U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41312512

Date: MAR. 6, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, describing itself as a semi-conductor, research, development, and marketing company, seeks to employ the Beneficiary as its executive manager 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 the record did not establish that the Beneficiary was employed abroad in a managerial or executive capacity for one continuous year in the three preceding the date the petition was filed. SCOPS also determined the Petitioner did not demonstrate 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 as the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. As this issue is dispositive of this matter, we need not reach, and therefore reserve, whether the Petitioner demonstrated that the Beneficiary was employed abroad in a managerial or executive capacity for one continuous year in the three preceding the date the petition was filed. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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.*

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 indicates that it primarily focuses on the research, development and manufacturing of integrated circuits as well as supporting "joint development initiatives, particularly a strategic project with [I-M]" a U.S.-based company. The Petitioner also states that it will serve as a global operations center for marketing and sales "once product protocols are ready for manufacturing." The Petitioner explains the Beneficiary is tasked with recruiting and developing key personnel in executive and technical roles, designing organizational structures, implementing training and performance strategies, and market expansion. The Petitioner submitted the following duties for the Beneficiary's proposed position:

- **Corporate Strategy and Policy Development (30%)**
  [The Beneficiary] will define [Petitioner's] strategic vision, establish long-term business objectives, and develop policies to support growth. For example, in his role at [the foreign employer] he directed the decision to expand into the U.S. market, recognizing the importance of proximity to American customers and investors. In the U.S., he will set strategic priorities for new product lines and determine which sectors to target for growth.
- **Executive Oversight of U.S. Operations (25%)**
  [The Beneficiary] will oversee senior managers and department heads, ensuring that operations, research, and partnerships are aligned with global objectives. For example, [the Beneficiary] previously created the company-wide performance benchmarks used to evaluate subsidiaries in China, which he will now adapt and implement for U.S. operations.
- **Business Development, Partnerships, and External Relations (15%)**
  [The Beneficiary] will represent [the Petitioner] in negotiations with key customers, suppliers, and strategic partners. In China, he personally negotiated agreements with I-M and with [redacted] to develop [redacted]. In the U.S., he will lead negotiations with American semiconductor companies and potential R&D partners.
- **Capital Strategy and Fundraising (10%)**
  He will lead efforts to secure financing through U.S. investors and financial institutions. For example, [the Beneficiary] successfully executed a collaboration agreement with S-X-P-E-F- in China, raising significant capital for research initiatives. In the U.S., he will work with venture funds and private equity groups to fund [the Petitioner's] expansion.
- **Site Selection and Future Expansion Decisions (10%)**
  [The Beneficiary] will exercise executive authority in determining the location of future factories, research and development centers, and U.S. collaborations. For instance, in China, he led the site-selection process for new R&D center in [redacted] taking into account local talent pools, government incentives, and proximity to supply chains. In the U.S., he will evaluate states such as California and Texas for potential R&D or manufacturing facilities.
- **Reporting to Parent Company and Board Liaison (10%)**
  [The Beneficiary] will present updates on [the Petitioner's] progress, strategy, and performance to the Board of Directors of [the foreign employer]. For example, he has historically presented quarterly strategic reports to the [foreign] Board,

outlining new initiatives, execution status, and market impact–responsibilities that will continue in his U.S. role.

The Petitioner did not sufficiently articulate or document the managerial or executive-level tasks he would perform in the United States under an approved petition. The Petitioner only submitted specific examples of managerial or executive-level tasks the Beneficiary performed in his position abroad and provided few details on how these would directly correlate to his U.S. position. For instance, the Petitioner did not specify or document the strategic vision he would set, policies he would implement, strategic priorities for product lines he would determine, or senior managers or department heads to would oversee. Likewise, the Petitioner did not sufficiently detail or document the global objectives he would ensure alignment with, benchmarks he would adapt and implement in the United States, key suppliers and financial institutions he would work with, or research and development projects he would direct. The Petitioner indicated that the Beneficiary personally negotiated agreements with companies in China for the development of [redacted] but did not sufficiently explain this technology or how these negotiations reflected his projected duties in the United States. 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).

It is also notable that the Petitioner did not file a new office petition;[1] as such, it must establish that the Beneficiary's position in the United States would involve the primary performance of qualifying managerial or executive-level tasks as of the date the petition was filed. 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.").

