U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39783331

Date: OCT. 7, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a travel insurance agency, seeks to continue the Beneficiary's temporary employment as its 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). This 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) initially approved the petition but later revoked its approval on notice, concluding the Petitioner did not establish that: (1) it is doing business as defined in the regulations; (2) it has sufficient physical premises to operate its business; and (3) 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must

[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for a one-year period ending on January 2, 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.

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.*

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). "Doing business" means the regular, systematic and continuous provision of goods and/or services and does not include the mere presence of an agent or office. *See* 8 C.F.R. § 214.2(l)(1)(ii)(H).

Under U.S. Citizenship and Immigration Services (USCIS) regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, SCOPS must issue a notice of intent to revoke that contains a detailed statement of the grounds for the revocation and the period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B).

II. ANALYSIS

At issue on appeal is whether SCOPS properly revoked the approval of the petition. As noted, SCOPS concluded the Petitioner did not establish that it is doing business as defined in the regulations, that it maintains adequate physical premises to operate its business, and that it would employ the Beneficiary in the claimed managerial or executive capacity.

In reaching these conclusions, SCOPS determined that the Petitioner had not overcome derogatory information USCIS obtained during a June 2024 site visit and subsequent follow-up interview with the Beneficiary, which was detailed in a notice of intent to revoke (NOIR) issued on October 31, 2024.[2] In addition, although not raised in the NOIR, SCOPS observed in the revocation decision that the Beneficiary was in Peru "from November 16, 2023 to July 13, 2024." Based on this observation, SCOPS emphasized that the company did not have sufficient staff to operate the company and noted that the Beneficiary's lengthy absence from the United States further undermined the Petitioner's claim that it was doing business as defined in the regulations. In its decision, SCOPS listed the evidence the Petitioner provided in rebuttal to the NOIR but did not discuss it beyond generally stating that "the weight of the evidence" was "heavily lessened" based on the site visit findings.

On appeal, the Petitioner asserts that SCOPS' decision is factually and legally flawed and submits additional evidence intended to refute the adverse findings. First, the Petitioner emphasizes that the

[2] In the NOIR, SCOPS noted that the site visit revealed: the Petitioner's name was not listed in the building directory; none of its four employees were present in the office; several individuals who work for other companies in the same office suite could not identify the Petitioner's employees; the Petitioner's office spaced appeared to be unoccupied and only suitable for one employee; and the Petitioner had not paid rent since December 2023. In light of this and other information obtained during the site visit, SCOPS concluded that the Petitioner "does not seem to be conducting business in the United States," that it did not have sufficient premises from which to conduct business, and the Beneficiary "does not seem to be in an executive or managerial position where she is relieved from performing non-qualifying duties."

Beneficiary did not depart and remain outside the United States for a continuous period of eight months as alleged by SCOPS but rather took two short international trips that amounted to a cumulative 31-day absence. It maintains that the revocation decision was based, in significant part, on incorrect information and that the decision should be withdrawn.

The Petitioner further contends that SCOPS erred by rejecting "clear verifiable evidence of ongoing business operations, including current contracts, active payroll, financial reports, and direct testimony from strategic partners," and instead gave "decisive weight to statements by third parties with no legal or functional relationship to the company." With respect to its physical premises, the Petitioner claims that its leased office is sufficient for its purposes and that it was not required to report on the Form I-129, Petition for a Nonimmigrant Worker, whether its office space was shared, to attest that all its staff would work onsite at the office location at all times, or to indicate whether the company uses any secondary mailing address.[3] The Petitioner maintains that it did not, as suggested by SCOPS, make false or misleading statements on the Form I-129 regarding the company's location, staffing or business operations.

A. Withdrawal of SCOPS' Decision

Upon de novo review, we agree that SCOPS made factual and legal errors in its adjudication of the petition. We will therefore withdraw the revocation decision for the reasons discussed below.

With respect to SCOPS' determination that the Beneficiary was continuously outside the United States between November 16, 2023 and July 13, 2024, we note that both the evidence submitted on appeal and Department of Homeland Security records show that she took only two brief trips outside the country during that period.[4] Further, even if the information had been correct, SCOPS erred by not notifying the Petitioner that it intended to revoke the approval, in part, based on information regarding the Beneficiary's alleged absence from the United States. If an intended revocation is based in whole or in part on derogatory information that is discovered outside the record of proceedings, USCIS is obligated to provide notice of such information, and to make that derogatory information part of the record along with any rebuttal provided by the Petitioner. *See* 8 C.F.R. § 103.2(b)(16)(i). A determination of statutory eligibility shall be based only on information contained in the record of proceeding which is disclosed to the petitioner. *See* 8 C.F.R. § 103.2(b)(16)(ii).

