U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42122098

Date: APR. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a food and beverage, chemical supply, and export company, seeks to extend the Beneficiary's temporary employment as its chief executive officer 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.

SCOPS denied the petition, concluding the record 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 October 10, 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.

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 A MANAGERIAL OR EXECUTIVE CAPACITY

The sole issue we will analyze is whether the Petitioner established that it would employ the Beneficiary in a managerial or executive capacity in the United States.

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; 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; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

"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 managerial or 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 a managerial or executive capacity. *See* 8 C.F.R. § 214.2(l)(3)(ii).

A. Duties

To be eligible for L-1A nonimmigrant visa classification as a manager or executive, the Petitioner must show that the Beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A) and (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 managerial or executive position.

If the Petitioner establishes that the offered position meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary will be *primarily* engaged in managerial or 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 managerial or 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 indicated that it was established as a new office to "carry out sales of Ethiopian coffee products and other related services." In a letter provided in response to SCOPS' request for evidence (RFE), the Petitioner stated that the Beneficiary "devotes over 85% of his time to strategic planning, policy development, discretionary decision-making, and oversight of subordinate managers." The Petitioner provided the following duty description:

1. **Strategic Planning & Policy Development**: Establishes annual and long-term goals; drafts and implements corporate policies; leads strategic planning sessions. –25% of his time
2. **Operational Direction & Resource Allocation**: Approves departmental budgets, authorizes expenditures, sets performance benchmarks for subordinate managers. –20% of his time
3. **Business Expansion & Partnerships**: Negotiates/approves major contracts; oversees market strategies; manages external partnerships. –15% of his time
4. **Personnel & Organization Development**: Approves hiring, sets compensation policy, establishes reporting lines, directs performance evaluations. –15% of his time
5. **Governance & Regulatory Compliance**: Ensures regulatory compliance, licensing, and risk management; coordinates with professional advisors as needed. –10% of his time
6. **Performance Evaluation & Reporting**: Reviews KPIs, assesses departmental reports, prepares performance summaries for the foreign parent. –15% of his time

In the same evidentiary package submitted in response to the RFE, the Petitioner also provided a "Comprehensive Progress Report: Inaugural Year Achievements and Strategic U.S. Market Entry" document, including the following additional duty description for the Beneficiary:

- **Strategic Planning & Policy Making (35%)**: The [Beneficiary] directs the long-term vision of the company, sets quarterly targets and annual Key Performance Indicators (KPIs), establishes corporate policies, and makes final decisions on market entry into new U.S. states and product line diversification.
- **Financial Management & Oversight (25%)**: The [Beneficiary] directs the company's financial strategy, approves all major capital expenditures, oversees profit-and-loss (P&L) statements, and is responsible for securing any necessary corporate financing to fuel expansion.
- **Business Development & Key Relationships (20%)**: The [Beneficiary] personally leads high-level negotiations with major U.S. distribution partners and acts as the primary liaison with key suppliers in Ethiopia to ensure quality control and maintain our core supply chain.
- **Operations & Personnel Oversight (20%)**: The CEO provides general supervision and direction to his three direct reports. His role is to direct these

managers, who in turn handle all daily operational, sales and administrative tasks. This hierarchical structure ensures the beneficiary in a primarily executive capacity.

The Petitioner submitted two conflicting duty descriptions for the Beneficiary leaving substantial uncertainty as to whether he would primarily perform the duties of a manager or executive under an extended petition. For instance, the first duty description includes six categories of duties, while the latter has only four, and each has differing percentages of time the Beneficiary would devote to his tasks. Likewise, the first duty description discusses the Beneficiary approving departmental budgets, authorizing expenditures, and setting performance benchmarks for subordinate managers, while the second does not include these responsibilities. The latter duty description also reflects broad responsibility for financial management, including directing the company's financial strategy, approving all major capital expenditures, overseeing profit-and-loss (P&L) statements, and securing any necessary corporate financing to fuel expansion, while the first duty description makes no mention of these tasks. Similarly, the second duty description states that the Beneficiary would act as a "primary liaison with key suppliers in Ethiopia to ensure quality control and maintain our core supply chain," whereas this duty is not discussed in the initial duty description included in response to the RFE.

