



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

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

In Re: 26402154

Date: APR. 14, 2023

Appeal of Texas Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, an accounting firm, seeks to extend the Beneficiary's temporary employment as president of its new office 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). 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 initially approved the petition, but later revoked the petition's approval, concluding that the record did not establish that the Beneficiary will be employed in the United States in a managerial or executive capacity. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 entry of a new decision consistent with the following analysis.

The director may revoke the approval of an L-1 petition at any time. 8 C.F.R. § 214.2(l)(9)(i). The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if the director finds that:

- (1) One or more entities are no longer qualifying organizations;
- (2) The alien is no longer eligible under section 101(a)(15)(L) of the Act;
- (3) A qualifying organization(s) violated requirements of section 101(a)(15)(L) and these regulations;
- (4) The statement of facts contained in the petition was not true and correct; or
- (5) Approval of the petition involved gross error; or
- (6) None of the qualifying organizations in a blanket petition have used the blanket petition procedure for three consecutive years.

8 C.F.R. § 214.2(l)(9)(iii)(A). Before revoking the approval of a petition, the director must issue a notice of intent to revoke (NOIR), containing a detailed statement of the grounds for the revocation, and allow the petitioner to submit evidence in rebuttal within 30 days of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. 8 C.F.R. § 214.2(l)(9)(iii)(B).

Below, we will explain why the Director's NOIR and the notice of revocation do not meet the above requirements.

The Petitioner previously filed a new office petition in January 2021, under the provisions outlined at 8 C.F.R. § 214.2(l)(3)(v). The approval of that petition granted the Beneficiary L-1A nonimmigrant status for one year, from April 2021 to April 2022. The Petitioner filed an extension petition in March 2022. The Director approved that petition in April 2022, extending the Beneficiary's L-1A status until April 2024. But in June 2022, the Director issued a NOIR. After the Petitioner responded to the NOIR, the Director revoked the petition's approval in October 2022.

In this case, the NOIR did not provide a detailed statement of the grounds for the revocation as required by 8 C.F.R. § 214.2(l)(9)(iii)(B). The first page of the NOIR lists all six possible grounds for revocation on notice. The next sentence after the list reads: "The only issue to be discussed is whether you have established that the beneficiary will be employed in a managerial or executive capacity."

The NOIR then recites the pertinent regulations and the Petitioner's description of the Beneficiary's intended duties in the United States. The NOIR does not evaluate the job description or identify any deficiencies, or explain why the job duties would not qualify the position as managerial or executive.

The vague statements in the NOIR do not identify any specific deficiency that the Petitioner may have been able to address in its response. The NOIR does not specify whether the Director found the Petitioner's assertions are not true and correct, which would be grounds for revocation under 8 C.F.R. § 214.2(l)(9)(iii)(A)(4), or are facially insufficient to establish eligibility, in which case the petition was approved in error and is subject to revocation under 8 C.F.R. § 214.2(l)(9)(iii)(A)(5). Beyond identifying a particular ground for revocation, the Director must explain why the Petitioner's claims lack credibility or why the Beneficiary's position, as described, does not qualify as managerial or executive.

The lack of specificity in the NOIR limited the Petitioner's ability to meaningfully respond to it. Nevertheless, the Petitioner's response included a new statement and 33 exhibits.

The notice of revocation repeats the list of six possible grounds from the NOIR, but does not refer specifically to the Beneficiary's intended managerial or executive capacity in the United States. The revocation notice then lists some of the materials that the Petitioner submitted in response to the NOIR, but there is no discussion of those materials or explanation as to why they are deficient. The notice then concludes: "You have not submitted sufficient evidence in rebuttal to the Notice of Intent to Revoke and you have not overcome the grounds for revocation."

On appeal, the Petitioner states that the Director "failed to provide any specific statements regarding the underlying factual basis for the revocation, nor provided any derogatory evidence to the Petitioner,

thereby failing to provide proper notice as required by regulations.” The Petitioner cites various instances of relevant case law, and the regulation at 8 C.F.R. § 103.2(b)(16), which requires U.S. Citizenship and Immigration Services to allow the petitioner an opportunity to rebut derogatory information of which the petitioner is unaware.

We agree with the Petitioner that neither the NOIR nor the notice of revocation includes any specific details about the grounds for revocation, which limited the Petitioner’s ability to respond effectively to the NOIR and to appeal the revocation. The general assertion that the Petitioner did not overcome the NOIR cannot suffice, particularly when the NOIR itself did not articulate any specific grounds for revocation.

For the above reasons, we will withdraw the revocation of the extension petition’s approval. If the Director still intends to revoke the approval of that petition, the Director must issue a new NOIR that fully explains the grounds for revocation, in a manner that allows the Petitioner an opportunity to respond. A decision to revoke approval of a visa petition can only be grounded upon, and the petitioner is only obliged to respond to, the factual allegations specified in the NOIR. *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988).

We note that, in its response to the NOIR, the Petitioner acknowledged that, owing to the COVID-19 pandemic, the Petitioner’s new office “has not been able to develop activities as planned and outlined in its business plan.” The Petitioner stated that it needs the Beneficiary to be “in the United States to set up properly the business.” By regulation, a new office is not initially held to the same standards as a more established business, but it must be able to support a managerial or executive position within one year after approval of the new office petition. 8 C.F.R. § 214.2(l)(3)(v)(C). The regulations do not permit the more lenient new office provisions to remain in effect for more than one year. If the company was not “set up properly” a year after the approval of the new office petition, then the extension petition may not have been properly approved. Nevertheless, the NOIR did not raise this issue. If the Director intends to revoke the approval of the extension based on the new office’s lack of developmental progress, or on any other issue, then the Director must cite specific grounds in a new NOIR.

**ORDER:** The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis, which, if adverse to the Petitioner, shall be certified to us for review.