U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40589151

Date: DEC. 05, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a supplier of precision engineered component products, seeks to temporarily employ the Beneficiary as the business development head/director of its new office 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) denied the petition, concluding that the record did not establish: (1) the Petitioner had secured sufficient physical premises to house its new office, and (2) the Beneficiary has been employed abroad 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 in a petition involving a new office, 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*.

The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). A petitioner seeking approval of an L-1A new office petition must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. This evidence must establish that the petitioner secured sufficient physical premises to house its operation and disclose the proposed nature and scope

of the entity, its organizational structure, its financial goals, and the size of the U.S. investment. *See* 8 C.F.R. § 214.2(l)(3)(v).

II. ANALYSIS

A. Sufficient Physical Premises

SCOPS denied the petition in part, based on a conclusion that the Petitioner did not establish it had secured sufficient physical premises to house the new office, as required by 8 C.F.R. § 214.2(l)(3)(v)(A). Specifically, SCOPS questioned whether the Petitioner and its lessor had complied with all terms of the submitted sublease and master lease for the premises, a commercial suite in [redacted] Texas. Upon de novo review of the record, including the appeal, we conclude the Petitioner has met its burden to demonstrate, by a preponderance of the evidence, that it secured a valid lease for 1,000 square feet of commercial space to be used for administrative and sales purposes. Further, the leased premises secured at the time of filing appear sufficient for the company's initial plan to operate as a sales office. Accordingly, SCOPS' determination that the Petitioner did not satisfy this regulatory requirement is withdrawn.

A. Employment Abroad in an Executive Capacity.

The remaining issue addressed by SCOPS is whether the Petitioner established that the Beneficiary has been employed abroad in an executive capacity. Under 8 C.F.R. § 214.2(l)(3)(v)(B), the Petitioner must provide evidence that the beneficiary has been employed for one continuous year in the three-year period preceding the time of filing the petition in an executive or managerial capacity. Here, the Petitioner claimed that its Indian parent company has employed the Beneficiary since September 2022, initially in a managerial capacity in the position of business development manager. The Petitioner states that he was promoted to the position of vice president – business development in February 2023 and has been employed in an executive capacity since that date.[1]

The term "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 establish that a beneficiary is employed in an executive capacity, a petitioner must show that they perform all four of the high-level responsibilities set forth in this statutory definition. If the petitioner establishes that the position meets all four elements in the statutory definition, it must then prove that the beneficiary has been *primarily* engaged in executive duties, as opposed to operational activities alongside the company's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

[1] The supporting evidence does not corroborate the Beneficiary's claimed start date with the foreign entity. The Petitioner provided copies of the foreign entity's monthly wage registers for the period November 2022 through October 2024. However, the Beneficiary's name does not appear any wage register prior to February 2023.

In determining whether a beneficiary's duties have been primarily executive, we consider the description of the job duties, the company's organizational structure, the duties of the beneficiary's subordinate employees, the presence of other personnel to relieve the beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding the beneficiary's actual duties and role in the business.

On the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner described the Beneficiary's position with the foreign entity as follows:

> As Head of Business Development, [the Beneficiary] focused on identifying and pursuing new market opportunities to fuel company growth. He conducted in-depth market analysis to generate strategic expansion initiatives, built and maintained relationships with key clients and partners, and developed proposals to secure high-value contracts. Additionally, he collaborated with cross-functional teams to align business objectives with customer needs and industry trends, while regularly assessing performance metrics to refine strategies and maximize revenue potential. His role also involved representing the company at industry events to enhance brand visibility and credibility in target markets.

Although the Petitioner provided a letter in support of the petition, it did not elaborate on the Beneficiary's specific duties as the foreign entity's vice president – business development.

In a request for evidence (RFE), SCOPS asked that the Petitioner provide a letter from the foreign entity describing the Beneficiary's typical executive duties and the percentage of time spent on each task, and to explain how his assignment with the company satisfies all elements of the definition of "executive capacity" at section 101(a)(44)(B) of the Act.

In response, the Petitioner provided a letter from the foreign entity with the following breakdown of the Beneficiary's responsibilities as vice president – business development:

- Set Strategic Goals: Defined corporate vision and international expansion targets (30%)
- Directed Expansion: Led the establishment of the U.S. subsidiary and acquisition strategy (25%)
- Approved Investments: Authorized strategic investments and high-value financial commitments (20%)
- Board-Level Leadership: Represented the company in partner and investor negotiations (15%)
- Oversight of Department Heads: Reviewed reports and performance from senior managers. (10%)

According to the foreign entity's letter, the Beneficiary directed "critical corporate functions" related to "international market expansion, corporate alliances and acquisition planning," developed the strategy that led to the creation of the U.S. subsidiary, and established "strategic policies for business development." The foreign entity further explained that the Beneficiary had discretionary decision-making authority to approve international expansion and investment proposals, select targets and acquisition candidates, enter preliminary negotiations and MOUs, and allocate budgets for initiatives,

while reporting directly to the company CEO. Finally, the foreign entity emphasized that the Beneficiary "did not participate in routine sales or operational tasks; instead, he led the overall business development vision of the company."