The regulations require the Petitioner to submit a clear description of the duties to be performed by the Beneficiary under the extended petition, and this has not been provided. *See* 8 C.F.R. § 214.2(l)(3)(ii). 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).

Further, even if we accept both duty descriptions, they list generic duties that could apply to any manager or executive acting in any business or any industry and provide little credible insight into the actual qualifying tasks the Beneficiary would perform under an extended petition. The Petitioner submitted little detail and supporting documentation to substantiate that he had transitioned away from the non-qualifying operational tasks inherent to setting up a new office to qualifying managerial or executive-level duties. For instance, the Petitioner did not specify or document the corporate policies he implemented, departments he oversaw, performance benchmarks he put in place, or the external partnerships he was managing. In addition, the Petitioner did not sufficiently detail or document the KPIs he established, decisions he made as to "product line diversification," major capital expenditures he approved, or corporate financing he secured. There is also no evidence to indicate that the Beneficiary was leading "high-level negotiations with major U.S. distribution partners" or performing "oversight of subordinate managers" when the extension petition was filed. Specifics are clearly an important indication of whether a beneficiary's duties are primarily managerial or executive in nature, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

The Petitioner also submitted documentation dated near to, and after, the expiration of the one-year new office period reflecting the Beneficiary's involvement in non-qualifying operational tasks. For instance, the Petitioner provided documentation from October 2025 showing him paying insurance premiums and rent as well as paying state retail sales and use tax in the amount of approximately $71. The Petitioner also submitted documentation showing the Beneficiary purchasing an inventory of coffee in August 2025. Likewise, the Petitioner submitted photographs reflecting the Beneficiary

offering coffee samples at a kiosk and selling bags of coffee under a tent. In contrast, there is little evidence reflecting the Beneficiary delegating non-qualifying operational duties to his claimed subordinates. Notably, the Petitioner also does not supplement the record on appeal in January 2026 with documentation to substantiate his asserted managerial and executive-level tasks.

Whether the Beneficiary is a managerial or executive employee turns on whether the Petitioner has sustained its burden of proving that their duties are "primarily" managerial or executive. *See* sections 101(a)(44)(A) and (B) of the Act. Here, the Petitioner asserts that he would spend over 85% percent of his time on managerial and executive-level tasks. However, the supporting evidence indicates otherwise, and his apparent non-qualifying operational tasks are not included in the two conflicting duty descriptions. As noted, the Petitioner submitted evidence indicating that the Beneficiary's duties likely included several administrative or operational tasks, but it did not sufficiently quantify the time he would spend on these duties as compared to qualifying managerial or executive-level duties. For this reason, we cannot determine whether the Beneficiary was primarily performing the duties of a manager or executive at the end of the one-year new office petition period. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

In sum, the Petitioner's statements and the submitted evidence suggest that the Beneficiary was likely involved in most of the day-to-day operational tasks of the business at the end of the one-year new office petition, leaving uncertainty as to whether it was sufficiently operational to support him in a qualifying managerial or executive capacity at that time. An applicant or petitioner must establish that he or she remains eligible for the benefit sought from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1); *Matter of Kazemi*, 19 I&N Dec. 49, 51 (BIA 1984) ("We have long held that an application for admission to the United States is a continuing application and admissibility is determined on the basis of the law and the facts existing at the time the application is finally considered.").

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 a managerial or executive capacity within the meaning of section 101(a)(44)(A) and (B) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" managerial or 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 managerial or 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 a managerial or 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.

On appeal, the Petitioner states that "one year is a limited timeframe to fully demonstrate profitability in the coffee and food service industry." Further, the Petitioner previously stated on the record that it had "experienced some setback[s]" and discussed "unforeseen challenges," such as family

commitments, "geopolitical issues in Ethiopia," and "additional operational and market-related factors typical of international business ventures," leading to delays in its expansion.

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 a managerial or executive position. There is no provision in the regulations allowing 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 such, the Petitioner's focus on delays in its development leaves substantial question as to whether it developed sufficiently during the first year to support the Beneficiary in the qualifying managerial or executive capacity.

