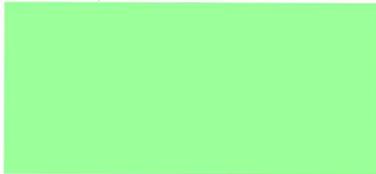




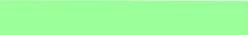
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **MAR 15 2013**

Office: CALIFORNIA SERVICE CENTER

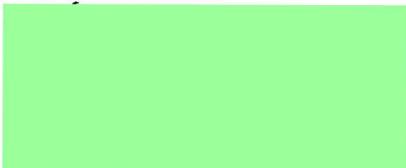
FILE: 

IN RE:           Petitioner:  
                    Beneficiary:



PETITION:      Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The director, California Service Center, denied the nonimmigrant petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will sustain the appeal and approve the petition.

The petitioner filed this blanket petition seeking initial approval of itself and its subsidiaries as qualifying organizations for the purpose of transferring employees to the United States as L-1 nonimmigrant intracompany transferees pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Delaware corporation, is engaged in software development and consulting, and eCommerce deployment and hosting. It states that it is the parent company of five subsidiaries, including three branch offices in the United States and subsidiaries in Pune, India and Makati City, Philippines.

The director denied the blanket petition after concluding that the petitioner meets none of the eligibility conditions set forth at 8 C.F.R. § 214.2(l)(4)(i), of which at least one must be satisfied in order for the petitioner to establish eligibility. Specifically, the director observed that there is no record that the petitioner has obtained approval of at least 10 "L" managers, executives, or specialized knowledge professionals during the previous 12 months; no evidence that the petitioner's income from U.S. operations is \$25 million; and no evidence that the petitioner employs a United States workforce of at least 1,000 employees.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On the Form I-290B, Notice of Appeal or Motion, counsel for the petitioner asserts that the petitioner is eligible for the blanket petition based upon having obtained approval of at least 10 "L" managers, executives, or specialized knowledge professionals during the previous 12 months. Counsel submits a brief and additional evidence in support of the appeal.

### I. The Law

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. 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, executive, or specialized knowledge capacity.

To establish eligibility for approval of a blanket "L" petition, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. The regulation at 8 C.F.R. § 214.2(l)(4) provides the following:

- (i) A petitioner which meets the following requirements may file a blanket petition seeking continuing approval of itself and some or all of its parent, branches, subsidiaries, and affiliates as qualifying organizations if:

- (A) The petitioner and each of those entities are engaged in commercial trade or services;
- (B) The petitioner has an office in the United States that has been doing business for one year or more;
- (C) The petitioner has three or more domestic and foreign branches, subsidiaries, or affiliates; and
- (D) The petitioner and the other qualifying organizations have obtained approval of petitions for at least ten "L" managers, executives, or specialized knowledge professionals during the previous 12 months; or have U.S. subsidiaries or affiliates with combined annual sales of at least \$25 million; or have a United States work force of at least 1,000 employees.

**II. Discussion**

The sole issue the director addressed is whether the petitioner meets the regulatory requirements for filing a blanket petition, specifically, whether the petitioner has obtained approval of at least ten "L" managers, executives, or specialized knowledge professionals during the previous twelve months.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on October 19, 2011. The petitioner stated on the Form I-129 that it has approximately 40 employees in the United States and a gross annual income of \$12.5 million. Therefore, the petitioner did not claim that it qualifies to file a blanket petition based on annual U.S. sales of at least \$25 million or a U.S. workforce of at least 1,000 employees. See 8 C.F.R. § 214.2(l)(4)(i)(D).

