U.S. Citizenship and Immigration Services

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

In Re: 42102954

Date: APR. 9, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a technology company involved with the distribution of cryptocurrency mining hardware. It seeks to employ the Beneficiary temporarily as its "Director of the Sales Department" 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 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.

Service Center Operations (SCOPS) revoked the approval of the petition, concluding that the Petitioner did not resolve inconsistencies in the record and therefore did not establish that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that the Beneficiary would be employed in the United States in a managerial capacity as claimed.[1] Because the identified basis for denial is dispositive of this appeal, we decline to reach and hereby reserve the Petitioner's appellate regarding the Beneficiary's employment abroad. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

## I. LAW

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. The beneficiary must also seek

[1] The Petitioner claims that the Beneficiary would be employed in the United States in a managerial capacity and does not claim that the Beneficiary would be employed in an executive capacity.

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 or executive capacity. *Id.*

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as an assignment within an organization in which the employee primarily:

(i) manages the organization, or a department, subdivision, function, or component of the organization;
(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

In addition, under U.S. Citizenship and Immigration Services (USCIS) regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, SCOPS must issue a notice of intent to revoke (NOIR) that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B).

## II. ANALYSIS

The issue to be addressed is whether the Petitioner established that the Beneficiary's employment under an approved petition would be in a managerial capacity.

The record shows that although the petition was approved in November 2023, SCOPS subsequently issued a NOIR in which the Petitioner was notified of and asked to address and resolve various anomalies and inconsistencies concerning the Beneficiary's proposed U.S. employment as director of sales. SCOPS specified two other L1A petitions filed by the Petitioner in November and December 2024, respectively, noting that supporting evidence provided with those petitions identified the Beneficiary as "Deputy Director" of the sales department and that one of those petitions was filed on behalf of another beneficiary whom the Petitioner sought to employ as director of sales – the same position as the one assigned to the Beneficiary in the approved petition that is currently before us. SCOPS determined that the information gathered from these petitions and the evidence in their respective records would indicate that the Beneficiary was not or is no longer employed by the Petitioner in the position of Sales Department Director and does not appear to be performing managerial duties as claimed in the approved petition. Accordingly, SCOPS issued the NOIR.

In response, the Petitioner provided a letter claiming that the Beneficiary assumed the position of Sales Department Director from January to September 2024 and that her duties in that position were managerial in nature. The Petitioner further reasoned that because the Beneficiary's role as Deputy Director of Sales entails "essentially the same" duties and responsibilities as those assigned to the Director of Sales, an amended petition was not necessary.

The Petitioner did not explain the reasoning behind its placement of the Beneficiary in a subordinate position with "essentially the same" duties and responsibilities, nor is it clear why the subordinate position would be "essentially the same" when it is depicted as subordinate to the position the Beneficiary purportedly assumed under the approved petition. The Petitioner stated that it often makes organizational changes, such as "merging, eliminating, adding, or renaming departments or divisions," for the purpose of "meet[ing] evolving business needs." However, it is unclear what business need the Petitioner was attempting to address when it sought to hire someone to replace the Beneficiary in her proffered position that her petition was approved for while assigning the Beneficiary to a position that is subordinate to the one she is claimed to have originally held. The Petitioner must resolve discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

We further note that this change is not an example of a modification to the Petitioner's "organizational structure," but rather appears to be a personnel change that impacted the Beneficiary's position and seniority within the sales department and resulted in her demotion to a subordinate position that is not the position she was offered under the approved petition. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Furthermore, if USCIS finds reason to believe that an assertion stated in the petition is not true, USCIS may reject that assertion. *See, e.g.*, Section 204(b) of the Act, 8 U.S.C. § 1154(b); *Anetekhai v. INS*, 876 F.2d 1218, 1220 (5th Cir. 1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C. 1988); *Systronics Corp. v. INS,* 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

SCOPS subsequently revoked the petition, noting that even if the Beneficiary is still employed by the Petitioner, she no longer occupies the position listed in the approved petition. SCOPS correctly pointed out that an amended petition was not filed reflecting the material change in the Beneficiary's position from director to deputy director of the sales department. SCOPS found that the Petitioner did not adequately address its concerns regarding the Beneficiary's U.S. employment and concluded that the Beneficiary does not appear to be serving in the United States in a managerial capacity as claimed.

On appeal, the Petitioner contends that it responded to the NOIR with evidence and a "detailed explanation" addressing "each and every inconsistency," claiming that their submissions were sufficient to overcome the issues raised in the NOIR. We disagree. As discussed above and in the NOIR, even if the Beneficiary assumed the proffered position of Sales Department Director in November 2023, when this petition was approved, she did not remain in that position throughout this petition's validity period. In fact, the Petitioner states that this change in positions happened only ten months after this petition was approved. And because the Beneficiary did not actually enter the United States under the approved L1A petition until January 2024, even if she did assume the proffered position, she would have remained in that position for only eight months.

Further, to be eligible for L-1A nonimmigrant visa classification as an intracompany transferee manager, the Petitioner must show that the Beneficiary would meet the elements set forth in the statutory definition at section 101(a)(44)(A)(i)-(iv) of the Act. If the record does not establish that the Beneficiary's position meets all four of these elements, we cannot conclude that it is a qualifying managerial position.

Here, the record indicates that after September 2024 the Beneficiary assumed the position of deputy director of the sales department, a position that is directly subordinate to the senior-most position in the sales department – that of Sales Department Director, which was the position originally offered to the Beneficiary in the approved petition. Therefore, even if USCIS were to consider the merits of the Beneficiary's new post within the sales department, it appears that the Sales Department Director, rather than the deputy director, "manages . . . a department, subdivision, function, or component of the organization." Section 101(a)(44)(A)(i) of the Act.

In sum, the record contains deficiencies and ambiguities concerning the Beneficiary's duties and role within the Petitioner's organizational hierarchy. Therefore, despite the petition's approval, the record does not support the Petitioner's claim that the Beneficiary has performed and will continue to perform primarily managerial duties.

## III. CONCLUSION

The Petitioner has not established that it will employ the Beneficiary in a managerial capacity in the United States. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

**NOTICE:** This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.