the completion of training; and
 - If your organization is seeking to establish that the beneficiary's foreign position involved "advanced" knowledge, explain the knowledge that is required to perform the

duties of the foreign position and how it compares to that of similarly employed individuals within the employer and within the industry.

- If your organization is seeking to establish that the beneficiary's foreign position involved "specialized" knowledge, explain the knowledge that is required to perform the duties of the foreign position and how it pertains to the foreign entity's product, service, research, equipment, techniques, management, or other interests and its application in international markets that is distinct or uncommon in comparison to that generally found in the particular industry.
- Additional documentary evidence to support the claims made in your letter and to show the knowledge involved in performing the duties of the beneficiary's foreign position was special and/or advanced.

Beneficiary's Qualifications: Your organization must establish that the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States. However, the work in the United States need not be the same work which the beneficiary performed abroad.

Your organization did not submit any evidence for this requirement. Your organization may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to:

- A letter from an authorized representative of the foreign entity describing the beneficiary's employment. The letter should contain:
 - The beneficiary's position title abroad and a description of all of the beneficiary's duties for the foreign employer;
 - An outline of all of the beneficiary's positions while employed with the foreign entity;
 - Position descriptions and employment dates at any other affiliated companies abroad where the beneficiary worked; and
 - An explanation of how the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States, even if the work performed abroad is not the same as that which will be performed in the United States.
- Copies of the beneficiary's educational transcripts.
- Other documentary evidence that shows how the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States, even if the work performed abroad is not the same as that which will be performed in the United States.

Managerial or Executive Position in the United States: The proposed position in the United States must be primarily managerial or executive. Your organization must show that the position in the United States is primarily in a managerial or executive capacity.

To satisfy this requirement, your organization submitted:

- Your letter of support, dated February 3, 2022; organizational chart.

The evidence your organization submitted is insufficient. You provided a description of the beneficiary's duties that includes the percentage of time the beneficiary will spend performing the duties. However, the submitted description of the beneficiary's U.S. position describes generalized duties and responsibilities. Therefore, USCIS cannot determine whether the beneficiary primarily performs managerial duties or routine operational tasks. Consequently, without additional details and documentation concerning the beneficiary's managerial duties at the U.S. entity, including how, and at what frequency the stated duties will be performed, USCIS cannot determine that the beneficiary will

be employed in a primarily managerial capacity.

In addition, you indicate that the beneficiary is employed in a managerial capacity as a "Director of Engineering." In support of the petition you submitted an organizational chart to illustrate the beneficiary's position and the number and types of employees. The organizational chart you submitted suggest that the beneficiary oversees five (5) subordinate employees. However, you did not provide a description of duties for the beneficiary's subordinate staff and describe how the subordinate staff supports the beneficiary's managerial position and relieves him from primarily performing the day-to-day, non-qualifying duties of the business. As such, the evidence you submitted does not establish that the beneficiary supervises and controls the work of other supervisory, professional, or managerial employees.

Furthermore, you suggest that the beneficiary "exercises the authority to hire, fire, and recommend personnel actions for his reports" and "is responsible for disciplining, promoting, scheduling, and approving time off." However, you did not submit documentary evidence to support your assertions. As such, the evidence you submitted does not establish that the beneficiary has the authority to hire and fire or recommend personnel actions. In addition, the evidence submitted is not sufficient to show that your company currently employs a subordinate staff that will relieve the beneficiary from primarily performing the day-to-day, non-qualifying duties of the business. Moreover, the evidence you submitted does not demonstrate that the beneficiary manages the organization, department, subdivision, function, or component of the organization he or she oversees.

As such, you have not established that the U.S. business has an organizational structure sufficient to elevate the beneficiary to a position that is primarily managerial. Without more detailed information accompanied by credible probative material documentation that demonstrates and supports your claims of managerial capacity, USCIS cannot determine that the beneficiary is employed in a primarily managerial capacity. Your organization may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to:

United States position primarily managerial:

- A letter from an authorized representative of the U.S. entity describing how the beneficiary will be employed in a managerial position. The letter should describe the beneficiary's typical managerial duties, and the percentage of time to be spent on each. In addition, the letter should address:
 - How the beneficiary will manage the organization, department, subdivision, function, or component of the organization.
 - How the beneficiary will supervise and control the work of other supervisory, professional, or managerial employees, or manage an essential function, department, or subdivision of the organization.
 - Whether the beneficiary will have authority to hire and fire, or recommend similar personnel actions (such as promotion and leave authorization) if other employees will be directly supervised (or if no employees will be directly supervised, how the beneficiary will function at a senior level within the organizational hierarchy or with respect to the managed function).
 - How the beneficiary will make decisions on daily operations of the activity or function under his or her authority.
 - If the beneficiary will be a first-line supervisor, submit evidence showing the supervised employees will be professionals.

