U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41680058

Date: MAR. 24, 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 seller of construction materials and hardware, seeks to temporarily employ the Beneficiary as the president of its new office[1] under the L-1A nonimmigrant classification for intracompany transferees. 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 on multiple grounds. SCOPS determined the Petitioner did not establish that it had secured sufficient premises to house the new office. SCOPS further concluded that the Petitioner did not demonstrate that the Beneficiary was employed in a managerial or executive capacity abroad or that he would be employed in a managerial or executive capacity in the United States within one year following an approval of the 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 as the Petitioner did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States within one year of an approval of the petition. Because the Petitioner is ineligible on this basis, we need not reach, and therefore reserve, determinations as to whether it secured sufficient premises to house the new office and whether the Beneficiary was employed in a managerial or executive capacity abroad. *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).

[1] 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.

I. LEGAL FRAMEWORK

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 petitioner 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 generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. U.S. EMPLOYMENT IN AN EXECUTIVE CAPACITY WITHIN ONE YEAR

The sole issue to be addressed is whether the Petitioner established that the Beneficiary would be employed in an executive capacity in the United States within one year of an approval of the petition. 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.

In the case of a new office petition, we review the petitioner's business and hiring plans and evidence that the business will grow sufficiently to support a beneficiary in the intended executive capacity. A petitioner has the burden to establish that it would realistically develop to the point where it would require the beneficiary to perform duties that are primarily executive in nature within one year of the petition's approval. Accordingly, we consider the totality of the evidence in analyzing whether the proposed executive position is plausible based on a petitioner's anticipated staffing levels and stage of development within a one-year period. *See* 8 C.F.R. § 214.2(l)(3)(v)(C).

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

The Petitioner stated that its foreign employer is an expert in manufacturing and trading high-quality construction materials and hardware tools, such as gypsum plaster, ready mix plaster, and drywall screws. The Petitioner indicated that it planned to introduce these products to the U.S. construction market. The Petitioner explained that the Beneficiary's "strategic vision, leadership, and broad expertise across business, financial, technical, and marketing functions [would] drive the company's competitiveness, operational excellence, and sustainable growth." The Petitioner submitted the following duties for the Beneficiary in the United States:

- Understand government policies, develop HR plans, and focus on organizational growth. Build skilled teams, ensure legal compliance, onboard professionals, provide support, and promote cohesive work culture for company success. – 20% of his time
- Direct financial decisions, ensure financial health, connect with industry experts, and select finance tools. Oversee financial management, improve growth, and ensure legal compliance. Oversee company strategy and ensure regulatory compliance. Provide insights through trend analysis and market research. – 15% of his time.
- Interact with Directors and Recruitment Managers to understand daily challenges, prioritize business needs, and improve operational efficiency. Encourage continuous learning and knowledge sharing within the team. Oversee and ensure the smooth functioning of all business operations. – 5% of his time.
- Manage IT operations and oversee infrastructure for functionality and compliance. – 10% of his time
- Develop and implement strategic marketing initiatives to enhance brand awareness, generate leads, and support sales efforts nationwide. Utilize various channels to increase brand visibility and drive engagement. – 10% of his time.
- Identify expansion opportunities and enhance company recognition. Collaborate internally to customize solutions meeting client expectations and ensure business continuity. Lead Quarterly Business Reviews covering metrics, analysis, trends, challenges, and improvement recommendations. – 10% of his time.
- Develop sales strategies for new client acquisition, retention, and expansion of existing accounts in the United States. – 10% of his time.
- Oversee speaker selection, recruitment, and management for events, ensuring quality presentations. Identify avenues for increased engagement, measure parameters for new partnerships, and lead strategic meetings for business continuity. – 10% of his time.

The Petitioner submitted a duty description for the Beneficiary that does not credibly demonstrate he would primarily perform executive-level tasks within its first year of operation. The Petitioner did not sufficiently detail the executive-level duties the Beneficiary would perform during the first year, including the tasks he would complete during this time to successfully launch the new business operation. For instance, the Petitioner did not specify the human resources plans he would implement, financial decisions he would make, legal or regulatory compliance he would oversee, or operational efficiency he would improve. Likewise, the Petitioner did not detail the continuous learning he would

develop, business operations he would establish, information technology operations he would oversee, or strategic marketing initiatives he would implement. The Petitioner also did not describe the brand strategies he would put in place, solutions he would customize to ensure business continuity, new clients he would engage, or avenues for increased engagement he would seek out.

