U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38851460

Date: JUN. 13, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a company importing and exporting goods from Latin America, seeks to extend the temporary employment of the Beneficiary as a 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.

SCOPS denied the petition, concluding the record did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. The matter is now before us on appeal under 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. LEGAL FRAMEWORK

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 February 5, 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). 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 CAPACITY

The sole issue to be addressed is whether the Petitioner established that the Beneficiary would be employed in a managerial capacity in the United States under an extended petition. The Petitioner does not claim on appeal that the Beneficiary would be employed in an executive capacity. Therefore, we restrict our analysis to whether the Beneficiary would be employed in a managerial capacity.

"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.

When examining the managerial 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 capacity. *See* 8 C.F.R. § 214.2(l)(3)(ii).

A. Duties

To be eligible for the L-1A nonimmigrant visa classification as a manager, 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)(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 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 duties, as opposed to ordinary operational activities alongside the Petitioner's 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, 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 the Beneficiary's foreign employer had relationships in the Bolivian food industry and that it would use this network to offer these goods in the United States. The Petitioner stated that the Beneficiary contacted several Latin food markets and sellers in the United States and that she managed the importation of six containers of [redacted] from Bolivia during her first year of employment. The Petitioner also explained that the Beneficiary provided samples to another food distributor, set the company's direction, goals, and objectives, conducted market research, and hired a business development employee. The Petitioner indicated that the Beneficiary's "primary responsibilities involve[d] structuring, supervising, and optimizing the company's business operations, commercial strategy, and overall corporate governance," while complying with U.S. business regulations and international trade laws.

The Petitioner submitted the following duty description for the Beneficiary:

a) Business Strategy & Corporate Governance
   - Defines and sets the strategic vision for the [the Petitioner] aligning with market opportunities and corporate goals.
   - Develops short-term business plans focused on expansion, profitability, and operational efficiency.
   - Oversees corporate policies, risk management, and regulatory compliance, ensuring adherence to U.S. and international trade laws.
   - Leads business expansion strategies, including market entry analysis, competitive positioning, and strategic partnerships.

b) Human Resources & Organizational Structuring
   - Establishing the organizational structure, defining key roles, departments, and reporting hierarchies.
   - Supervises and oversees talent acquisition, including defining job descriptions, setting hiring criteria, and approving final hiring decisions.
   - Establishes and supervises employee performance evaluation systems, aligning workforce objectives with business goals.

c) Financial Oversight & Fiscal Management
   - Leads budget planning and financial forecasting, ensuring the company remains profitable and fiscally responsible.
   - Supervises financial reporting, ensuring compliance with U.S. tax regulations and international trade laws.
   - Oversees cash flow management, banking relationships, and investment strategies to optimize liquidity and capital allocation.
   - Approves and monitors significant financial transactions, investments, and cost-control initiatives.
   - Maintains executive oversight of accounts payable/receivable and payroll, ensuring efficiency and compliance without direct execution.

d) Legal & Compliance Management

- Acts as the primary liaison between the company and its external legal advisors, ensuring compliance with U.S. corporate law, employment law, and international trade regulations.
- Supervises contract negotiations, business agreements, and supplier contracts, ensuring favorable and compliant terms.
- Monitors compliance with trade laws, import/export regulations, and supply chain integrity, mitigating legal risks.

e) Business Development & Market Expansion
- Defines and oversees market entry strategies, identifying new product opportunities and distribution channels.
- Supervises the development of strategic partnerships, supplier negotiations, and key business alliance to drive business growth.
- Leads pricing strategies, competitive positioning, and brand management to strengthen market presence.
- Ensures sales and marketing efforts align with the company's corporate vision.
- Evaluates customer acquisition models and business development efforts, providing strategic guidance to the sales team.

f) Supply Chain, Trade & Operations Oversight
- Supervises procurement strategy and supply chain optimization, ensuring cost-effective sourcing and efficient logistics.
- Oversee inventory management policies to optimize stock levels and minimize waste.
- Monitors import/export activities, ensuring compliance with international trade regulations and optimizing supply chain efficiency.
- Leads vendor negotiations and establishes long-term relationships with strategic suppliers.