However, the Beneficiary's duty description appears to be wholly prospective with no discussion of the Petitioner's current operations or organization. For example, there are no details or documentation specific to the asserted U.S. customers, investors, product lines, senior managers, and key suppliers discussed in the Beneficiary's duty description. Without this detail and supporting documentation, it is difficult to conclude that the Beneficiary would be primarily tasked with managerial and executive-level tasks as of the date the petition was filed. To the extent the Petitioner provides specifics as to his activities in the United States, these appear to be operational in nature, such as him identifying customers, suppliers, strategic partners, investors, and financial institutions as well as the location of future factories and research development centers. However, there is little indication from his duties as to how he would primarily delegate the non-qualifying operational tasks inherent in these objectives to subordinates. Again, the Petitioner must prove that the Beneficiary will be *primarily* engaged in

[1] In the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner stated that it was established in 2017 and discussed previous services it provided in the United States more than one year prior to the current petition in June 2025. 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). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

managerial or executive duties, as opposed to ordinary operational activities alongside its other employees. *See Family Inc. v. USCIS*, 469 F.3d at 1313, 1316.

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.

The Petitioner provided conflicting information as to its number of employees as of the date the petition was filed. For instance, in part 5, section 14 of the Form I-129 the Petitioner indicated that it had five employees in the United States when the petition was filed in June 2025. In contrast, the Petitioner provided a state employer's quarterly wage report from the second quarter of 2025, corresponding with the time the petition was filed, reflecting that it had only two employees. In a support letter provided in response to the request for evidence (RFE), the Petitioner stated that the Beneficiary would oversee a chief technology officer (CTO) and a vice president. Notably, neither of these asserted subordinates are mentioned in the Beneficiary's duty description and the Petitioner did not submit an organizational chart or sufficient information on the duties, education levels, and salaries of his claimed subordinates, as requested in the RFE. In sum, the inconsistent and incomplete nature of the evidence provided with respect to the Petitioner's organizational structure leaves substantial uncertainty as to whether it had sufficient staffing to support the Beneficiary in a qualifying managerial or executive capacity as of the date the petition was filed. 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).

Similarly, the Petitioner submitted questionable evidence as to the Petitioner's operations as of the date the petition was filed suggesting it was not sufficiently developed to support the Beneficiary in a qualifying managerial or executive capacity. To illustrate, the Petitioner stated in the Form I-129 that it had no gross or net annual income, and its most recent 2024 IRS Form 1065, U.S. Return of Partnership Income, reflected it had no revenue and that it paid only $15,000 in salaries and wages during that year. The Petitioner also indicated that it was initially established to provide "at least two experienced process development and integration engineers, specializing in semiconductor technology" pursuant to a contract with a U.S. technology company, but noted that this contract had concluded in 2020. The Petitioner further stated that the COVID-19 pandemic led to the "suspension of its activities in the U.S." and that its operations did not restart until 2024, with the intent that it would "serve as the global operations center for marketing and sales once the product protocols are

ready for manufacturing." As such, the evidence reflects that the Petitioner had almost no operations in the United States when the petition was filed in June 2025 leaving substantial uncertainty as to its ability to support the Beneficiary in a qualifying managerial or executive role. *Id.* Again, this is not a prospective petition, where the Beneficiary may qualify under a future set of facts, it can only qualify based on its operations and staffing as of the date the petition was filed.

The Petitioner mainly asserted throughout this proceeding that the Beneficiary would qualify as an executive under an approved petition. 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 Petitioner has not sufficiently established that the Beneficiary would be employed in an executive capacity. The Petitioner submitted a generic duty description and little supporting documentation to substantiate the Beneficiary's actual executive-level tasks. The Petitioner did not submit adequate evidence to establish its organizational structure or operations. In fact as discussed, the evidence suggested that its staffing and operations were minimal and there appear to be insufficient operational-level employees available to primarily relieve the Beneficiary from non-qualifying operational tasks inherent in setting up the company's operations. Even if we accept that the Beneficiary had two subordinates as of the date the petition was filed, namely the asserted chief technology officer (CTO) and a vice president, this did not demonstrate that he oversaw subordinate managerial or lower-level executive employees, since there were no operational employees for his subordinates to oversee. 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 (5th Cir. Sept. 21, 2022) (holding that "'[d]irect[ing] the management of the organization' necessarily includes directing managers of the organization.").

Finally, on appeal, the Petitioner contends for the first time in this matter that the Beneficiary qualifies as a function manager. The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* section 101(a)(44)(A) of the Act. Since the Petitioner only specifically asserted that the Beneficiary would be employed as a function manager, we decline to analyze whether he would qualify as a personnel manager. 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).

However, here, the Petitioner did not specifically articulate a clearly defined function within the company he would oversee, other than managing the entire U.S. business and its reestablishment. In fact, the Petitioner indicated that the Beneficiary would act as the chief executive of the company, rather than a manager of a particular function within the organization. Further, as discussed, the Petitioner provided evidence reflecting that its staffing and operations were very limited when the petition was filed, leaving significant questionable as to whether the Beneficiary would be primarily relieved from performing his function, even if clearly defined. The Beneficiary's duties and the Petitioner's staffing indicate that he would be mainly engaged with all operational tasks necessary to establish the Petitioner's staffing and operations in the United States. Therefore, the Petitioner has not sufficiently established that the Beneficiary would act as a function manager under an approved petition.

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