



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

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

In Re: 21564595

Date: AUG. 31, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a producer and marketer of beer and malt beverages, seeks to continue the Beneficiary's temporary employment as a manager, human resources operations 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 Director of the Texas Service Center denied the petition, concluding the Petitioner did not establish, as required, that: 1) the Beneficiary was employed abroad for one continuous year in the three-years preceding the date the petition was filed; 2) he was employed in a managerial or executive capacity abroad; and 3) he would be employed in a managerial or executive capacity in the United States. On appeal, the Petitioner asserts that the Director erred by not adhering to U.S. Citizenship and Immigration Services (USCIS) policy requiring them to articulate the basis upon which they did not provide deference to the Beneficiary's prior L-1A nonimmigrant visa approval for the same employment. 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 remand the matter to the Director for further consideration and entry of a new decision.

USCIS updated the *USCIS Policy Manual's* guidance regarding deference to prior approvals. 2 *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>. In denying the petition, the Director acknowledged the Beneficiary's prior L-1A nonimmigrant visa approval for the same employment and their general obligation to defer to this prior determination. However, the Director stated that they were not required to provide deference, nor articulate reasons for not extending deference, since the prior petition was approved by the Department of State (DOS). Although this interpretation of the deference memorandum is correct with respect to prior DOS approvals, the Director was incorrect to conclude that the Beneficiary's prior petition was approved by DOS. USCIS records, and documentation submitted on appeal, reflect that the prior L-1A petition was approved on behalf of the Beneficiary by USCIS.

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 USCIS deference guidance. As such, we find it appropriate to remand the matter to the Director to consider the extension request anew, and to take any additional action that may be necessary and appropriate.

Accordingly, the following order shall be issued.

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