The Petitioner submitted evidence reflecting her wide involvement in non-qualifying operational level duties at the time the petition was filed. For instance, the Petitioner provided correspondence from November through January 2025 showing her coordination with a client on the provision of frozen foods from Bolivia.[2] Likewise, the Petitioner discussed numerous non-qualifying operational tasks performed by the Beneficiary in a support letter provided in response to SCOPS' request for evidence (RFE) in February 2025, including her contacting distributors in the United States, arranging for the importation of six containers of [redacted] from Bolivia, attending trade expositions, and storing 12 tons of [redacted] at a New Jersey warehouse. The Petitioner also provided a goods inspection report from September 2024 listing the Beneficiary. In addition, the Petitioner stated that the Beneficiary "sourced, purchased, and export[ed] cups to Bolivia for a…sales campaign" as well as protein bars and yogurt bites, further noting that "new shipments would be scheduled in 2025."

However, in contrast, there is no evidence demonstrating that the Beneficiary was primarily delegating these non-qualifying tasks to her lone subordinate as of the date the petition was filed. In fact, the operational duties reflected in the supporting documentation are questionably not included in the

[2] The petition was filed on January 21, 2025.

Beneficiary's duty description. The Beneficiary's duties also discuss her overseeing accounts payable and receivable, monitoring financial transactions, providing "strategic guidance to the sales team," supervising procurement, and monitoring import and export activities. However, there is little indication that when the petition was filed in January 2025 the Petitioner had accounts payable or finance employees, a sales team, or logistics employees to relieve the Beneficiary from performing the non-qualifying tasks inherent in these functions. In fact, in contrast, the Petitioner provided substantial evidence reflecting her performance of these non-qualifying operational tasks. This evidence suggests the Beneficiary's direct involvement in nearly all the operational aspects of the business, and at minimum, they reflect her working alongside operational employees within the business in performing ordinary non-qualifying tasks. Again, the Petitioner must prove that the Beneficiary would be *primarily* engaged in managerial duties, as opposed to ordinary operational activities alongside its other employees. *See Family Inc. v. USCIS*, 469 F.3d at 1313.

Whether the Beneficiary is a managerial employee turns on whether the Petitioner has sustained its burden of proving that their duties are "primarily" managerial. *See* sections 101(a)(44)(A) of the Act. Here, the Petitioner does not credibly document what proportion of the Beneficiary's duties would be managerial functions and what proportion would be non-qualifying. The supporting documentation largely reflects the Beneficiary performing administrative or operational duties, but the Petitioner does not sufficiently quantify the time she would spend on these duties as opposed to qualifying managerial tasks. For this reason, we cannot determine whether the Beneficiary would primarily perform the duties of a manager under an extended petition. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

In contrast to the substantial documentation reflecting the Beneficiary's performance of non-qualifying operational duties, the Petitioner provided little supporting evidence to substantiate her primary performance of the claimed managerial-level tasks listed in her duty description. For example, the Petitioner provided little supporting documentation to substantiate the strategic vision she set, corporate or risk management policies she put in place, departments she established, employee performance evaluation systems she implemented, procurement strategies she supervised, or inventory management policies she oversaw. Likewise, the Petitioner did not detail or document the investment and capital decisions she made, cost control initiatives she put in place, contract negotiations she handled, or pricing strategies she implemented. The Beneficiary's duties include few references to the Petitioner's specific business, and they could apply to any manager working in any company in any industry. Although we do not expect the Petitioner to articulate and document every managerial task to be performed by the Beneficiary, it is reasonable to expect that it would provide sufficient detail and documentation to corroborate her primary performance of qualifying duties as of the date the petition was filed.

Here, the initial new office petition filed on behalf of the Beneficiary was approved for one year through February 5, 2025. The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) only allows the intended U.S. operation one year within the date of approval of the petition to support a managerial position. There is no provision in the regulations allowing for an extension of this one-year period. If the 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 for an extension. It is noteworthy that when the appeal was filed in April 2025, the Petitioner provided no additional supporting evidence to substantiate the Beneficiary's primary performance of managerial duties or her

delegation of non-qualifying tasks to asserted subordinates and contractors. The affected party has the burden of proof to establish eligibility for the requested benefit at the time of filing the benefit request and continuing until the final adjudication. 8 C.F.R. § 103.2(b)(1); *see also* Matter of Katigbak, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts.").

