



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

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

In Re: 23404034

Date: NOV. 25, 2022

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, a distributor of wholesale paints, seeks to temporarily employ the Beneficiary in the United States as its chief executive officer under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center approved the petition, but thereafter issued a decision denying the petition. In the denial decision, the Director determined the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. On appeal, the Petitioner contends that the Director erred in concluding that the Beneficiary's U.S. duty description was not sufficiently detailed and asserts that it was unreasonable to deny the petition after sending notice that it had been approved.

It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). 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 withdraw the Director's decision and remand the matter for further action and entry of a new decision.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering their services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.* The petitioner must also establish that the beneficiary's prior education, training, and employment qualify them to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. ANALYSIS

As discussed, the Director approved the petition on September 25, 2018, and notified the Petitioner via email of this approval, indicating that the validity period of the nonimmigrant visa would be from September 25, 2018, to July 31, 2021. Thereafter, the Director proceeded to deny the petition on October 1, 2018. In the denial decision, the Director concluded that the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. The Director did not address their prior communication of an approval of the petition in the denial decision.

Under U.S. Citizenship and Immigration Services regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, a director must issue a notice of intent to revoke (NOIR) that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B).

The Director erred by not proceeding according to the revocation regulations once the petition was approved and the Petitioner was notified of this approval. Consistent with the regulations, the Director was required to issue a NOIR setting forth the grounds under which they were revoking the petition's approval and allow the Petitioner the opportunity to rebut the NOIR. Therefore, due to this procedural error, the denial of the petition will be withdrawn, and this matter will be remanded for the issuance of a NOIR that sets forth at least one of the six grounds for revocation of an approval of a petition.¹ Further, the NOIR should provide the Petitioner with a reasonable opportunity to respond, consistent with the regulations.

On remand, the Director should request any additional evidence deemed warranted to address noted deficiencies.

ORDER: The decision of the Director is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.

¹ The six grounds a Director may rely upon in sending a NOIR include: (1) one or more entities are no longer qualifying organizations; (2) the [noncitizen] is no longer eligible under section 101(a)(15)(L) of the Act; 3) a qualifying organization(s) violated the requirements of section 101(a)(15)(L) and the corresponding regulations; (4) the statement of facts contained in the petition was not true and correct; (5) approval of the petition involved gross error; or (6) none of the qualifying organizations in a blanket petition have used the blanket petition procedures for three consecutive years. 8 C.F.R. § 214.2(l)(9)(iii).