U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41712513

Date: APR. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a steel casting company, seeks to extend the Beneficiary's temporary employment as its general manager under the L-1A nonimmigrant classification for intracompany transferees.[1] *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) denied the petition, concluding the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity under an extended petition. The matter is now before us on appeal. 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.

I. LAW

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary in a managerial or executive capacity for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(3)(v)(B). 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 or executive capacity. *Id.*

[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for a one-year period ending on August 5, 2025. A "new office" is an organization that has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position. The Petitioner filed the current new office extension petition on July 30, 2025.

A petitioner seeking to extend an L-1A petition that involved a new office must submit a statement of the beneficiary's duties during the previous year and under the extended petition; a statement describing the staffing of the new operation and evidence of the numbers and types of positions held; evidence of its financial status; evidence that it has been doing business for the previous year; and evidence that it maintains a qualifying relationship with the beneficiary's foreign employer. 8 C.F.R. § 214.2(l)(14)(ii).

II. U.S. EMPLOYMENT IN AN EXECUTIVE CAPACITY

The sole issue we will analyze is whether the Petitioner established that it would employ the Beneficiary in an executive capacity in the United States. The Petitioner does not claim that the Beneficiary would be employed in a managerial capacity. Therefore, we restrict our analysis to whether the Beneficiary would be employed in an executive capacity.

"Executive capacity" means an assignment within an organization in which the employee primarily directs the management of the organization or a major component or function of the organization; establishes the goals and policies of the organization, component, or function; exercises wide latitude in discretionary decision-making; and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization. Section 101(a)(44)(B) of the Act.

When examining the executive capacity of a given beneficiary, we will review the petitioner's description of the job duties. The petitioner's description of the job duties must clearly describe the duties to be performed by the beneficiary and indicate whether such duties are in an executive capacity. *See* 8 C.F.R. § 214.2(l)(3)(ii).

A. Duties

To be eligible for L-1A nonimmigrant visa classification as an executive, a petitioner must show that the beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(B)(i)-(iv) of the Act. If the record does not establish that the offered position meets all four of these elements, we cannot conclude that it is a qualifying executive position.

If a petitioner establishes that the offered position meets all elements set forth in the statutory definition, it must prove that the beneficiary will be *primarily* engaged in executive duties, as opposed to ordinary operational activities alongside its other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether a given beneficiary's duties will be primarily executive, we consider the petitioner's description of the job duties, the company's organizational structure, the duties of a beneficiary's subordinate employees, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in a business.

The Petitioner states it operates as a sales and marketing extension of its foreign parent in Brazil a company manufacturing and selling metal castings. The Petitioner indicates that it earns service and commission fees, while the parent company deals with the production and export logistics. The Petitioner explains that under the Beneficiary's direction it would enter "a new phase of growth and

operational maturity," including establishing its own warehouse, building a dedicated operations team, and assuming full responsibility for customer deliveries. The Petitioner provided the following duties for the Beneficiary:

Manage Operations and Personnel– 45% of his time

- Manage the North America Market Team– 20% of his time;
- Monitor and provide feedback on subordinates' performance through regular verbal instruction and an annual formal written performance evaluation– 5% of his time;
- Assess and report team's progress towards meeting goals and key performance indicators (KPI's); – 1% of his time
- Assign technical trainings to subordinates to heighten understanding of technical drawings and [the company's] materials; – 1.5% of his time
- Promote continuous improvement in sales processes and procedures, aligned with the company's values and objectives – 2.5% of his time
- Oversee the sales pipeline, which is divided by customer among team members. The subordinate team is responsible for sharing necessary information for each customer and quotation to keep this pipeline updated, enabling high level decision making – 2% of his time
- Evaluate all proposals in the pipeline to identify and direct the subordinate responsible for the account on which actions must be taken to improve the chances of conversion to sale. – 2% of his time
- Authorize the team to adjust lead times and pricing on commercial proposals based on the feedback from customers. – 2% of his time
- Monitor conversion rates of total proposals converted into a sale to verify the amount of proposals loss and develop strategies to improve sales. – 2% of his time
- Analyze the reasons for losing a proposal to identify actions to share with the team to increase sales. – 2% of his time
- Implement continuous process improvements by monitoring the team's work and evaluating suggestions to increase productivity, enhance processes, improve quality, and enhance safety aspects. – 5% of his time

