U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41694748

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, an equipment export and real estate investment company, seeks to extend the Beneficiary's temporary employment as its managing director/chief executive officer (CEO) 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 an executive or managerial capacity.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner would employ the Beneficiary 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.

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

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[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf, which SCOPS approved for the period July 25, 2023, to July 24, 2024 ( ). 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).

In July 2024, the Petitioner filed a petition to request a two-year extension of the Beneficiary's status ( ). In that filing, the Petitioner provided evidence that the Beneficiary had been subject to a five-month delay in obtaining his L-1 visa from the U.S. Department of State and made his initial L-1A entry to the United States on January 10, 2024. SCOPS approved that petition but granted the Beneficiary only a five-month extension of L-1A status, through December 30, 2024. SCOPS then adjudicated this petition as an extension of a petition involving a new office under 8 C.F.R. § 214.2(l)(14)(ii).

continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.*

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. ANALYSIS

The sole issue on appeal is whether the Petitioner established that it would employ the Beneficiary in an executive capacity.[2]

At the time of filing, the Petitioner stated that it was established in 2023 for the purpose of sourcing, purchasing and exporting water pumps and related equipment for sale overseas, specifically in Bangladesh. The Petitioner explained that due to economic factors impacting the Bangladeshi market, it had expanded its operations to include acquisition, renovation, and re-sale of residential properties in the United States. It seeks to continue the Beneficiary's employment as its managing director/CEO.

"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, 8 U.S.C. § 1101(a)(44)(B).

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 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).

A. Job Duties

In its initial supporting letter, the Petitioner stated that the Beneficiary "will focus on strategic development and executive oversight" of the company to ensure the growth and success of both divisions of the business. It explained that he would delegate operational tasks to two subordinates, a director and an office assistant, while he would concentrate on high-level planning, policymaking and business expansion. The Petitioner stated the Beneficiary would focus on duties in the areas of

[2] The Petitioner does not claim, in the alternative, that it would employ the Beneficiary in a managerial capacity, as defined at section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A).

strategic oversight, financial oversight, performance evaluation, stakeholder engagement, administrative and general leadership, and oversight of the real estate division.

The initial evidence also included a separate description of the Beneficiary's "typical day" as managing director/CEO, highlighting his focus on "high-level strategy, financial oversight, leadership, and supervision of the company's operations" by delegating operational tasks to "key personnel." The Petitioner stated that, as of the date of filing, he allocated his time to the following responsibilities:

- Oversee Hiring of Staff 15%
- Review Company Finances and Set Budgets 20%
- Create a Strategic Plan for Both Divisions 20%
- Meet with Potential Customers and Vendors 25%
- Guide Real Estate Division Activities 20%

The Petitioner described the types of duties the Beneficiary performed in each area, noting, for example, that he works with "the Director and accounting team" to review financial reports, set monthly and quarterly budgets, assess the financial performance of ongoing projects and review return on investment on real estate acquisitions and water pump export deals. With respect to his oversight of the real estate division, the Petitioner stated that he oversees the director's activities related to property acquisition, renovation and development; provides strategic direction for the selection of properties; and reviews project timelines, budgets and deliverables.

In a request for evidence (RFE), SCOPS instructed the Petitioner to provide a more detailed description of the duties the Beneficiary had performed during the previous year, and those he would perform if granted the requested extension of status. In response, the Petitioner listed the Beneficiary's duties as follows and provided a summary of tasks associated with each area of responsibility:

- Strategic Diversification and Policy Setting – 25%
- Financial Oversight and Capital Allocation – 20%
- Corporate Growth and Market Development – 20%
- Executive Supervision of Senior Personnel – 15%
- Stakeholder Engagement and High-Level Negotiations – 20%

In its decision, SCOPS acknowledged the Petitioner's claim that the Beneficiary would perform the functions described in the statutory definition of executive capacity but emphasized that the record did not support that he would primarily perform those duties. We agree.