SCOPS determined that the submitted job descriptions lacked sufficient detail regarding the Beneficiary's actual day-to-day duties. On appeal, rather than offering additional information regarding the nature of the Beneficiary's position abroad, the Petitioner argues that SCOPS' "demand for 'day-to-day duties' contradicts the essence of executive work, which focuses on high-level strategy rather than daily tasks."

We agree with SCOPS that the position description lacks specific details regarding the nature of the Beneficiary's typical tasks. While the Petitioner suggests that it can satisfy its burden by demonstrating that the Beneficiary has performed certain higher-level functions consistent with the definition of "executive capacity," we note that reciting a beneficiary's vague job responsibilities or broadly-cast business objectives is not sufficient; the regulations require a detailed description of the specific job duties performed. The petitioner did not provide an adequate explanation of the beneficiary's activities in the course of his daily routine. The actual duties themselves will reveal the true nature of the employment. *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 evidence does not, for example, explain what specific duties are involved in defining the foreign entity's "corporate vision" or identify the department heads the Beneficiary oversees. Further, some of the duties included in the Petitioner's initial description of the position, such as conducting market analysis, maintaining client relationships, assessing performance metrics, and representing the company at events, are absent from the position description provided in response to the RFE. Therefore, we cannot determine how much time he spends performing these duties, which were not described in sufficient detail for us to determine whether they qualify as executive-level tasks.

The Petitioner also provided supporting documentation intended to corroborate the Beneficiary's claimed performance of executive-level tasks. This evidence included an MOU and various non-disclosure agreements the Beneficiary signed on the foreign entity's behalf which evidence his authority to make commitments to clients and partners. However, the Petitioner also submitted email communications indicating that the Beneficiary has been performing various operational and administrative tasks. These emails included the Beneficiary's responses to potential customers' requests for quotations, his submission of requests for quotations to suppliers, his receipt of orders from buyers and follow-up related to their orders, resolution of shipping and customs clearance issues, and review of draft invoices, among others. The Petitioner did not explain how the Beneficiary's performance of these tasks supports its claim that his position primarily involves executive duties.

The fact that the Petitioner claims the Beneficiary directed "critical corporate functions" for the foreign entity does not necessarily establish his eligibility for classification as an intracompany transferee in an executive capacity within the meaning of section 101(a)(44) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" executive in nature. Section 101(A)(44)(B) of the Act. While the Beneficiary may exercise discretion over setting strategies and objectives for business development and possess the requisite level of authority with respect to discretionary decision-making, the Petitioner's overly broad position description is insufficient to

establish that his actual duties have been primarily executive in nature. Again, conclusory assertions regarding a beneficiary's employment capacity are not sufficient. Merely repeating the language of the statute or regulations does not satisfy the Petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. at 108, *aff'd*, 905 F. 2d 41 (2d. Cir. 1990).

SCOPS also reviewed evidence related to the foreign entity's organizational structure, staffing levels, the beneficiary's position within the organization, and the work performed by other staff within the company. 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, through direct or indirect supervision of such staff. *See* section 101(a)(44)(B)(i) of the Act; *see generally* 2 *USCIS Policy Manual* L.6(D), https://www.uscis.gov/policy-manual.

The foreign entity's organizational chart shows 14 employees (including the company owners and the Beneficiary), and three consultants. The chart indicates that the Beneficiary reports to the CEO and directly supervises two employees – a sales manager, India, who has no identified subordinates, and an administrative analyst who is shown as having two subordinate employees (an administrative assistant and an accountant). The organizational chart shows that all three consultants (an IT consultant, a chartered accountant, and an account analyst) also report to the administrative analyst.

The foreign entity prepared a table that briefly lists the duties of the staff placed under the Beneficiary on the organizational chart. With respect to the Beneficiary's direct reports, the table indicates that the administrative analyst "handles data systems & reporting" and the sales manager, India "manages regional sales," presumably for India. Duties attributed to the other employees and consultants included maintenance of IT and ERP systems, data maintenance, financial record keeping, tax submissions, financial compliance and auditing, maintenance of import and export documentation, and handling general office administration and documentation.

The Petitioner also submitted a promotion letter the foreign entity issued to the administrative analyst on February 10, 2024, indicating that, from that date, she would serve as "senior administrative analyst" and be responsible to "manage coordination between the accounting and IT departments," liaise with external consultants and perform other functions in support of "strategic objectives" the Beneficiary established. The Petitioner also provided an April 2024 appointment letter which expands on the duties of the administrative assistant. The Petitioner did not provide any additional information regarding the duties performed by the sales manager, India or other staff.

SCOPS found insufficient evidence to establish that the Beneficiary directs the foreign entity's business development activities through direct or indirect supervision of subordinate managers. SCOPS emphasized that the job description for the administrative analyst does not indicate the position is managerial in nature and that the Petitioner did not provide sufficient information to demonstrate that the sales manager, India is a managerial employee other than in position title. SCOPS also noted the 2024 promotion and hiring dates for the administrative analyst and administrative assistant, observing that "the duration of their employment is significant as they are a factor in determining whether the organizational structure abroad was sufficient to support the beneficiary's claimed executive position for at least one continuous year abroad."