Manage Administration Aspects of the North America Market Department– 40% of his time

- Analyze reasons for the loss of proposals, identifying the root causes and opportunities to improve future business. – 15% of his time
- Develop the sales plan, defining goals for the North America business based on the company's objectives and board of director's guidance. Once developed, this plan is shared with the team, which will work towards achieving the goals. – 5% of his time
- Elaborate and implement strategies for the expansion and growth of the company's revenue and keep the company's Directors informed regarding the overall business and proposals – 5% of his time
- Oversee sales team's engagement with potential customers by directing them to conduct business analysts and representatives to perform customer mapping and classification by consulting websites, participating in fairs and events, with the aim of identifying new customers and quantifying potential demands. – 5% of his time

- Manage the customer portfolio, ongoing bids, quotations issued, and orders in progress to identify the actual potential of developing business and ensure annual sales targets are met. – 10% of his time

Manage Field Activities and Direct Customer Service– 15% of his time

- Conduct technical and commercial visits to current and potential customers to discuss new possibilities and ongoing budgets. – 10% of his time
- Participate in fairs and business panels, seeking to network, promote [the company's] products and services, and identify new clients and business opportunities. – 5% of his time

The Petitioner submitted substantial supporting documentation reflecting the Beneficiary performing non-qualifying operational duties near to, and after, the time the one-year new office petition period concluded on August 5, 2025. For example, the Petitioner provided copies of emails from July 2025 reflecting the Beneficiary receiving drawings from a customer to review, contacting a customer regarding past due invoices, and coordinating with a customer on the issuance of a purchase order and a subsequent delivery. Likewise, other emails from July 2025 showed the Beneficiary following up with a customer to confirm whether a purchase order had been issued, working with colleagues on responding to a request for quotation, formulating quotations, and discussing specifications with a client. The Petitioner also submitted several emails from August 2025 reflecting the Beneficiary confirming customer specifications, sending information to a customer from a foreign employer engineering team, inquiring about quotations on machinery from a vendor, and following up with a team member on the status of a customer quotation. In another email from August 2025 the Beneficiary states to a subordinate sales representative that "there is this note in the FTFs regarding us considering phosphorous and sulfur levels slightly above the specification," while further discussing proposed freight costs and payment terms related to this transaction.

In sum, the Petitioner submitted documentary evidence demonstrating his direct involvement in nearly every non-qualifying operational task within the business, including specifications, invoicing, purchase orders, delivery, quotations, purchasing machinery, among others. While we acknowledge that the evidence indicates the Beneficiary coordinated with colleagues to complete these operational tasks, the evidence largely reflects him performing ordinary operational activities alongside Petitioner and foreign employer operational-level employees, rather than him primarily performing executive-level duties. *See Family Inc. v. USCIS*, 469 F.3d at 1313, 1316. In contrast, there is little documentation reflecting the Beneficiary's delegation of tasks to subordinate managers or lower-level executive employees and a primary focus on the goals and policies of the organization. An executive directs the management of the organization, major component, or essential function of a given organization by controlling the work of managerial or lower-level executive employees. *See generally* 2 *USCIS Policy Manual* L.6(D), https://www. uscis.gov/policy-manual. *See also BlueStar Cabinets, Inc. v. Jaddou*, No. 21-10116, 2022 WL 4364734, at *7 (5th Cir. Sept. 21, 2022) (holding that "'[d]irect[ing] the management of the organization' necessarily includes directing managers of the organization.")