For example, the Petitioner stated at the time of filing that a subordinate director, one of two other employees on the company's payroll, was responsible for identifying properties, overseeing renovations and coordinating with architects, contractors and other key stakeholders, while the Beneficiary supervised and guided these activities to ensure alignment with long-term objectives and financial goals for the real estate division. SCOPS found that the Petitioner's claim that the Beneficiary was delegating non-executive tasks to a subordinate director was undermined by e-mails the Petitioner submitted as evidence of its real estate division's activities. These e-mails showed that the Beneficiary had been handling all aspects of the real estate business, including searching for properties to purchase, dealing with realtors, attorneys and surveyors, and securing contractors and

permits, rather than delegating these tasks to a lower-level employee. Although the Petitioner claims on appeal that the emails were read out of context and merely reflect that the Beneficiary is responsible for "approving properties and vendors, setting standards and issuing instructions to staff and contractors" the record does not support this contention or otherwise show that his subordinates relieved him from performing the day-to-day operations of the real estate division at the time of filing.

Further, we note that the Petitioner expressly indicated in its initial letter of support that responsibility for researching and evaluating properties for acquisition and coordinating with architects, contractors, surveyors, and attorneys to facilitate property transactions and development is assigned to a "Director of Real Estate," a position that was not filled at the time of filing. This evidence further supports a determination that the Beneficiary was more likely than not performing these non-executive duties rather than delegating them.

While the Petitioner established that it employed a part-time director[3] when it filed the petition in December 2024, his specific position was identified as "Director of Sales" with duties that included reviewing sales reports, overseeing a sales team, estimating sales profit for products, and approving sales plans developed by sales engineers, a position that does not appear on the company's organization chart. The director's job description does not support the Petitioner's claim that the Beneficiary delegated operational tasks associated with the real estate division to this employee.

In general, the fact that a beneficiary will direct a business and exercise discretion over its day-to-day operations as its owner does not necessarily establish eligibility for classification as an intracompany transferee in an executive capacity. Here, the Petitioner has conveyed that the Beneficiary, as the company's senior employee, had authority to establish plans, policies, and objectives for the company, directly supervised its two employees, and had the authority to make major decisions regarding its finances and overall direction. However, the Petitioner must also establish that these types of responsibilities would primarily occupy the Beneficiary's time from the date of filing. The actual duties themselves will reveal the true nature of the employment. *Fedin Bros.*, 724 F. Supp. at 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

Here, the job description the Petitioner provided did not sufficiently delineate the Beneficiary's actual job duties within the context of the company's current staffing levels and stage of development. Further the record included evidence that contradicted the Petitioner's claims regarding the Beneficiary's delegation of non-executive tasks to subordinate staff. Therefore, the job description alone was insufficient to demonstrate that his actual duties were primarily executive in nature at the time of filing.

B. Staffing and Organizational Structure

Beyond the required description of the job duties, USCIS reviews the totality of the evidence when examining whether a beneficiary would be employed in an executive capacity, including the company's organizational structure, the duties of a beneficiary's subordinate employees, the presence of other employees to relieve a beneficiary from performing operational duties, the nature of the

[3] The Petitioner submitted paystubs showing the director received semimonthly wages of $500 in 2024. The other employee on the payroll at the time of filing, an office assistant, was paid $600 semimonthly.

business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in a business.

As noted, the Petitioner claimed it was operating through two divisions at the time of filing in December 2024. As evidence of its equipment export operations, the Petitioner documented its sale of one piece of equipment during 2024, a crane purchased from a U.S. supplier and sold to a customer in Bangladesh. No other purchase or sales activities were shown on the company's audited financial statement for the fiscal year ended on September 30, 2024. At the time the Petitioner responded to SCOPS' RFE in August 2025, the Petitioner stated it had put the activities of this division on hold.

With respect to its real estate investment and development business, the Petitioner stated in its initial supporting letter that the Beneficiary had orchestrated the acquisition of two residential properties located in [redacted] and [redacted], New York, with the intent of remodeling and expanding both homes for resale. It provided a sales contract for the [redacted] property that was executed by the Petitioner and the seller in September 2024. However, the submitted purchase and sale agreement and all ancillary documents for the [redacted] property, signed in November 2024, name the Beneficiary, rather than the Petitioner, as the purchaser.

The Petitioner stated on the Form I-129, Petition for a Nonimmigrant Worker, that it had three employees at the time of filing. It submitted payroll records and its two most recent IRS Forms 941, Employer's Quarterly Federal Tax Return, to document its employment of the Beneficiary, the part-time director of sales, and a part-time office assistant. The company's organizational chart showed additional positions including a director of real estate, a real estate manager, a sales assistant, a project supervisor, construction workers, an architect and an application engineer, but did not include evidence that any of those positions had been filled.

