U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41452986

Date: MAR. 23, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an importer and seller of agricultural products, seeks to extend the Beneficiary's temporary employment as its chief executive officer (CEO) 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner 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 April 24, 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. The Petitioner filed the current new office extension petition on February 21, 2024.

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 AN EXECUTIVE CAPACITY

The sole issue we will analyze is whether the Petitioner established that it would employ the Beneficiary in an executive capacity in the United States. The Petitioner does not claim that the Beneficiary would be employed in a managerial capacity. Therefore, we restrict our analysis to whether the Beneficiary would be employed in an executive capacity.

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

A. Duties

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

If a petitioner establishes that the offered position meets all elements set forth in the statutory definition, it must prove that the beneficiary will be *primarily* engaged in 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 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 he was transferred to the United States on a L-1A new office petition to restart its operations importing "containers of Coco coir Soil medium from India…used for hydroponic Farming," further indicating it had "established its first phase of development." The Petitioner explained that the Beneficiary would be tasked with the following duties:

1. Develop strategic objectives and direction (20% of his time)
Carrying the weight of the company on their shoulders, the CEO is responsible for devising new strategic plans and policies to bring their visions to reality. By setting out clear aims and objectives, the CEO helps employees and the BoD [Board of Directors] to better understand upcoming expectations for business growth, both in the short and long run.

2. Implement proposed plans (15% of his time)
CEOs direct and oversee the business' overall strategic direction, developing high-quality business strategies and plans that align with both their short-term and long-term objectives. It's their duty to communicate their approach across the company so as to ensure that its operations are working in accordance with its overarching strategy, with the goal of maximizing profits, increasing shareholder value, and improving market position.

3. Budgeting and forecasting (20% of his time)
To the dismay of many, not all of a CEO's financial responsibilities can be passed to the Chief Financial Officer (CFO). Rather, a yearly budget has to be first set by the CEO to allocate capital in consideration of factors like net income, cash flow, and the valuation they wish to achieve. With the help of the CFO, CEOs then consider variables such as industry fluctuations in calculating potential expenses, revenue, and profitability for the upcoming year.

4. Public relations (10% of his time)
The public naturally associates the CEO as being the face of the company, making them an almost obligatory marketing tool. As the business's primary representative, the CEO is largely expected to exemplify model behavior, with their values and actions, both good and bad, having a great impact on the reputation of the company.

5. Communications with the Board of Directors (10% of his time)
The board can easily become one of two things – a CEO's greatest ally of the cause of his/her demise. Just as expectations must be communicated to employees, the board should be kept informed of important – and sometimes difficult – business decisions through regular board meetings.

6. Tracking company performance (10% of his time)
An executive understanding of the company's performance, relative to other competitors, is a key part of the CEO's role. Actionable insights can be derived from revenue growth, gross profit margins, and cumulative sales. These can then be used to shape further key performance indicators (KPI) to guide necessary adjustments and help the company met its new targets.

7. Establishing working culture (15% of his time)
From interns to managers to senior executives, everyone looks up to the CEO to a certain extent. Creating a healthy working culture means leading by example. By exhibiting the same working attitudes you expect of others, CEOs will gain respect and

> serve as better motivation for employees to reciprocate and do the same for them. A positive working environment should sit in line with company values, visions, and goals. With a productive working culture – and a clear set of company values, CEOs are able to better drive consistent, high levels of performance across the whole company.

The Petitioner submitted substantial supporting documentation reflecting the Beneficiary performing non-qualifying operational duties near to, and well after, the time the one-year new office petition concluded in April 2024. For example, the Petitioner provided copies of screenshots from the Beneficiary's smart phone in March 2025, approximately one year after the date the new-office period expired, showing his interaction with a colleague on "needing to ship 4 pallets," including discussing their dimensions and weight as well as the shipment address. Likewise, the Petitioner submitted an email from February 2025 reflecting his interaction with a warehousing contractor where the Beneficiary asks, "can you please send me the stock on 1 gallon Plantin." The Petitioner also provided an email from January 2025 within which the Beneficiary coordinates with a vendor on receiving quotes for machinery to produce his agricultural products, and an October 2024 email showing him discussing the delay of an international shipment due to a customs issue.