Whether the Beneficiary is an executive employee turns on whether the Petitioner has sustained its burden of proving that their duties are "primarily" executive. *See* sections 101(a)(44)(B) of the Act. The Petitioner claims with little supporting evidence that the Beneficiary was devoting 85% of his

time to executive-level tasks at the end of the one year new-office period; however, the supporting evidence does not support this conclusion. The Petitioner submitted substantial documentation indicating the Beneficiary's direct involvement in numerous administrative or operational tasks, but it did not sufficiently support the time he spent on these duties as compared to qualifying executive-level tasks. For this reason, we cannot determine whether the Beneficiary was primarily performing the duties of an executive at the conclusion of the one-year new office period. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

In addition, the Petitioner's duty description also indicates that the Beneficiary was more likely a first-line sales manager, rather than an executive-level employee. For instance, the Beneficiary's duties state that he would be tasked with overseeing the sales pipeline, advising sales representatives on improving the chance of sales, adjusting lead time and pricing on proposals based on customer feedback, analyzing the loss of proposals, and managing "ongoing bids, quotations issued, and orders in progress." Further, the Beneficiary's duty description indicates that he would be responsible for evaluating *all* [emphasis added] proposals in the pipeline, suggesting his extensive involvement in sales-related activities. In contrast, the Petitioner did not sufficiently articulate and document what daily executive-level tasks he was performing at the conclusion of the one-year new office period. For instance, there was little supporting evidence to demonstrate that the Beneficiary was primarily focused on some of the executive-level duties mentioned in duty description, such as promoting continuous improvement in sales processes and procedures, putting in place KPIs, implementing training policies for his subordinates, or performing other similar higher-level executive level tasks focused on broad goals and policies. The Petitioner must resolve inconsistencies and ambiguities 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).

Even though the Beneficiary holds a senior position within the organization, the fact that he will manage or direct a business does not necessarily establish eligibility for classification as an intracompany transferee in an executive capacity within the meaning of section 101(a)(44)(B) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" executive in nature. *Id.* The Beneficiary may exercise discretion over the Petitioner's day-to-day operations and possess the requisite level of authority with respect to discretionary decision-making; however, the position descriptions alone are insufficient to establish that his actual duties would be primarily executive in nature.

B. Operations and Staffing

Pursuant to section 101(a)(44)(C) of the Act, if staffing levels are used as a factor in determining whether an individual is acting in an executive capacity, U.S. Citizenship and Immigration Services (USCIS) must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization.

In the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner indicated it had two employees as of the date the petition was filed in July 2025. The Petitioner provided an organizational chart with the petition reflecting that the Beneficiary supervised an account executive, an export analyst, and a sales engineer, the last of which was listed as "in process." The chart also showed that he oversaw two contractor sales representatives, a human resources contractor, and a legal and accounting

contractor. Further, the chart reflected that the Petitioner was supported by several foreign employees, including engineering, sales, quality, financial, and logistics teams working in Brazil.

On appeal, the Petitioner contends that SCOPS erred in not evaluating the Beneficiary under the regulatory provisions applicable to a new office petition and asserts that they conflated transitional first-year executive tasks with non-qualifying operational-level duties. However, we note that the regulations provide strict evidentiary requirements for the extension of a "new office" petition and require us to examine the organizational structure and staffing levels of the Petitioner. *See* 8 C.F.R. § 214.2(l)(14)(ii)(D). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) only allows the "new office" operation one year within the date of approval of the petition to support an executive position. There is no provision in the regulations that allows for an extension of this one-year period. If a business does not have the necessary staffing after one year to sufficiently relieve the beneficiary from performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension.

