



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

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

In Re: 19066114

Date: MAR. 8, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a financial services company, seeks to continue the Beneficiary's temporary employment as a manager in its Corporate Operations Group 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 L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish, as required, that it will employ the Beneficiary in the United States in a managerial or executive capacity. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

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 his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.*

The Director determined that the Petitioner did not establish that the Beneficiary's position in the United States meets the statutory and regulatory requirements for a managerial capacity. "Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

The Petitioner's initial filing consisted of a letter from a company official, copies of the Beneficiary's pay receipts, and background information about the petitioning employer. The Director issued a request for evidence, asking for documentary evidence such as tax documents to corroborate claims about the Beneficiary's subordinates and an organizational chart to establish where the Beneficiary's position stands in the corporate hierarchy. *See* 8 C.F.R. § 214.2(l)(14)(i). In the request for evidence, the Director acknowledged that the Petitioner already employed the Beneficiary in L-1A status, but stated that the petition must include sufficient evidence of eligibility. The Petitioner responded with a new letter, but did not submit the requested evidence, asserting that the Director sought to impose too high a standard of proof.

The Director denied the petition, concluding that the Petitioner had not shown that the Beneficiary's position meets the requirements of a managerial capacity, and had not addressed the deficiencies described in the request for evidence.

On appeal, the Petitioner does not address any of the deficiencies that the Director had identified, or explain why the requested documents could not be provided. The Petitioner asserts that, under new guidance issued in April 2021 (after the denial of the petition), U.S. Citizenship and Immigration Services (USCIS) "is required to consider and address the previous positive determination of the Beneficiary's eligibility when evaluating the L-1A extension petition. In USCIS's Decision denying the L-1A extension petition and in the preceding Request for Evidence, there were no references to or substantive discussion of this previous determination."

Contrary to the Petitioner's assertion on appeal, the Director did address the prior approval in the request for evidence, at the bottom of page 3. Furthermore, there is no prior USCIS approval. Rather, the record shows that the Beneficiary presented Forms I-129S, Nonimmigrant Petitions Based on Blanket L Petition, at the U.S. Consulates in Chennai, India, in 2015, and Mexico City, Mexico, in 2018. Both times, the petitions were approved by U.S. Department of State (DOS) consular officers. Under the most recent deference policy, which the Petitioner cites and quotes on appeal, "USCIS officers consider, but do not defer to, previous eligibility determinations on petitions or applications made by . . . DOS. Officers make determinations on the petition filed with USCIS and corresponding evidence on record."¹ The Director's actions, including discussing the prior approval in the request for evidence, were consistent with this guidance. The Director explained why the requested evidence was material to the petition, and the Petitioner has not explained why it did not submit that evidence. A petitioner's failure to submit requested evidence which precludes a material line of inquiry is, by itself, grounds for denial of the petition. *See* 8 C.F.R. § 103.2(b)(14).

The Petitioner alleges no other error on appeal. We will dismiss the appeal for the above-stated reasons.²

ORDER: The appeal is dismissed.

¹ 2 *USCIS Policy Manual* A.4(B)(2), <https://www.uscis.gov/policymanual>.

² We note the approval of a subsequent nonimmigrant petition on the Beneficiary's behalf, with receipt number [REDACTED] granting the Beneficiary H-1B nonimmigrant status to work for the petitioning employer until April 6, 2022. We further note the approval of an immigrant petition, with receipt number [REDACTED] classifying the Beneficiary as a member of the professions holding an advanced degree under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), with a priority date of May 20, 2020.