



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

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

In Re: 18686242

Date: MAY. 04, 2022

Appeal of California Service Center Decision

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

The Petitioner, a manufacturer and seller of electrical components, seeks to continue the Beneficiary's temporary employment as its chief operating officer under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

In September 2020, the Director of the California Service Center denied the petition.<sup>1</sup> The Petitioner then filed this appeal in October 2020. Thereafter, the Director issued another decision in December 2020 indicating that it was denying the decision because the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. We summarily dismissed the appeal, but later withdrew this dismissal. As such, 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 withdraw the Director's prior decisions and remand the matter for further consideration and entry of a new decision.

While the appeal was pending, U.S. Citizenship and Immigration Services (USCIS) updated the *USCIS Policy Manual's* guidance regarding deference to prior approvals. <sup>2</sup> *USCIS Policy Manual* A.4(B)(1), <https://www.uscis.gov/policymanual>; *see also* USCIS Policy Alert, PA-2021-05, *Deference to Prior Determinations of Eligibility in Requests for Extensions of Petition Validity* (Apr. 27, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210427-Deference.pdf>. This petition is an extension request in the same nonimmigrant classification, previously approved by USCIS, and filed by the same parties and for the same position. Therefore, it is directly impacted by this USCIS guidance.

In the prior denial decisions, the Director did not discuss the prior L-1A nonimmigrant visa approvals granted on behalf of the Beneficiary, nor did they articulate on what grounds they were not providing deference. As such, as a preliminary matter, we find it appropriate to remand the matter to the Director

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<sup>1</sup> This decision did not articulate on what grounds the Director was denying the petition.

to consider the extension request anew, and if they deny the extension request, to discuss specifically why deference to the prior approvals is not being provided.

Further, it was improper for the Director to issue the initial denial without any discussion as to their grounds for denial or analysis as to why the Petitioner had not met its burden. An officer must fully explain the reasons for denying a visa petition to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

Although we acknowledge that the Director appeared to attempt to rectify this error by issuing a later decision with grounds for denial and analysis, this came after the Petitioner had already filed an appeal with us. Once an appeal is filed, the Director may either take favorable action or forward the appeal to us for review. *See* 8 C.F.R. § 103.3(a)(2)(iii); *see also* USCIS Policy Memorandum PM-602-0124, *Initial Field Review of Appeals to the Administrative Appeals Office* 2, 3 (Nov. 4, 2015), <https://www.uscis.gov/legal-resources/policy-memoranda>. While an initial field review (IFR) may result in the approval of a benefit request and make appellate review by us unnecessary, the IFR process cannot undermine an affected party's procedural right to AAO review or the right to file an informed brief in support of their appeal. Accordingly, the Director erred in issuing the second decision after the Petitioner filed this appeal.

As such, in any new decision, the Director should analyze each ground for denial separately, and clearly analyze and articulate why the Petitioner has not met its burden with respect to each ground for denial. Accordingly, the following order shall be issued.

**ORDER:** The two prior decisions of the Director are withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis and entry of a new decision, which, if adverse to the Petitioner, shall be certified to us for review.