As discussed, the Petitioner asserts that the Beneficiary would have qualified as an executive under an approved extension. The statutory definition of the term "executive capacity" focuses on a person's elevated position. Under the statute, a beneficiary must have the ability to "direct the management" and "establish the goals and policies" of an organization or major component or function thereof. Section 101(a)(44)(B) of the Act. To show that a beneficiary will "direct the management" of an organization or a major component or function of that organization, a petitioner must show how the organization, major component, or function is managed and demonstrate that the beneficiary primarily focuses on its broad goals and policies, rather than the day-to-day operations of such. An individual will not be deemed an executive under the statute simply because they have an executive title or because they "direct" the organization, major component, or function as the owner or sole managerial employee. A beneficiary must also exercise "wide latitude in discretionary decision making" and receive only "general supervision or direction from higher level executives, the board of directors, or stockholders of the organization." *Id.*

The submitted evidence and statements of the Petitioner reflect that it had limited staffing as of August 2025 leaving substantial uncertainty as to whether it was supporting the Beneficiary in an executive capacity at this time. As discussed, the Petitioner provided an organizational chart indicating that the Beneficiary acted as a first line supervisor of operational employees when the petition was filed, including overseeing an account executive, export analyst, and two independent contractor sales representatives, who it states devoted 50% of their time to the Petitioner. Further, the sales engineer position was listed as in process, and a service order from a human resources contractor dated in June 2025 indicated that this position would be filled within 12-16 weeks, well after the conclusion of the one-year new office period. The Petitioner also did not submit tax or payroll documentation to support the employment of its U.S. based employees, despite the direct request of SCOPS and its discussion of this evidentiary deficiency in the denial. Likewise, it is noteworthy that the Petitioner provided minutes of a meeting signed by the Beneficiary reflecting that it did not plan to hire managers within its organization until mid-2026, including sales and supply chain managers, both of which were not reflected in the organizational chart provided with the petition. Again, the Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 582, 591-92. As such, the provided evidence, and lack of supporting documentation, related to the Petitioner's U.S. staffing leaves substantial uncertainty as

to whether it was sufficiently developed at the conclusion of the one-year new office period to support the Beneficiary in an executive-level capacity.

Further, as we discussed at length, the Petitioner submitted substantial supporting documentation reflecting the Beneficiary's direct involvement in nearly all the operational aspects of the business, such as including specifications, invoicing, purchase orders, delivery, quotations, purchasing machinery, amongst other non-qualifying operational tasks alongside his claimed first line subordinates. At the very least, there is substantial evidence reflecting that the Beneficiary was likely performing ordinary operational activities alongside his claimed subordinates. *See Family Inc. v. USCIS*, 469 F.3d at 1313, 1316. Again, an executive directs the management of the organization, major component, or essential function of a given organization by controlling the work of managerial or lower-level executive employees. *See generally* 2 *USCIS Policy Manual* L.6(D), https://www.uscis.gov/policy-manual. *See also BlueStar Cabinets, Inc. v. Jaddou*, No. 21-10116, 2022 WL 4364734, at *7. The Petitioner submitted few specifics and little documentation to support the Beneficiary's primary performance of qualifying executive-level duties, such as his implementation of goals, policies, and procedures. Therefore, although there is substantial evidence that the Beneficiary regularly coordinated with contractors and other foreign employees on various operational matters, the Petitioner did not provide sufficient evidence to demonstrate he was primarily overseeing subordinate managers or lower-level executives and focused on the broad goals and policies of the organization in August 2025.

We acknowledge that the Beneficiary likely held a senior position within the organization, managed and directed the business, and exercised discretion over its operations. However, the evidence is insufficient to demonstrate that the Petitioner was sufficiently developed after one year to support the Beneficiary in a position where his actual duties were primarily executive in nature. *See* 8 C.F.R. § 214.2(l)(14)(ii)(D). In addition, the Petitioner did not sufficiently establish that he was primarily performing qualifying executive-level duties when the extension petition was filed.

For the foregoing reasons, the Petitioner has not sufficiently established that the Beneficiary would be employed in an executive capacity under an extended petition.

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.