In response to SCOPS' RFE, the Petitioner submitted a revised organizational chart indicating that the positions of office assistant, director of sales, director of real estate, real estate manager, project supervisor, and two sales assistants had been filled. The Petitioner also provided a copy of its IRS Form 941 for the second quarter of 2025 showing that the company paid salaries and wages to eight employees during that period.[4] The Petitioner claimed that the staffing structure in place at the time of the RFE response was sufficient to ensure that the Beneficiary could devote his time "exclusively to high level functions, including setting corporate goals, directing division heads, making discretionary business decisions, and overseeing the company's strategic direction."

SCOPS declined to consider evidence of hiring that occurred after the petition was filed, observing that the Petitioner must meet all eligibility requirements at the time of filing. Noting that the Petitioner employed only a director of sales and an office assistant when it filed the petition, SCOPS concluded that the record did not show that the Beneficiary's responsibilities included "directing the management of the organization," as required under section 101(a)(44)(B)(1) of the Act. Further, SCOPS found that based on the totality of the record, including the organizational structure, the duties of the Beneficiary's subordinate employees, the absence of other staff to perform operational tasks, and the nature of the business, the Petitioner did not meet its burden that it had a reasonable need for the Beneficiary to primarily perform the executive functions defined in the statute.

[4] All of the Petitioner's prior IRS Forms 941 showed either two or three employees.

On appeal, the Petitioner objects to SCOPS' determination that the Beneficiary was not directing the management of the U.S. operation at the time of filing based on his supervision of the director of sales and office assistant. The Petitioner contends that "this reading imposes a requirement that does not exist" in the statutory definition of executive capacity, noting that an executive must "direct the management of the organization or a major component or function" rather than supervise "multiple subordinate managers or a particular number of tiers of staff."

We note that an executive typically 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. This control could either take the form of direct supervision of those managers or executives or could be more indirect under some circumstances. *See generally* 2 *USCIS Policy Manual*, L.2(6)(D), https://www.uscis.gov/policy-manual. The Petitioner claims that the director of sales and office assistant are "key functional heads" and his oversight of these staff is therefore sufficient to satisfy the first prong of the statutory definition of "executive capacity." However, the record does not demonstrate that either of these part-time staff were engaged in managing either lower-level staff or functions at the time of filing.

Regardless, even if we determined that the Petitioner met its burden to show that the Beneficiary was directing the management of the organization at the time of filing, its claim that his duties were primarily executive in nature is not supported by the record. Rather, the Petitioner's claim that the Beneficiary has sufficient staff to relieve him from significant involvement in non-executive tasks required for the day-to-day operations of the business was primarily based on the company's hiring of five additional employees while this petition was pending. For example, in the RFE response the Petitioner stated that "day-to-day operations are handled by the Director of Real Estate (projects), Director of Sales (revenue), and Project Supervisor (site execution)," while "sales and marketing execution . . . are assigned to the Real Estate Sales Manager and Sales Assistant." The Petitioner stated that "this staffing structure" ensures that the Beneficiary could devote his time "exclusively to high level executive functions."

On appeal, the Petitioner claims that SCOPS' decision to exclude the staff hired after the petition was filed from its analysis was "inconsistent with the regulatory framework governing new office extensions." It contends that "the very structure of this rule recognizes that a new office will begin with minimal staff and then expand" and that "the question at extension is whether by the end of the first year and through adjudication, the entity's operations and workforce have reached a level where an executive role is reasonably supported." The Petitioner asserts it was unfairly penalized because it demonstrated "the very growth the regulation expects." Further, it claims that it "achieved significant milestones" despite being granted "only a five-month initial validity period."

The Petitioner has not established that SCOPS erred by basing its determination on the company's staffing and operations at the time of filing. First, we note that the Petitioner's claim that USCIS granted only a five-month validity period for its new office is not supported by the record. As noted above, the Petitioner filed two previous L-1A petitions on the Beneficiary's behalf. He was initially granted a one-year validity period beginning in July 2023 and was granted a five-month extension in

July 2024. The record indicates that he made his initial entry to the United States in L-1A status in January 2024, almost a full year prior to the filing of this petition.