The Petitioner also made conflicting statements on the record as to its staffing leaving further uncertainty as to whether it was sufficiently operational to support the Beneficiary in a managerial or executive capacity at the end of the one-year new office petition. For instance, in response to the RFE, the Petitioner provided an initial organizational chart showing the Beneficiary oversaw a manager of U.S. operation supervising a sales employee, while another reflected that the Beneficiary supervised a manager of U.S. operations, a sales employee, and "partner sales associates," all as direct subordinates.

In one subordinate duty description, the claimed manager of U.S. operation was said to be responsible for managing "the entire logistical chain from import to final sale," but elsewhere on the record was described as the "office manager," tasked with day-to-day administrative duties. Further still, yet another duty description for the Beneficiary's asserted subordinate described her as an "Office Manager & [redacted] Kiosk Supervisor," partially responsible for overseeing a mall kiosk selling coffee. The Petitioner also indicated that it had only begun providing samples to its customers when the petition was filed and it had little apparent operations with respect to its proposed sales of Ethiopian coffee. The Petitioner's limited staffing of only two employees and its conflicting statements as to the titles and duties of its subordinates leaves significant doubt as to whether it developed sufficiently during the first year to support the Beneficiary in a qualifying managerial or executive capacity. 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. 582, 591-92 (BIA 1988).

The Petitioner asserted throughout the record that the Beneficiary would qualify 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 operations at the end of the one-year new office period leaving substantial uncertainty as to whether it could have supported the Beneficiary in an executive capacity at this time. For instance, as noted, the Petitioner provided conflicting organizational, and subordinate position titles, and duty descriptions for its only two employees. The Petitioner also provided conflicting generic duty descriptions for the Beneficiary that did not sufficiently establish his actual executive-level tasks as of the end of the one-year new office period. Furthermore, there is no supporting evidence demonstrating the Beneficiary's oversight over subordinate managers or lower-level executives. 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. In fact, the supporting documentation suggests that the Beneficiary was likely involved in nearly all the operational aspects the Petitioner when the one-year new office period ended. The Petitioner submitted few examples and little supporting documentation to substantiate that he was primarily focused on the broad goals and policies of the company, rather than its day-to-day operations in October 2025. Therefore, the Petitioner has not sufficiently demonstrated that the Beneficiary would likely act in an executive capacity under an extended petition.

The Petitioner claims for the first time on appeal that it sufficiently established that the Beneficiary qualifies as a "functional manager" based on his management of an essential function. The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* section 101(a)(44)(A) of the Act. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act. If a petitioner claims that a beneficiary will manage an essential function, it must clearly describe the duties to be performed in managing the essential function. In addition, the petitioner must demonstrate that "(1) the function is a clearly defined activity; (2) the function is 'essential,' i.e., core to the organization; (3) the beneficiary will primarily *manage*, as opposed to *perform*, the function; (4) the beneficiary will act at a senior level within the organizational hierarchy or with respect to the function managed; and (5) the beneficiary will exercise discretion over the function's day-to-day operations." *Matter of G- Inc.*, Adopted Decision 2017-05 (AAO Nov. 8, 2017).

The Petitioner did not sufficiently demonstrate that the Beneficiary would qualify as a function manager under an extended petition. As we have discussed, the Petitioner provided conflicting duty descriptions for the Beneficiary, organization charts, and subordinate titles and duties, leaving doubt as to his actual role. The Petitioner did not clearly describe an essential function within the organization that the Beneficiary would oversee and indicated throughout the record that he was its chief executive officer and sole owner, making it unclear how he could now be deemed only a manager of an essential function within the organization. This assertion is even more questionable given that the Petitioner indicates that the Beneficiary is the founder and managing director of the foreign employer. In addition, as mentioned, the Petitioner provided documentation showing the Beneficiary

performing non-qualifying operational tasks near to, and after, the end of the one-year new office period and did not provide sufficient evidence to establish that he primarily managed a function, rather than performed it. As such, the Petitioner did not demonstrate that the Beneficiary would qualify as a function manager.

For the foregoing reasons, the Petitioner has not sufficiently established that the Beneficiary would be employed in a managerial or 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.