We further agree that SCOPS erred by not addressing documentary evidence relating to the Petitioner's physical premises, its business activities, and the Beneficiary's claimed employment in a managerial or executive capacity. When USCIS receives a petitioner's rebuttal to a NOIR, it "shall consider all relevant evidence presented in deciding whether to revoke the petition." 8 C.F.R. § 214.2(l)(9)(iii)(B).

---

[3] SCOPS noted in the NOIR and revocation decision that there was a second, [redacted] address associated with the company and that the Petitioner did not provide a lease for that address or file an amended petition with USCIS to change its address. On appeal, the Petitioner describes the [redacted] address as a "fiscal address" that belongs to its accountant, and not as its own physical address. The record shows that the Petitioner has used the [redacted] address as a mailing address for certain business purposes since the company was first registered in Florida in 2021.

[4] The Beneficiary was outside the United States from November 16, 2023, until November 27, 2023, and from June 21, 2024 until July 13, 2024.

In addition, an officer's written decision must clearly identify the specific reasons for denial so that the affected party has a fair opportunity to contest the decision and the AAO has an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the decision must explain the specific reasons for denial and notify the affected party of appeal rights); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). Here, SCOPS did not meaningfully address the documentary evidence in the record or explain why it was insufficient to overcome the issues raised in the NOIR.

Finally, we acknowledge the Petitioner's assertions that SCOPS appeared to impose novel requirements on the L-1 classification that are not supported by the statute or regulations. For example, SCOPS suggested that the Petitioner was required to indicate on the Form I-129 whether its office address is shared with any other entity and to file an amended petition with USCIS for any change in its mailing address. We agree with the Petitioner that such findings are not supported by the instructions for Form I-129 or by the regulations governing L-1 petition amendments at 8 C.F.R. § 214.2(l)(7)(i)(C).[5]

Therefore, for all the reasons discussed, SCOPS' decision is withdrawn.

B. Basis for Remand

Although SCOPS' decision is withdrawn, the record as presently constituted does not establish the Petitioner's eligibility for the benefit sought. Accordingly, we will remand the matter to SCOPS to evaluate whether the Petitioner has been doing business as defined by the regulations and whether it would employ the Beneficiary in a managerial or executive capacity under the extended petition.

In determining whether a given beneficiary's duties are primarily managerial or executive as defined at section 101(a)(44) of the Act, 8 U.S.C. § 1101(a)(44), USCIS will 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. Here, SCOPS' determination, which relied in part on factually incorrect information regarding the Beneficiary's absence from the United States, did not reflect consideration of these relevant factors.

Nevertheless, there are deficiencies in the record that SCOPS has not yet addressed. To establish that a beneficiary will be employed in a managerial or executive capacity, a petitioner must show that they would perform all four of the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A) or (B) of the Act. If the petitioner establishes that the offered position meets all four elements in the statutory definition, it must then demonstrate, by a preponderance of the evidence, that the beneficiary will be *primarily* engaged in managerial or executive duties, as opposed to operational

[5] The regulation at 8 C.F.R. § 214.2(l)(7)(i)(C) provides that a petitioner must file an amended petition to reflect changes in approved relationships, additional qualifying organizations under a blanket petition, a change in capacity of employment (i.e., from a specialized knowledge position to a managerial position), or any information which would affect the beneficiary's eligibility under section 101(a)(15)(L) of the Act.

activities alongside the company's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

The Petitioner stated on the Form I-129 that it had four full-time employees, in addition to the Beneficiary, as of January 2024. It identified its employees as an operations manager (W-B-), travel support staff (J-M-) and an administrative assistant (A-O-), and provided a "Wage and Tax Register" for the last two quarters of 2023 showing payments made to these individuals. The Petitioner did identify or document the existence of the claimed fourth employee.

In its April 2024 response to SCOPS' request for evidence, the Petitioner claimed to employ the same three individuals on a full-time basis, stated that the company intended to hire an administrative manager and sales executive, and indicated that it relies on the full-time outsourced services of an attorney and an accountant. However, the Petitioner did not sufficiently document its contractual relationship with the attorney and accountant, explain the nature and scope of the services they provide to the company, or provided evidence to support the Petitioner' claim that they are significantly involved in its day-to-day operations. According to the Petitioner's profit and loss statement, submitted in response to the NOIR, it spent only $2,100 on legal and accounting services combined in the first 11 months of 2024. This figure suggests that the attorney and accountant, more likely than not, provided only limited services to the company. This evidence also tends to undermine the probative value of several statements in the record that were made by the accountant on the Petitioner's behalf based on his claimed personal knowledge of the company's operational activities.

