U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-S- CORP.

DATE: MAR. 21. 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an information technology consulting and systems integration services business, seeks to extend the Beneficiary's temporary employment as its "Senior Professional: Project Management" 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 California Service Center revoked the approval of the petition, determining that the Petitioner had assigned the Beneficiary to a different entity or organization than the one indicated on the petition without authorization.

On appeal, the Petitioner submits additional evidence, asserts that the Director's decision contains a clear error of fact, and maintains that there have been no material changes to the terms and conditions of the Beneficiary's approved L-1A employment.

Upon *de novo* review of the record, we will withdraw the Director's decision and sustain the appeal.

The Director initially approved the petition and the Beneficiary's requested extension of status in October 2017. The Director later issued a notice of intent to revoke (NOIR) after U.S. Citizenship and Immigration Services' (USCIS') attempt to verify the Beneficiary's employment through an administrative site visit was deemed unsuccessful because the Beneficiary was found to be working at a location other than the one the Petitioner indicated on the Form I-129, Petition for a Nonimmigrant Worker.

Specifically, the Petitioner had indicated on the petition that the Beneficiary would work at a client worksite located in [redacted] California. When an immigration officer visited that location and spoke to [redacted] advised that the Beneficiary was working at an address in [redacted] California.

In response to the NOIR, the Petitioner submitted a letter from the Beneficiary's manager explaining that both the [redacted] and [redacted] locations are client worksites belonging to [redacted] and that the Beneficiary had been working at both sites as needed. The

Petitioner stated that there had been no material change in the Beneficiary's employment and that he continued to manage the same client project for [redacted] as described in the petition and supporting documentation.

In the revocation decision, the Director found that although the Petitioner indicated that the Beneficiary would be working pursuant to an agreement with [redacted] it appears that "he would be working for [redacted] in [redacted]." The Director determined that the Beneficiary is not "permitted to be reassigned to organizations other than that for which [the Petitioner] sought and gained approval."

On appeal, the Petitioner states that the Director clearly erred in determining that [redacted] and the Beneficiary have an employer-employer relationship, maintaining that the Beneficiary has been continuously working for the Petitioner and was not reassigned to another organization. We agree that there was no basis for the Director's finding that the Beneficiary works directly for [redacted] rather than for the Petitioner, or that he has been reassigned to a different entity or organization.

The Petitioner further notes that "it would appear that the Service would be suggesting that the petitioner should have filed an amended petition to file a change of address." We agree with the Petitioner that neither the statute, regulations, nor U.S. Citizenship and Immigration Services (USCIS) policy expressly require an L-1 employer to file an amended petition in every instance where a beneficiary is transferred to a new worksite to perform the same or similar duties for the same employer.[1] The Beneficiary's intermittent assignment to a different worksite owned by the same client did not warrant the filing of an amended petition, nor did it represent a material change in the terms of his approved L-1A employment with the Petitioner.

For these reasons, we find that the approval of the petition was improperly revoked.

ORDER: The appeal is sustained.

Cite as *Matter of C-S- Corp.*, ID# 2861761 (AAO Mar. 21, 2019)

[1] 8 C.F.R. § 214.2(l)(7)(i)(C) states:

> The petitioner shall file an amended petition, with fee, at the service center where the original petition was filed to reflect changes in approved relationships, additional qualifying organizations under a blanket petition, change in capacity of employment (i.e. from a specialized knowledge position to a managerial position), or any information which would affect the beneficiary's eligibility under section 101(a)(15)(L) of the Act.