



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

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

MATTER OF W- LTD.

DATE: NOV. 20, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, an information technology services business, seeks to extend the Beneficiary's temporary employment as its senior program manager 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 Vermont Service Center revoked the approval of the petition, determining that the Petitioner did not establish, as required, that the Beneficiary would be employed in a managerial or executive capacity.

On appeal, the Petitioner asserts that the Director erred by revoking the approval based on the Petitioner's failure to file an amended petition when it assigned the Beneficiary to a new work location.

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

The Director initially approved the petition for a two-year period in March 2016, but 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.¹ In response to the NOIR, the Petitioner submitted additional evidence to support its claim that the Beneficiary was employed in a managerial capacity when the petition was filed, and at the time of the site visit in 2016. The Petitioner also informed the Director that the Beneficiary had been transferred to work as a program manager at a different client worksite in February 2017.

In the revocation decision, the Director acknowledged the change in worksite, noted that the Petitioner had not filed an amended petition, and emphasized that the Petitioner cannot make

¹ As part of the administrative site visit to the worksite address provided on the petition, an immigration officer was able to speak to the Beneficiary's supervisor, interview the Beneficiary by phone, and collect additional documentation from the Beneficiary by e-mail. However, the officer was unable to speak to or otherwise contact the Petitioner's signatory on the Form I-129.

material changes to the petition to cure deficiencies. The Director treated the Beneficiary's new work location as an unresolved inconsistency and noted that it remained unclear where the Beneficiary would be working. As such, the Director concluded that it is "not evident the beneficiary is currently employed in a managerial position pursuant to the terms and conditions" of the approved petition.

On appeal, the Petitioner states that the revocation was improperly based on its failure to file an amended petition at the time it transferred the Beneficiary to a new U.S. worksite. We agree with the Petitioner that neither the statute, regulations, nor 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 similar duties for the same employer.² Such determinations must be made on a case-by-case basis, and, based on the facts presented here, we agree with the Petitioner that the change in client assignment and worksite did not affect the Beneficiary's eligibility for this classification. The re-assignment did not warrant the filing of an amended petition, nor did it represent a material change or an attempt to cure deficiencies present in the original filing.

After reviewing the totality of the evidence, we find that the Petitioner established that the Beneficiary was and continued to be employed in a managerial capacity as defined at section 101(a)(44)(A) of the Act. The initial evidence and response to the NOIR contain evidence that the Beneficiary supervised a team of subordinate professionals, exercised discretion over the day-to-day activities of a transformation program carried out for a key client, and performed primarily managerial duties at the time of filing and at the time of the site visit. Further, although the Petitioner subsequently re-assigned the Beneficiary to a new worksite, the record shows that he would continue to perform essentially the same duties for the duration of the petition's original validity. As such, we find that the approval of the petition was improperly revoked.

ORDER: The appeal is sustained.

Cite as *Matter of W- Ltd.*, ID# 1735950 (AAO Nov. 20, 2018)

² 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.