The duty description the Petitioner provided for the Beneficiary is generic, vaguely referring to duties that could apply to any executive working in any business or industry, and it includes little reference to its specific business or how it would be launched during the first year. The duty description also does not sufficiently articulate the Beneficiary's daily executive-level tasks at the end of the first year. Further, the Petitioner did not adequately indicate how the Beneficiary would be primarily relieved from performing non-qualifying operational tasks within one year. Notably, the Beneficiary's duty description discusses interacting with "Directors and Recruitment Managers," and it is not clear what directors and managers to which the Petitioner refers. Although we do not expect the Petitioner to detail every executive-level task of the Beneficiary, the lack of this detail leaves substantial uncertainty as to whether he would primarily perform executive-level duties within the first year. Specifics are clearly an important indication of whether a beneficiary's duties would be 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).

B. Business Plan and Projected Staffing

When a new business is established and operations commence, the regulations recognize that a designated executive responsible for setting up operations will be engaged in a variety of activities not normally performed by employees at the executive level and often the full range of qualifying responsibilities cannot be performed. To qualify for the L-1 nonimmigrant classification during the first year of operations, the regulations require a petitioner to disclose the proposed nature of the business and the size of the U.S. investment and establish that the proposed enterprise will support an executive position within one year of the approval of the petition. *See* 8 C.F.R. § 214.2(l)(3)(v)(C). This evidence should demonstrate a realistic expectation that the enterprise will succeed and rapidly expand as it moves away from the developmental stage to full operations, where there would be an actual executive who will primarily perform qualifying executive-level duties.

The Petitioner provided a projected organizational chart reflecting that it would hire a subordinate business development manager and an office executive that the Beneficiary would oversee after the first year. The stated duties for the Beneficiary's proposed subordinates were generic and provided few credible details, much like his asserted duties. For example, the Petitioner stated that the business development manager would be tasked with developing and implementing sales strategies, building relationships with key clients, and overseeing marketing campaigns. However, much like the Beneficiary's vague duties, the business development manager's duties could apply to any similar employee in any company working in any industry and stage of development. The business development manager's duties included little detail regarding the Petitioner's projected business, its claimed first year development, the marketing campaigns that would be created, or the key clients that would be targeted. The Petitioner submitted similarly generic duties for the projected office executive, indicating they would be responsible for unexplained "regulatory compliance," and tasked with managing office procurement and inventory as well as day-to-day office operations.

In addition, the Petitioner did not provide sufficient business plans to credibly establish it would sufficiently develop during the first year to support the Beneficiary in an executive capacity. The Petitioner stated that the foreign employer would invest $200,000 in the new venture, while the Beneficiary would provide another $100,000. However, it provided little insight into how this investment would be used to successfully launch the business during the first year. Although the Petitioner submitted revenue projections, it submitted little objective support for its projected first year revenue numbers, and it did not indicate the costs it would face during the first year, nor how the investment amount would be sufficient to cover its first-year expenses. In fact, the Petitioner submitted documentary evidence reflecting that the foreign employer had only provided $15,000 as of the date the petition was filed and it did not sufficiently substantiate its claim that a total of $200,000 would be invested in the new venture. Likewise, the Petitioner did not properly substantiate that the Beneficiary would invest another $100,000 in the new venture. In order to qualify for L-1 nonimmigrant classification during the first year of operations, the regulations require a petitioner to demonstrate the size of the U.S. investment and establish that the proposed enterprise will support an executive or managerial position within one year of the approval of the petition. *See* 8 C.F.R. § 214.2(l)(3)(v)(C).

The Petitioner's generic business and marketing plans could apply to any company in any industry. The Petitioner listed generic steps it would take to establish the business, such as meeting with key stakeholders, working on supplier contracts, conducting market research, identifying retailers and contractors, preparing a company website, and creating client and distributor pipelines. However, it submitted few actual detailed business plans for the first year to demonstrate that it will develop sufficiently to support the Beneficiary in an executive capacity within one year. In sum, the Petitioner submitted numerous first year claims regarding its plans and development with little objective support. 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).

As noted, the Petitioner asserted that the Beneficiary would be employed in an executive capacity within one year. 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.* 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.")

The Petitioner did not adequately demonstrate that the Petitioner would likely act in an executive capacity within the first year following an approval of the petition. As discussed, the Petitioner provided a generic duty description for the Beneficiary offering few credible details as to his actual day-to-day executive level tasks, both during the first year and at its end. The Petitioner also submitted vague and unsupported first year business plans that did not substantiate it would likely develop to the point where it would require the beneficiary to perform duties that are primarily executive in nature within one year of the petition's approval. The Petitioner articulated executive-level tasks and responsibilities that could relate to any executive in any business at any stage of development. It also submitted insufficient hiring projections during the first year that did not demonstrate he would oversee subordinate managers or lower-level executive employees during the first year.

For the foregoing reasons, the Petitioner has not established that the Beneficiary would be employed in an executive capacity within one year of an approval of the 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.