On appeal, the Petitioner contends that SCOPS "misapplied the regulations" by emphasizing that some of the Beneficiary's subordinates were employed for less than one year, noting that "the one year continuous employment requirement applies to the Beneficiary, not his subordinates." The Petitioner states that the foreign entity's structure "must be evaluated based on reasonable needs at the time of the Beneficiary's employment." Section 101(a)(44)(C) of the Act provides that if staffing levels are used as a factor in determining whether an individual is acting in an executive capacity, USCIS must consider the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization.

Here, we must evaluate whether the Beneficiary performed in an executive capacity for one continuous year between February 2023 and his admission to the United States in May 2024.[2] Although the Beneficiary remained on the foreign entity's payroll through at least October 2024, the one year foreign employment requirement is only satisfied by the time a beneficiary spends physically outside the United States working for a qualifying organization. *See generally* 2 *USCIS Policy Manual*, *supra* at L.6(G)(1) (explaining that a petitioner cannot use any time that a beneficiary spent in the United States to meet the one-year foreign employment requirement, even if the qualifying foreign entity paid the beneficiary during that period). Therefore, the Petitioner must show the Beneficiary had subordinate managerial staff, as well as staff to perform the non-executive tasks associated with the foreign entity's business development and expansion activities, in the period preceding his entry to the United States in May 2024.

The Petitioner provided the foreign entity's wage registers for the relevant period between February 2023 and May 2024 but did not submit evidence of any payments the foreign entity made to the three consultants who fall under the Beneficiary's claimed line of supervision. In addition, the individual identified as the accountant and compliance manager (Y-G-) does not appear on any of the submitted wage registers.[3] Further, as noted by SCOPS, the administrative assistant joined the foreign entity less than one month before the Beneficiary's admission to the United States in May 2024. Therefore, while the organizational chart indicates that the Beneficiary oversaw a subordinate staff of four employees and three consultants, the Petitioner documented the foreign entity's employment of only the sales manager and administrative analyst for most of the relevant period.

SCOPS concluded that the Petitioner provided insufficient evidence to demonstrate that the sales manager, India performs managerial duties as it did not provide a description of her position. We agree. Further, even if we determined that the administrative analyst performed managerial duties following her promotion to a "senior" administrative position in February 2024, as claimed, the record would not show that the Beneficiary "directed the management of the organization" for at least one year.

Finally, the record does not sufficiently show how the foreign entity's subordinate employees relieved the Beneficiary from non-executive duties associated with the company's business development activities. Even if the Petitioner had documented that all employees on the organizational chart worked for the foreign entity during the relevant period, the limited information provided suggests they performed administrative and financial tasks, rather than duties directly related to business

[2] The Beneficiary remained in the United States in B1/B2 visitor status at the time of filing on November 18, 2024.

[3] The foreign entity's wage registers identify an employee (Y-K-) who has the same first name as Y-G-. If Y-G- and Y-K- are in fact the same person, we note that this individual does not appear on the foreign entity's payroll after January 2024, and it is unclear why she was included on the organizational chart submitted to USCIS in November 2024.

development. For example, the foreign entity does not employ any sales or marketing staff except for one sales manager responsible for regional sales in India, yet it stated in its supporting letter that more than half of its receipts are earned through export sales. The Petitioner also credits the Beneficiary with doubling the foreign entity's revenue in 2023, noting that his "holistic approach to marketing" was instrumental to this outcome; however, it does not offer details as to who carried out the sales and marketing tasks necessary for this growth, particularly with respect to international customers. Further, the Petitioner's claim that the foreign entity did not require the Beneficiary to perform any routine sales or operational tasks is not adequately supported by the record, which, as discussed above, includes e-mails between the Beneficiary and clients showing his involvement in such tasks.

The Petitioner asserts on appeal that SCOPS "completely ignored the Beneficiary's advanced qualifications and career progression," stating that his master's degree in strategic marketing and years of prior experience in business development and marketing leadership roles "strongly support" his executive role. However, neither the statute nor regulations indicate that a beneficiary's academic and professional qualifications are a determining factor in evaluating whether they have performed in an executive capacity.[4]

Rather, in determining whether a beneficiary is employed in an executive capacity, we consider the description of the job duties, the company's organizational structure, the nature of the business, the duties of the beneficiary's subordinate employees, and the presence of other personnel to relieve the beneficiary from performing operational duties. Here, the record reflects that the Beneficiary's position abroad likely includes authority to establish goals for business development and to exercise discretionary decision-making authority in this area with general oversight from the company's CEO. However, for the reasons discussed, the record does not establish that the Beneficiary has directed the management of the organization or of a component or function of the organization or that he has primarily performed duties consistent with the definition of executive capacity at section 101(a)(44)(B) of the Act.

III. CONCLUSION

The Petitioner has not established that the Beneficiary has been employed abroad in an executive capacity. 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.

[4] The regulation at 8 C.F.R. § 214.2(l)(3)(iv) only requires evidence "that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States."