Note: A professional is an individual who is a member of the professions, which includes but

is not limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

- If the beneficiary will manage a function, explain and provide documentary evidence to establish that the specific function is critical or essential to the U.S. entity and that the beneficiary will hold a high-level position within the U.S. entity, or in a position directly related to a function necessary for the provision of an end product or service of the company. Your explanation should identify the function with specificity and describe the critical or essential nature of the function and how it relates to the provision of such end product or service. In addition, provide a detailed description of the percentage of time the beneficiary will spend performing such duties to demonstrate that the beneficiary primarily manages the function rather than primarily performing the non-qualifying day-to-day duties of the function.
- Copies of performance appraisals or reviews conducted by the beneficiary for any subordinate employees or any evidence that demonstrates the beneficiary has sufficient managerial authority over subordinate employees and is engaged in the hiring and firing of subordinates or recommends these and other personnel actions.
- An organizational chart or diagram, showing the U.S. entity's organizational structure and staffing levels. The chart or diagram should list all employees in the beneficiary's immediate division, department, or team by name, job title, summary of duties, education level, and salary. It should also clearly identify the beneficiary's position in the chart.
- Copies of the U.S. entity's State Quarterly Wage Reports for the 3rd quarter of 2021 that were accepted by the State of GA. The forms should include the names, salaries, and number of weeks worked for all employees under the beneficiary's direction.
 - **Note:** If employees listed on the organizational chart are not listed on the State Quarterly Wage Reports, explain why. If your organization chooses to submit wage reports, they should contain sufficient information to show that the beneficiary has been or will be employed in a managerial capacity.
- Copies of the U.S. entity's payroll summary, and Forms W-2, W-3, and 1099-MISC showing wages paid to all employees under the beneficiary's direction.
- Copies of employment agreements entered into by newly hired employees who will be managed by the beneficiary.

United States position primarily executive:

- A letter from an authorized representative of the U.S. entity describing how the beneficiary will be employed in an executive position. The letter should describe the beneficiary's typical executive duties, and the percentage of time to be spent on each. In addition, the letter should address:
 - How the beneficiary will direct the management of the organization, or a major component or function of the organization;
 - How the beneficiary will establish the goals and policies of the organization, component, or function;
 - How the beneficiary will exercise wide latitude in discretionary decision-making; and
 - Whether the beneficiary will receive only general supervision or direction from higher level executives, the board of directors, or stockholders.
- An organizational chart or diagram, showing the U.S. entity's organizational structure and staffing levels. The chart or diagram should list all employees in the beneficiary's immediate

division, department, or team by name, job title, summary of duties, education level, and salary. It should also clearly identify the beneficiary's position in the chart.

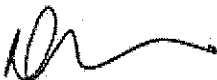
- Copies of the U.S. entity's State Quarterly Wage Reports for the 3rd quarter of 2021 that were accepted by the State of GA. The forms should include the names, salaries, and number of weeks worked for all employees.
 - **Note:** If employees listed on the organizational chart are not listed on the State Quarterly Wage Reports, explain why. If your organization chooses to submit wage reports, they should contain sufficient information to show that the beneficiary has been or will be employed in an executive capacity.
- Copies of the U.S. entity's payroll summary, and Forms W-2, W-3, and 1099-MISC showing wages paid to all employees under the beneficiary's direction.
- Copies of employment agreements entered into by newly hired employees who will be managed by the beneficiary.

General Reminders: If your organization is submitting evidence in response to this request, in order for us to properly evaluate such evidence, we recommend that you submit the following:

- An index of the evidence and include corresponding tabs for each section of evidence.
- Clear and legible copies of the evidence. If clear and legible copies are not possible, submit the original documents. These originals will be returned, if requested.
- Duplicate copy if your organization is requesting consulate notification. Your organization should provide a duplicate copy of: Your petition and initial evidence (if not previously provided); and any evidence submitted in response to this request. If the beneficiary is in the United States and your organization is requesting a change of status or extension, your organization may also choose to submit a duplicate copy of your petition and supporting evidence in case the beneficiary decides to seek a visa at a consular office abroad.
- Full English language translation(s) of evidence submitted to USCIS containing a foreign language. The translator must certify that the translations are accurate and complete and that he or she is competent to translate from the foreign language into English.

**PLEASE RETURN THE REQUESTED INFORMATION AND ALL SUPPORTING DOCUMENTS
WITH THIS ORIGINAL REQUEST ON TOP TO:
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
P.O. BOX 10590
LAGUNA NIGUEL, CA. 92607-0590**

Sincerely,



Donna P. Campagnolo
Director, California Service Center



DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
CALIFORNIA SERVICE CENTER
P.O. BOX 10590
LAGUNA NIGUEL CA 92607-0590

ATTN: RFE