In its letter accompanying the initial petition, the petitioner claimed eligibility based upon having "obtained approvals of 10 petitions for "L" managers, executives, or specialized knowledge professionals during the last 12 months." The petitioner provided a table listing the following approved petitions, including the names of the beneficiaries, receipt numbers, approval dates, and types of nonimmigrant visas:

No.	Name	Date Filed	Receipt No.	Approved	Type
1	[REDACTED]	10/15/2010	[REDACTED]	10/21/2010	EXTN
2	[REDACTED]	7/6/2011	[REDACTED]	9/8/2011	EXTN
3	[REDACTED]	4/11/2011	[REDACTED]	9/20/2011	EXTN
4	[REDACTED]	3/28/2011	[REDACTED]	8/2/2011	EXTN
5	[REDACTED]	5/21/2010	[REDACTED]	7/29/2010	L-1A new
6	[REDACTED]	4/29/2011	[REDACTED]	5/11/2011	EXTN

<sup>1</sup> According to USCIS records, this petition was denied. However, a second petition filed on behalf of this beneficiary ([REDACTED]) was approved on September 20, 2011. The petitioner corrected the receipt number in its subsequent submission.

7		10/13/2010		2/10/2011	EXTN
8		1/13/2011		3/1/2011	NEW
9		5/4/2011		8/4/2011	NEW
10		4/15/2011		5/25/2011	EXTN
11		2/23/2010		5/27/2010	EXTN
12		3/4/2011		6/13/2011	EXTN

The director issued a request for evidence ("RFE"), advising the petitioner that out of the twelve petitions listed on the table of "approved" petitions, only eight of these petitions were approved within the previous twelve months. The director instructed the petitioner to submit additional evidence establishing that it met at least one of the conditions set forth at 8 C.F.R. § 214.2(l)(4)(i)(D).

The petitioner responded to the RFE by providing the following amended list of ten approved petitions, and attached the approval notices for each of the petitions listed below:

No.	Name (L-1B Beneficiaries)	Date Filed	Receipt No.	Approved	Validity
1		10/15/2010		10/21/2010	EXTN
2		7/6/2011		9/8/2011	EXTN
3		4/11/2011		9/20/2011	EXTN
4		3/28/2011		8/2/2011	EXTN
5		4/29/2011		5/11/2011	EXTN
6		10/13/2010		2/10/2011	EXTN
7		1/13/2011		3/1/2011	NEW
8		5/4/2011		8/4/2011	NEW
9		4/15/2011		5/25/2011	EXTN
10		3/4/2011		6/13/2011	EXTN

The director denied the petition, concluding that the petitioner failed to establish that it meets at least one of the conditions set forth at 8 C.F.R. § 214.2(l)(4)(i)(D), and is therefore not eligible to file a blanket petition. Specifically, the director found that out of the ten listed petitions, the approval of one of the petitions ( ) was revoked on July 6, 2011, and therefore could not count towards the total number of approvals.

On appeal, counsel for the petitioner asserts that the petitioner's L-1B petition for ( ) should count towards the total number of approved petitions. Counsel explains that after the L-1B petition was approved, ( ) left the petitioner's employ. Subsequently, the petitioner informed USCIS of his departure and requested that his petition be withdrawn, in an attempt to comply with USCIS policy. Based upon the petitioner's request, USCIS confirmed the withdrawal and issued an automatic revocation of the petition.

<sup>2</sup> According to USCIS records, the correct receipt number for the beneficiary ( )

Counsel asserts that Mr. [REDACTED] subsequent departure from the petitioner had no bearing upon the merits of the underlying petition. Counsel maintains that the petition should therefore be counted as an approval, because the subsequent revocation was not based upon a subsequent finding of ineligibility on the merits, but was revoked upon the petitioner's request, which was made in an effort to comply with USCIS policy. Counsel submits copies of the withdrawal request, as well as the director's decision automatically revoking the approval of the petition based upon the petitioner's written withdrawal, pursuant to 8 C.F.R. § 214.2(l)(9)(ii).

Upon review of the record, counsel's assertions are persuasive. The approval of [REDACTED] shall count towards the total number of approved petitions, notwithstanding the subsequent revocation, as the automatic revocation was not based upon the merits of the petition. The record reflects that the petitioner has obtained the approval of ten petitions for "L" managers, executives, or specialized knowledge professionals during the twelve months preceding the filing of the petition. The petitioner meets one the eligibility conditions listed in 8 C.F.R. § 214.2(l)(4)(i)(D), and is therefore eligible to file for a blanket petition.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has sustained that burden. Accordingly, the director's decision is withdrawn. The appeal will be sustained and the petition approved.

**ORDER:** The appeal is sustained.