Second, the Petitioner's assertion that SCOPS should have considered the company's structure and staffing levels at the time of adjudication, rather than at the time of filing, is not persuasive. As noted by SCOPS, a petitioner must establish eligibility for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication. *See* 8 C.F.R. § 103.2(b)(1). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a new U.S. office one year within the date of approval of the petition to support an executive or managerial position. Therefore, the regulations applicable to the extension of a new office petition require USCIS to examine the organizational structure and staffing levels a petitioner has in place at the time it files the extension. *See* 8 C.F.R. § 214.2(l)(14)(ii)(D). If the business does not have the necessary staffing after one year to sufficiently relieve a beneficiary from performing operational and administrative tasks, then the Petitioner is not eligible for an extension. The Petitioner does not cite any statute, regulation, case law or policy in support of its claim that it was only required to show that it was sufficiently staffed by the time SCOPS adjudicated its petition.

SCOPS acknowledged that when staffing levels are used as a factor in determining whether an individual is acting in an executive capacity, USCIS must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act. The Petitioner asserts that in considering its reasonable needs, SCOPS should have acknowledged the fact that it operates a project-based model with significant work outsourced to third-party contractors who complete the construction and renovation tasks. It maintains that its staff of eight employees is sufficient to support an executive CEO role, particularly at its current stage of development.

However, for the reasons discussed above, SCOPS properly considered the Petitioner's reasonable needs as of the date of filing in December 2024, when the company provided evidence that it employed only the Beneficiary and two part-time employees, and had evidently completed only one property purchase. By contrast, the Petitioner's assertion that it has reached the point where it has a reasonable need for the Beneficiary to perform primarily executive duties was mainly based on its claim that he was overseeing a team of seven employees and various third-party contractors as of August 2025.

The Petitioner has not met its burden to show how the two-person staff in place at the time of filing was sufficient to relieve the Beneficiary from involvement in the day-to-day operations of the company, such that he was primarily performing the duties described at section 101(a)(44)(B) of the Act. As noted, the Petitioner's supporting evidence shows that the Beneficiary was performing most of the operational tasks associated with the real estate division at the end of the first year of operations.

The Petitioner contends that SCOPS "did not analyze the Petitioner's reasonable needs at all" and "appears to apply an unwritten rule that only a larger, multilayered staff can support an executive, regardless of the company's business model. We interpret the statutory language at section 101(a)(44)(C) of the Act to prohibit discrimination against small or medium-size businesses. However, we have also consistently interpreted the Act to require petitioners to establish that a given beneficiary's position "primarily" consists of managerial or executive duties, and that it has sufficient personnel to relieve a beneficiary from performing operational and administrative tasks. The

reasonable needs of a petitioner will not supersede the requirement that a beneficiary be "primarily" employed in a managerial or executive capacity as required by the statute. *Brazil Quality Stones v. Chertoff*, 531 F.3d 1063, 1070 n.10 (9th Cir. 2008).

The record demonstrates that the Beneficiary more likely than not exercises the requisite level of authority over the company as its owner and senior employee, but the Petitioner did not establish, based on the evidence at the time of filing, that he would primarily perform the executive duties described at section 101(44)(B) of the Act. Furthermore, the Petitioner did not demonstrate that the staff in place when the petition was filed would relieve the Beneficiary from spending a significant portion of his time on non-executive functions. Even though the enterprise remained in a preliminary stage of organizational development, the Petitioner is not relieved from meeting the statutory requirements. As the Petitioner did not demonstrate, by a preponderance of the evidence, that it would employ the Beneficiary in an executive capacity, the appeal will be dismissed.

C. Deference to Prior Approval

Lastly, the Petitioner emphasizes that SCOPS approved the Beneficiary's new office petition for the same executive position, and notes that it "presented a stronger executive profile" with this petition. It asserts that SCOPS' decision did not identify any material adverse change or error in the initial adjudication that justifies departing from that prior determination.

When adjudicating a request for an extension of nonimmigrant status, USCIS does not defer to prior approvals in cases where there has been a material change in circumstances or eligibility requirements. *See generally* 2 *USCIS Policy Manual*, *supra*, at A.4(B)(1) (discussing the significance of prior approvals and deference). Cases with a material change in circumstances or eligibility requirements include those in which the regulations require criteria to be met after approval, including the L-1 classification, where different regulatory requirements apply to the initial new office petition and the extension of that petition. *See generally id.* at A.4(B)(1) n. 13. Accordingly, SCOPS was not required to defer to the prior approval or to identify an error in the prior adjudication.

III. CONCLUSION

The Petitioner has not demonstrated, by a preponderance of the evidence, that it would employ the Beneficiary in an executive capacity.

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.