



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

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

In Re: 29300006

Date: DEC. 21, 2023

Appeal of California Service Center Decision

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

The Petitioner, a property development company, seeks to continue temporarily employing the Beneficiary as regional head of the United States. The company requests an extension of her L-1A nonimmigrant visa petition as an intracompany transferee who would work in an “executive capacity.” See Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the requested extension. Declining to defer to the Petitioner’s prior approved L-1A extension for the Beneficiary, the Director concluded that the company did not demonstrate her proposed employment in the claimed executive capacity. On appeal, the Petitioner contends that the Director overlooked evidence and should have followed the prior approval.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, see *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with the Petitioner that the Director should have deferred to the prior L-1A approval in this matter. We will therefore sustain the appeal.

## I. LAW

An intracompany transferee is a noncitizen who, for at least one continuous year in the three years before their initial U.S. admission in nonimmigrant status, worked abroad and seeks to enter the country to temporarily work for a branch, parent, affiliate, or subsidiary of their foreign employer in a capacity that is managerial, executive, or involves specialized knowledge. Section 101(a)(15)(L) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(A). If a U.S. petitioner seeks to employ them in a managerial or executive capacity, they seek L-1A classification. U.S. Citizenship and Immigration Services (USCIS), “Instructions for Petition for Nonimmigrant Worker,” 16, [www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf](http://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf); see also 8 C.F.R. § 103.2(a)(1) (incorporating form instructions into the regulations). If the proposed U.S. work involves specialized knowledge, they seek L-1B classification. *Id.*

## II. ANALYSIS

The record shows that the Beneficiary, an Indian native and citizen, started working for the Petitioner's affiliate in India as a co-managing director in 2012. She has worked for the Petitioner in the United States in L-1A status in the offered position of regional head since 2019. The company's prior approved petition for her extended her L-1A status in an executive capacity through March 2023.

USCIS should not defer to prior nonimmigrant visa petition approvals involving the same parties and underlying facts if: the approvals involved material errors; circumstances or eligibility requirements have changed; or new material information adversely affects eligibility. *See generally 2 USCIS Policy Manual A.(4)(B)(1)*, [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual). Otherwise, the Agency should generally follow prior approvals. *Id.* “[D]eviation from a previous approval carries important consequences and implicates predictability and consistency concerns.” *Id.*

The Director found that the Petitioner's current L-1A petition for the Beneficiary does not demonstrate her proposed continued employment in the claimed executive capacity. Concluding that circumstances have changed, the Director declined to defer to the prior L-1A approval.

Contrary to the Director's finding, however, the record sufficiently supports the Beneficiary's proposed employment in an executive capacity. The record demonstrates that, consistent with the definition of “executive capacity” at section 101(a)(44)(B) of the Act, she would continue directing the management of a major component of the Petitioner's organization - a hotel/restaurant - and establishing its goals and policies. The record also establishes that, by the petition's filing, the organization had staffing sufficient to allow her to primarily focus on executive-level duties.

A preponderance of the evidence demonstrates the continuing executive nature of the Beneficiary's proposed employment. Thus, the Director should have deferred to USCIS' prior approval in this matter.

**ORDER:** The appeal is sustained.