Finally, in response to the NOIR, the Petitioner provided copies of its payroll summaries for 2023 and 2024. This evidence indicates that J-M-, who the Petitioner claimed as a full-time employee as of January 2024, was employed on a part-time basis between August 2023 and December 2023 and received no wages in 2024. It also appears that the Petitioner's administrative employee (A-O-) left the company during November 2024, as the record shows her last semi-monthly paycheck was issued on November 15, 2024. The payroll summary shows that the only employee who was paid on November 29, 2024, was the Petitioner's operations manager.

Overall, the Petitioner has documented that it had two employees on its payroll at the time of filing, and only one employee at the time it responded to the NOIR response. The Petitioner's assertion that it had four full-time employees supporting the Beneficiary when it filed the petition is not substantiated by the record. In addition, the company's documented staffing levels raise questions as to whether the Beneficiary would be relieved from significant involvement in the day-to-day operations of the company, as claimed. Because USCIS considers the reasonable needs of the organization, a company's size alone may not be the only factor in determining whether a beneficiary would be employed in a managerial or executive capacity. *See* section 101(a)(44)(C) of the Act. However, it is appropriate to consider the size of the petitioning company in conjunction with other relevant factors, such as the absence of employees who would perform the non-managerial or non-executive operations of the company. *Family Inc. v. USCIS*, 469 F.3d at 1316.

On remand, SCOPS should review all relevant evidence pertaining to the Beneficiary's proposed U.S. employment, including the Petitioner's brief and evidence on appeal, and may request additional evidence pertaining to this eligibility requirement in a new NOIR.

SCOPS should also re-evaluate whether the Petitioner has been doing business as defined in the regulations and whether it maintains a physical premises suitable for its business activities.[6] SCOPS expressed valid concerns regarding the Petitioner's apparent limited use of the office location identified on the Form I-129, and its failure to timely pay rent for portions of 2024. However, as discussed above, SCOPS' decision did not reflect that it considered the Petitioner's explanations regarding its use of the premises, declarations from its landlord and business partner, evidence of rental payments, evidence of the company's sales transactions and business statements, financial statements showing its sales income for 2023 and 2024, payroll evidence, and other evidence regarding the nature and scope of the business. Therefore, SCOPS should review all evidence in the record pertaining to the Petitioner's business activities, including additional evidence submitted on appeal, and may request additional evidence by issuing a new NOIR.

Any new NOIR issued on remand should provide the Petitioner with a detailed statement explaining why the evidence submitted to date is insufficient to demonstrate eligibility and allow the Petitioner an opportunity to submit a rebuttal and additional evidence. Further, if SCOPS intends to revoke the approval of the petition based on any derogatory information from outside the record (including information obtained from the June 2024 site visit), such information must be included in a new NOIR and made part of the record along with any rebuttal provided by the Petitioner. *See* 8 C.F.R. § 103.2(b)(16)(i).

Finally, we note that SCOPS stated in its revocation decision that the USCIS officers who conducted the site visit "found that the beneficiary misrepresented material facts on her I-129 regarding the operation of the petitioner and its employees." The decision did not further address this issue or include a formal finding of willful misrepresentation.[7] If upon further review SCOPS intends to revoke the approval of the petition based on a finding of willful misrepresentation of a material fact, SCOPS must fully articulate its intent in a new NOIR and provide the Petitioner with an opportunity to respond prior to issuing a new decision.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

---

[6] The "physical premises" requirement applying to new offices serves as a safeguard to ensure that a newly established business immediately commences doing business so that it will support a managerial or executive position within one year. 52 Fed. Reg. 5738, 5740 (February 26, 1987). However, a petitioner is not absolved of the requirement to maintain "sufficient physical premises" simply because it has been in existence for more than one year. To be considered a qualifying organization, a petitioner must be doing business in a regular, systematic, and continuous manner. 8 C.F.R. §§ 214.2(l)(1)(ii)(G) and (H). Inherent to that requirement, a petitioner must possess sufficient physical premises to conduct business.

[7] A willful misrepresentation requires that the individual knowingly make a material misstatement to a government official for the purpose of obtaining an immigration benefit to which one is not entitled. *Sergueeva v. Holder*, 324 Fed. Appx. 76 (2nd Cir. 2009) (citing *Matter of Kai Hing Hui*, 15 I&N Dec. 288, 289-90 (B.I.A. 1975). Material misrepresentation requires only a false statement that is material and willfully made. *See* 9 FAM 40.63 N2; *see also Matter of Tijam*, 22 I&N Dec. 408, 424 (BIA 1998) (en banc) (Rosenberg, concurring).