U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40556917

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner sells and distributes cryptocurrency mining hardware. It seeks to continue to employ the Beneficiary temporarily as its "Chief Operating Officer" (COO) under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity.[1] Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner is doing business in the United States or that it would employ the Beneficiary in a managerial or executive capacity. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that the Beneficiary's U.S. position would be in a managerial capacity.[2] Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the issue of whether it has been doing business in the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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[1] U.S. Citizenship and Immigration (USCIS) records show that the Petitioner has an approved, Form I-140, Petition for Immigrant Worker (with receipt number [redacted], which was filed on behalf of the same Beneficiary. The prior approval, however, is not binding if, as explained below, the facts do not support a favorable outcome in the matter before us. *See* 6 USCIS Policy Manual, F.4, https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-4. We are not required to approve applications or petitions where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988).

[2] The Petitioner's claim rests on the definition of managerial capacity. The Petitioner does not claim that the Beneficiary would be employed in the United States in an executive capacity.

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, or in a position requiring specialized knowledge 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)(1). 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. 8 C.F.R. § 214.2(l)(3)(ii).

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as an assignment within an organization in which the employee primarily:

(i) manages the organization, or a department, subdivision, function, or component of the organization;
(ii) 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;
(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. 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.

II. U.S. EMPLOYMENT IN A MANAGERIAL CAPACITY

The issue to be addressed is whether the Petitioner provided sufficient evidence establishing that the Beneficiary's proposed position in the United States would be in a managerial capacity.

To be eligible for L-1A nonimmigrant visa classification as an intracompany transferee manager, the Petitioner must show that the Beneficiary performed 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 Beneficiary's proposed position meets all four of these elements, we cannot conclude that it is a qualifying managerial position.

If the Petitioner does establish 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 that beneficiary's proposed job duties, the company's organizational structure, the duties of the 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 record in the present matter includes several cover letters which address the corporate structure of the U.S. organization and state that the holding company, which is the Petitioner in this matter, operates through three wholly owned U.S. subsidiaries. The Petitioner stated that the Beneficiary "indirectly manages the entire workforce of the company" through her oversight of the executives, directors, and senior managers at the subsidiary entities, adding that it "recruits and employs employees through" those subsidiaries and that the Beneficiary, in her role as the Petitioner's COO, works "in collaboration with" its CEO "to set goals, objectives and strategies for the company and oversee the company's business operations." The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. As discussed below, the record does not support the Petitioner's claims.

In support of the petition, the Petitioner provided several organizational charts and job duty breakdowns for the Beneficiary and employees at the Petitioner's U.S. subsidiaries. The Beneficiary's job duties are grouped into one of six general categories, each of which is assigned a percentage of time to be allocated as follows:

- 20% - Formulating [the Petitioner]'s business strategies and plans.
- 10% - Establishing internal operations procedures and identifying areas of process enhancement.
- 20% - Establishing organizational structure of [the Petitioner], including responsibilities, functions, and staffing of each subsidiary company and departments.
- 10% - Making recommendations on hiring, promoting and discharging senior executives; reviewing and approving personnel recommendations and decisions regarding . . . executives and key employees by the subsidiaries and departments.
- 10% - Establishing and overseeing pre-employment and employee training programs, recruiting programs, onboarding programs to ensure effective recruiting, onboarding, professional development, performance management and retention.
- 30% - Directing daily operations of the company to ensure [the Petitioner]'s business objectives are achieved.

Although each group is accompanied by a list of what are deemed "specific duties," most of the listed items are overly broad and do not offer sufficient insight about the types of activities the Beneficiary would perform in the course of business, nor do they explain how the Beneficiary would manage the organization. For example, two of the above-listed categories would require the Beneficiary to review objectives, strategies, and plans, but no objectives, strategies, or plans were specifically discussed to provide context for these otherwise ambiguous job duties. Duties in another category indicate that the Beneficiary would review and then formulate and make adjustments to "Process Documentation and Standard Operating Procedures." However, the Petitioner offered no details about the organization's specific processes and procedures, thereby precluding a meaningful understanding as to the underlying tasks the Beneficiary would perform in the ordinary course of business. This also precludes us from understanding the true nature of the position to determine whether it meets the regulatory definition of managerial capacity. *See* section 101(a)(44)(A) of the Act.

In other words, aside from conveying a general sense of the Beneficiary's authority over the Petitioner's plans and operations, which she would exercise by reviewing the matters at hand and chairing meetings on such matters, the Beneficiary's actual tasks and contributions to the organization are unclear. Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial 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).

As noted earlier, the record contains several organizational charts depicting the Petitioner and its three U.S. subsidiaries. One chart offers general information, showing the parent-subsidiary relationship between the entities and depicting the Petitioner's staffing, which includes a CEO and the subordinate COO (which is occupied by the Beneficiary) as the holding company's sole employees. A separate organizational chart depicts the hierarchy of [redacted], one of the Petitioner's three subsidiaries, which is headed by its own CEO who oversees employees spread across five departments. And a third organizational chart depicts the hierarchy of [redacted], which shows a COO as its head, followed by the department of operations and maintenance director overseeing three senior managers. The latter chart shows the COO and director positions as "open" thereby indicating that both positions were vacant at the time of filing. Because the Petitioner did not further discuss these "open" positions, it is unclear how they would impact the Beneficiary's role and job duties. For instance, if the positions were later filled, it is unclear whether the Beneficiary would have an oversight managerial role for [redacted]. Also, while the Petitioner's organizational chart shows [redacted] as the Petitioner's third U.S. subsidiary, the record does not include an organizational chart for this entity.