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

B. Staffing

If staffing levels are used as a factor in determining whether an individual is acting in a managerial capacity, we 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 submitted an organizational chart reflecting that she oversaw a business development representative and independent contractors, including a certified public accountant and an attorney. As discussed, the Petitioner asserts on appeal that the Petitioner qualifies as a manager. The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* section 101(a)(44)(A) of the Act. Personnel managers are required to primarily supervise and control the work of other supervisory, professional, or managerial employees. Contrary to the common understanding of the word "manager," the statute plainly states that a "first line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional." *Id.* If a beneficiary directly supervises other employees, the beneficiary must also have the authority to hire and fire those employees, or recommend those actions, and take other personnel actions. 8 C.F.R. § 214.2(l)(1)(ii)(B)(*3*).[3]

The Petitioner did not establish that she was primarily acting as a personnel manager and mainly delegating non-qualifying tasks to her subordinates when the petition was filed in January 2025. As we have discussed, the Petitioner submitted substantial documentation indicating her responsibility for performing a wide array of non-operational duties related to all aspects of the business, including securing distributors, shipping goods, attending trade expositions, arranging for the storage of goods,

[3] To determine whether a beneficiary manages professional employees, we must evaluate whether the subordinate positions require a baccalaureate degree as a minimum for entry into the field of endeavor. *Cf.* 8 C.F.R. § 204.5(k)(2) (defining "profession" to mean "any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation"). Section 101(a)(32) of the Act, states that "[t]he term *profession* shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

and inspecting shipments, among numerous other examples. As noted, there is little evidence to reflect, as of the date the petition was filed, that the Beneficiary was primarily delegating these non-qualifying tasks to her lone subordinate or any contractors. There is also no supporting evidence to substantiate that the Beneficiary was recommending or handling personnel actions with respect to her lone subordinate when the petition was filed.

The Petitioner also stated that in a support letter that it is "currently undergoing a period of organization, and institutional structuring, and compliance with legal regulations and operating permits," suggesting that it was still in the early stages of development. The Petitioner further indicated that "to be successful, [the Petitioner] must have a Distribution Manager and Sales Staff as a minimum payroll to operate efficiently." It is noteworthy that these employees were not on the payroll when the petition was filed. In fact, the Petitioner submitted hiring projections indicating that it planned on hiring these employees well after the time the petition was filed in January 2025, including a "Sales Person DC [District of Columbia] area" in April 2025; and a "Sales Person Florida" and distribution manager in 2026. In sum, there is little evidence to support a conclusion that the Beneficiary was acting as a personnel manager overseeing subordinate managers or professionals when the petition was filed or primarily delegating non-qualifying tasks to subordinates. For these reasons, the Petitioner did not sufficiently establish that the Beneficiary was employed as a personnel manager when the petition was filed. Further, since the record has not been supplemented with additional evidence on appeal; therefore, the Petitioner has also not established that the Beneficiary was employed as a personnel manager when the appeal was filed. Again, the affected party has the burden of proof to establish eligibility for the requested benefit at the time of filing the benefit request and continuing until the final adjudication. 8 C.F.R. § 103.2(b)(1); *see also* Matter of Katigbak, 14 I&N Dec. at 45, 49.

On appeal, the Petitioner appears to assert that the Beneficiary would qualify as a function manager, indicating that she oversees "core functions such as finance, operations, client acquisition, strategic partnerships, and regulatory compliance." The Petitioner contends that a qualifying managerial capacity is not determined by staff size and asserts that the Beneficiary "manages contractors, vendors, and strategic partners." The term "function manager" applies generally when a beneficiary 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." *See Matter of G- Inc.*, Adopted Decision 2017-05 (AAO Nov. 8, 2017).

The Petitioner has not sufficiently demonstrated that the Beneficiary was acting as a function manager as of the date the petition was filed. First, the Petitioner did not demonstrate that the Beneficiary's role was a clearly defined function within the company, considering that she had apparent full authority over the entire organization. Regardless, as we have indicated at length in this decision, the Petitioner provided abundant evidence reflecting her direct performance of non-qualifying operational tasks covering nearly every aspect of the business. In contrast, there is little supporting evidence to establish

that the Beneficiary was primarily relieved from these responsibilities and mainly managing a specific essential function within the organization. The submitted evidence indicates it is more likely than not that the Beneficiary was primarily performing various functions rather than managing them, even if the Petitioner established that she was overseeing a clearly defined activity within the organization. Therefore, the provided evidence does not adequately substantiate that the Beneficiary was acting as a function manager when the petition was filed.

For the foregoing reasons, the evidence reflects that the Director was correct in denying the petition as the Petitioner did not sufficiently establish that the Beneficiary would be employed in a managerial capacity in the United States under an extended petition.

ORDER: The appeal is dismissed.