U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40586051

Date: DEC. 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner states that it operates as a "travel business." It seeks to employ the Beneficiary temporarily as its Chief Executive Officer (CEO) under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Beneficiary would be employed in the United States in an 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

First, SCOPS did not adequately discuss the Beneficiary's job description. *See* 8 C.F.R. § 214.2(l)(3)(ii) (requiring "a detailed description of the services to be performed" by the Beneficiary under an approved petition). Although SCOPS quoted portions of the Beneficiary's job duty breakdown as well as quoting considerable portions of the observations and deficiencies that were noted about the original job duty breakdown in the request for evidence (RFE), the denial does not include a sufficient analysis of the job duty breakdown the Petitioner provided in response to the RFE. Nevertheless, SCOPS determined that the Beneficiary "will not primarily perform the operational or administrative duties of the organization" but rather that he would "be involved in the day-to-day management of individuals" as well as "the organization's day-to-day management." It is unclear precisely how and on what basis these determinations were made since SCOPS merely reiterated portions of the Beneficiary's job duty breakdown but did not adequately discuss the content. Further, while SCOPS determined that the Beneficiary "will be directly interacting with his subordinates and their tasks," it did not explain why doing so would preclude the Beneficiary from "focusing on managing the broader organization."

SCOPS also incorrectly determined that the Petitioner made a material change when it discussed plans for the Beneficiary to expand its organizational structure by adding an administrative and a finance department and staffing each with a manager. Although we would not consider the proposed future hires when determining the Petitioner's eligibility, which must be based on facts and circumstances in existence *at the time of filing,* the Petitioner's plans for future organizational changes do not alter its original staffing claims.[1] We therefore would not deem any discussion of such plans as a material change even if the plans were first introduced in the RFE response. *See* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to establish eligibility for the requested benefit at the time of filing the benefit request and continuing until the final adjudication).

Lastly, SCOPS incorrectly assigned elements of the definition of managerial capacity to the Petitioner's existing and future staff, stating that "the majority of the duties" performed by the sales and growth representative will be operational and administrative and further determining that the marketing and brand design employee "also does not perform in a managerial capacity as they do not supervise and control subordinates in a professional, supervisory, or managerial capacity, or manage the function."[2]

Because SCOPS did not properly review the evidence and provided a deficient analysis that is inconsistent with statutory criteria, we cannot affirm the denial. Notwithstanding the noted errors, the record as presently constituted lacks sufficient evidence establishing that the Beneficiary's proposed position would be in an executive capacity.[3]

As a preliminary matter, we note that in lieu of a cover letter, the Petitioner provided a detailed exhibit index listing the applicable regulatory requirements and the evidence being submitted. Although the Petitioner provided a discussion of its proposed staffing and the Beneficiary's proposed employment, it offered no further discussion of the types of travel services it provides or the clients it serves – corporate or individuals – thereby limiting our ability to fully consider the proposed position within the context of a "travel business" whose staff was comprised of two employees and an accounting services firm at the time this petition was filed.[4]

Further, the Petitioner has not established that the Beneficiary's proposed position would be primarily comprised of executive job duties, as the job duty breakdown is overly general and does not convey a meaningful understanding of the actual tasks the Beneficiary would perform in the daily course of the Petitioner's business. For instance, the job duty breakdown states that the Beneficiary would lead the marketing strategy, which would involve "[c]onsidering our services, brands and factors" and focusing on "specific marketing segments and us[ing] targeted marketing tactics to reach our target audience." It also states that the Beneficiary would lead public relations strategies, which would require the

[1] The petition shows that the Petitioner claimed two employees at the time of filing and the supporting evidence contains both employees' employment contracts and lists them by name in any discussions of the Petitioner's staffing composition at the time of filing. The record also contains payroll evidence showing that both employees were employed in June 2025, when the petition was filed.

[2] *See* sections 101(a)(44)(A) and (B) of the Act, requiring a petitioner to establish that the *beneficiary* of the visa petition meet the statutory criteria of managerial or executive capacity.

[3] The Petitioner does not claim that the Beneficiary would be employed in a managerial capacity.

[4] The record includes the Petitioner's 2024 corporate tax return which shows income of over $4.6 million but no payment of employee wages or salaries. The evidence shows that although the Petitioner had two employees at the time of filing, they were not hired until May 2025, approximately three weeks prior to the date this petition was filed.

Beneficiary to, for example, "analyze our audience, establish objectives, . . . and improve results to our objectives." In essence, the job description conveys a sense of the Beneficiary's discretion over business matters, but it is otherwise vague and offers little insight into the specific tasks the Beneficiary would perform on a daily basis in the course of the Petitioner's travel business. *See* 2 USCIS Policy Manual, L.6(D).

It is also worth noting that several of the Beneficiary's proposed job duties mention subordinate job titles that had not been filled when this petition was filed. For example, the job duty breakdown states that the Beneficiary would direct and oversee subordinates by maintaining effective communication and encouraging "good working relationships" among the employees, including future hires who would eventually fill the positions of administrative manager, an operations coordinator, and a finance manager. The Petitioner also mentioned an "Operations Coordinator team" when discussing the Beneficiary's oversight of the Petitioner's "financial health" and it mentioned an administrative manager and a finance manager when discussing who would incorporate the policies regarding "innovative technology." These references to positions that were not filled when the petition was filed lead us to question the reliability of the Beneficiary's job duty breakdown and whether it reflects the facts and circumstances that existed at the time of filing. *See* 8 C.F.R. § 103.2(b)(1).

In sum, although the record lacks sufficient evidence to show that the Beneficiary's proposed position would be in an executive capacity, SCOPS offered a deficient analysis and incorrectly applied the statutory definition of managerial capacity to the Beneficiary's subordinates. Accordingly, we will withdraw the decision and remand the matter for further proceedings.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

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.