In sum, the Petitioner submitted documentary evidence demonstrating his direct involvement in nearly every non-qualifying operational task within the business, including identifying facilities and vendors, visiting trade shows and farms, handling shipping, customs, and delivery issues, ordering supply, arranging for warehousing, taking care of administrative billing issues, and obtaining quotes for machinery. In contrast, there is little documentation reflecting his delegation of these tasks to subordinate managers or lower-level executive employees. 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.")

Whether the Beneficiary is an executive employee turns on whether the Petitioner has sustained its burden of proving that their duties are "primarily" executive. *See* sections 101(a)(44)(B) of the Act. Here, the Petitioner does not sufficiently document what proportion of the Beneficiary's duties were executive-level functions at the end of the one-year new office period and what proportion were non-qualifying operational tasks. The Petitioner submitted duties and supporting evidence for the Beneficiary indicating his direct involvement in numerous administrative or operational tasks, but it did not sufficiently quantify the time he spent on these duties as compared to qualifying executive-level duties. For this reason, we cannot determine whether the Beneficiary was primarily performing the duties of an executive at the conclusion of the one-year new office period. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

In contrast, the Petitioner did not sufficiently articulate and document what daily executive-level tasks he was performing at the conclusion of the one-year new office period. The Beneficiary's duty description is only a generic explanation of the typical roles and responsibilities of a CEO in any business or any industry, rather than a detailed description of his executive-level duties within the context of its specific business. For example, the Beneficiary's duty description stated that CEOs are

responsible for "devising new strategic plans and policies" and communicating "their approach across the company so as to ensure that its operations are working in accordance with the overarching strategy." It further added that a CEO is naturally "the face of the company." The Petitioner also vaguely indicated that "not all of a CEO's financial responsibilities can passed on to the Chief Financial Officer (CFO)," despite there being no CFO listed in its organizational chart. A generic explanation of the responsibilities and attributes of a typical CEO has little probative value in establishing the Beneficiary's actual primary performance of executive-level duties after one year as a new office.

We acknowledge that the Petitioner attempted to provide further insight on the Beneficiary's executive-level tasks in response to the RFE, however these were not daily executive-level tasks, but singular events and decisions, such as planning an expansion to the east coast of the United States, deciding to open a warehouse in [redacted], hiring a few additional employees, coordinating with the foreign board of directors on two occasions, and firing one sales employee. The Petitioner also did not sufficiently detail and document the policies the Beneficiary put in place, the approaches he set, or the other daily executive-level tasks he would primarily perform under an extended petition. This is in contrast to the overwhelming evidence showing his engagement in nearly all the non-qualifying operational aspects of the business. The Petitioner further provided minimal supporting evidence to substantiate that he was primarily delegating operational tasks to subordinates when the petition was filed. Specifics are clearly an important indication of whether a beneficiary's duties are primarily 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).

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

In the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner indicated it had three employees as of the date the petition was filed in February 2024. The Petitioner provided an organizational chart with the petition reflecting that the Beneficiary supervised an online marketing representative overseeing a sales representative. The chart also showed that the Beneficiary oversaw two contractors, including a "logistics outsource" employee and a warehouse management employee.

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 an executive position. There is no provision in USCIS regulations that allows 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. Therefore, as noted by SCOPS, we will only consider the evidence reflecting the Petitioner's staffing and operations after one-year as new office, and not the expanded organizational chart the Petitioner provided in response to the RFE in May 2025, more than a year after the conclusion of the one-year office period.[2] Notably, the Petitioner submitted state quarterly wage forms from the second quarter of 2024, corresponding with end of the one-year new office period, reflecting that it employed the Beneficiary, and the asserted sales representative and online marketing representative.