In general, the leadership structure depicted in the organizational charts discussed above leads us to question the Beneficiary's role in the organization and the tasks she would perform. This is particularly relevant given that the job description of [redacted] lists duties that overlap with those of the Beneficiary. For instance, both positions are responsible for formulating strategies and plans; "establishing internal operations procedures and identifying areas of process enhancement"; "establishing organizational structure . . . including responsibilities, functions, and staffing"; and reviewing and approving personnel recommendations. Despite indicating that the Beneficiary would carry out these responsibilities within the scope of the holding company and not within the scope of a specific subsidiary, as in the case of [redacted] CEO, the overall vagueness of the job description precludes a meaningful distinction between the Beneficiary's duties and those of the subordinate CEO.

In response to a request for evidence (RFE), the Petitioner submitted a supplemental job description which lists five components comprising the Beneficiary's position: 1) setting the operational agenda; 2) formulating procedures; 3) directing structure and staffing; 4) directing management through personnel and training; and 5) directing the management of financial operations and subsidiaries. However, this job description is also vague and offers limited insight into the Beneficiary's proposed job duties. For instance, regarding the Beneficiary's responsibility to set the operational agenda, the Petitioner stated that the Beneficiary formulates strategies and makes decisions "about business objectives, plans, and long-term goals," but it did not elaborate on the strategies or decisions that the Beneficiary plans to make or has already made while working in this position under the L-1A

nonimmigrant classification, nor did the Petitioner discuss the actions taken by the Beneficiary to reach these decisions. Regarding the Beneficiary's responsibility to formulate procedures, the Petitioner stated that the Beneficiary "formulates the company's Process Documentation and Standard Operating Procedures" and decides when adjustments are necessary "to improve processes." However, no further information was provided about the processes and procedures, nor does the record contain evidence of the Beneficiary's prior decisions made or their impact on the organization. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Likewise, the Petitioner did not explain how the Beneficiary "oversees the structuring of the organization" or what staffing plans she has or would approve in her efforts to direct "structure and staffing"; nor is it clear that "structure and staffing" of the organization are concerns that would require the Beneficiary's attention in the daily or weekly course of business. And while the job description states that the Beneficiary would impact the organization by "establishing and overseeing pre-employment and employee training programs" as a means of directing the organization's management, the record does not include evidence of any training programs or a discussion of the duties involved in their oversight. As noted above, the Beneficiary is currently working in the position so that the Petitioner should be able to provide more specific evidence rather than just vague generalities.

Also, the Petitioner points to sample records of contract approvals as evidence of the Beneficiary's decision-making authority, but the documents do not establish that being one of six individuals listed as "Responsible Person" on the contract distinguishes the Beneficiary's authority from that of the other five individuals who were similarly categorized. At best, this document demonstrates the Beneficiary's discretionary authority, alongside five others, in the contract approval process, but it does not distinguish her role from those of others classified as "responsible person" nor does this document serve as evidence that the Beneficiary will manage the entirety of the organization in a managerial capacity, as claimed. *See id*; *see also* section 101(a)(44)(A)(i) of the Act. Furthermore, although the Petitioner has provided four sales and purchase contracts on appeal, none were signed by the Beneficiary; rather, all four were signed by her superior, the Petitioner's CEO.

In addition, the fact that the Beneficiary 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) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" executive or managerial in nature. Sections 101(A)(44)(A) and (B) of the Act. While 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, her actual duties may not be primarily managerial in nature. To make this determination, we rely on specific information about a beneficiary's actual daily tasks as an important indication of whether their duties are primarily managerial in nature; otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. at 1108, *aff'd*, 905 F.2d 41.

As discussed above, the job descriptions in the record lack sufficient detail and do not adequately disclose the Beneficiary's role and job duties within the context of a sales and distribution business where the Petitioner is the holding company with three subsidiaries and a two-person staff that consists of a CEO and the Beneficiary as its COO. The Petitioner was put on notice in an RFE and given the opportunity to provide additional information, however, the supplemental evidence was also unduly vague.

On appeal, the Petitioner claims that it has provided "substantial evidence" that the Beneficiary will be employed in a managerial capacity. In light of the deficiencies discussed above, we disagree with this assertion. And while new evidence on appeal indicates that the Petitioner has reorganized its staffing and that of its subsidiaries, 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."). Because the newly submitted evidence presents new facts that did not exist at the time of filing, such evidence is not relevant for the purpose of demonstrating that the staffing and organizational hierarchy *at the time of filing* established the Petitioner's eligibility for the benefit sought.

As discussed above, the record contains deficiencies and ambiguities concerning the Beneficiary's duties and role within the Petitioner's organizational hierarchy. Therefore, the record does not support the Petitioner's claim that the Beneficiary would perform primarily managerial duties in her role as the COO of the petitioning holding company.

III. CONCLUSION

The Petitioner has not established that it will employ the Beneficiary in a managerial capacity in the United States. Accordingly, the appeal will be dismissed.

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.