As discussed, the Petitioner asserts that the Beneficiary would have qualified 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 staffing as of April 2024 leaving substantial uncertainty as to whether it was supporting the Beneficiary in an executive capacity at this time. As discussed, the Petitioner provided an organizational chart indicating that the Beneficiary had only two subordinates when the petition was filed. As we discussed at length, the Petitioner submitted substantial supporting documentation reflecting the Beneficiary's direct involvement in nearly all the operational aspects of the business, such as shipping, customs, warehousing, machinery quotations, identifying facilities and vendors, visiting trade shows and farms, ordering supply, taking care of administrative billing issues, amongst other non-qualifying operational tasks. Although there is evidence that the Beneficiary coordinated with his sales representative, warehousing contractors, and other contractors, the Petitioner did not provide evidence to demonstrate he was primarily delegating non-qualifying operational tasks to his subordinates and asserted contractors at the conclusion of the one-year new office period in April 2024. At the very least, there is substantial evidence reflecting that the was likely performing ordinary operational activities alongside his claimed subordinates. *See Family Inc. v. USCIS*, 469 F.3d at 1313, 1316. The Petitioner also did not submit sufficient supporting evidence to demonstrate that the two asserted contractors

[2] The organizational chart the Petitioner provided in response to the RFE did not reflect its staffing in April 2024, but a structure with a total of seven asserted managers, employees, and contractors reporting to the Beneficiary in May 2025.

listed in his organization chart were engaged sufficiently to be considered subordinates within its organizational structure.

Likewise, despite the Petitioner submitting an organizational chart showing his online marketing representative acting in a supervisory role over the sales representative, there is no evidence reflecting the Beneficiary delegating tasks to subordinate managers or lower-level executive employees. In fact, the Petitioner provided considerable evidence showing the Beneficiary directly overseeing and directing the sales representative, and there is no evidence to demonstrate that the subordinate online marketing representative acted as a subordinate manager. Again, 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. Further, the Petitioner submitted few specifics and little documentation to support the Beneficiary's primary performance of qualifying executive-level duties, such as his implementation of goals, policies, and procedures. Therefore, the Petitioner did not sufficiently establish that the Beneficiary was directing the management of the Petitioner and primarily focused on its broad goals and policies in April 2024, rather than its day-to-day operations.

On appeal, the Petitioner supplements the record with an expert opinion letter from Dr. T-M- a faculty member within the [redacted] who opines "after reviewing all the documentation" the "position of CEO of the [Petitioner]…reflects an 'executive capacity' role as defined by USCIS." However, Dr. T-M's letter questionably focuses on many prospective aspects of the Petitioner's operations, focusing on its "updated organizational charts," and states that he "manages multiple components of the [Petitioner]." His statements suggest that his focus was on its organizational structure well after April 2024. For instance, as discussed above, the Petitioner's organizational structure in April 2024 was not reflective of "multiple components," but only two operational subordinates, and the documentation shows only occasional coordination with contractors on operational aspects of the business. Dr. T-M also states that the Beneficiary's "emails, texts, and operational communications show him making strategic decisions on how to best to direct overall logistics and vendor negotiations using subordinate managers and external professionals." We disagree. As we discussed at length above, the provided emails, texts, and other documentation show the Beneficiary's direct involvement in nearly every non-qualifying operational aspect of the Petitioner near to, and after, the conclusion of the one-year new office period. Further, there is little evidence to substantiate that the Beneficiary was primarily delegating these non-qualifying tasks to a subordinate manager as claimed.

In sum, Dr. T-M's letter does little more than reiterate the evidence and assertions already provided by the Petitioner, which we have already addressed in this decision, and it is not probative in demonstrating the Beneficiary's eligibility. We may, in our discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way

questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

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