U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39821579

Date: OCT. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner intends to operate a business selling products and services in the solar energy industry. It seeks to employ the Beneficiary temporarily as the "Managing Member" of its new office[1] 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. 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 Beneficiary was employed abroad in a managerial or executive capacity and that he would be employed in the United States a managerial or executive capacity within one year of the petition's approval. 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 it would employ the Beneficiary employed in a managerial or executive capacity within one year of the petition's approval. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate regarding the Beneficiary's employment abroad. *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).

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

[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.

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).

Further, in a new office petition, 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. ANALYSIS

The primary issue to be addressed is whether the Petitioner provided sufficient evidence to establish that its operation would be able to support the Beneficiary in a managerial capacity within one year of the petition's approval.[2]

"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.

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 managerial or executive capacity. The 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 managerial or executive in nature within one year of the petition's approval. Accordingly, we consider the totality of the evidence in determining whether the proposed 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).

In support of the petition, the Petitioner provided a business plan outlining a strategy for entering the U.S. renewable energy market with the aim of becoming "the foremost provider of sustainable energy solutions" by offering "a comprehensive range of services" that will include consulting, procurement, engineering, project development, finance, and construction of solar projects. The plan states that in the Petitioner's "early-stage" of development it would seek to secure small to medium-size solar projects using "targeted marketing and outreach campaigns" to establish a U.S. market presence and build brand recognition. Although the plan's breakdown of projected expenses allocates funds to the Petitioner's marketing efforts, it does not state precisely how the Petitioner would execute these efforts. For instance, in the section titled "Marketing Strategies and Sales Plan," the business plan states the following, in part: "We customize the brand message"; "We develop a user-friendly and

[2] The Petitioner does not claim that the Beneficiary's position in the United States would be in an executive capacity.

informative website"; "We utilized social media platforms to create awareness"; "We implement a robust search engine optimization [] strategy"; "We will create content that addresses U.S.-specific solar trends, policies, and customer concerns"; and "We will develop case studies showing successful projects in the U.S. market." In other words, the business plan indicates that marketing of the Petitioner's products and services will be done in-house. Yet none of the projected employees' job duties reference marketing as part of their assigned tasks. As such, we are left to question the level of the Beneficiary's involvement in carrying out the Petitioner's marketing initiatives beyond its first year of operation.

The plan also does not state how the Petitioner plans to sell the products and services in its portfolio of offerings which will serve as the source of business revenue. Although the Petitioner provided staffing projections with a timeline for anticipated hires, it is unclear whether these projections are sufficient to ensure that the Petitioner will be adequately staffed by the end of its first year of operation to support the Beneficiary in a managerial position where his duties will be primarily managerial rather than operational in nature. *See* 8 C.F.R. § 214.2(l)(3)(v)(C); *see also* section 101(a)(44)(A) of the Act.

First, the business plan does not list any sales positions in its five-year hiring timeline, nor does it appear that funds have been allocated for hiring outside sales representatives. Also, we note that sales tasks were not assigned to any of the positions the Petitioner's seeks to fill during its first years of operation. In fact, in describing the Beneficiary's responsibilities in the category of "Growth and Leadership in the U.S. Market," the business plan states that the Beneficiary will be responsible for "expanding the client base and increasing market share," which indicates that the Beneficiary would be tasked with selling the Petitioner's products and services. The business plan includes no further provisions for the sales function beyond indicating that the Beneficiary will likely perform this function beyond the new office phase of operations.

The business plan also includes no staffing provisions for basic office tasks and administrative matters, such as answering phones, bookkeeping, or paying and issuing invoices. This personnel deficiency leaves us to question who will perform the daily office tasks and whether the burden will fall to the Beneficiary, who, as the Petitioner's highest-ranking manager, will be responsible for ensuring the Petitioner's ongoing operations.

On appeal, the Petitioner contends that all necessary documents have been submitted to support its claim. We disagree. The Petitioner points out that the regulations do not have a requirement for a minimum number of employees. While that is correct, the regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) only allows the intended U.S. operation one year within the date of approval of the petition to support an executive or managerial position. The burden is on the Petitioner to establish that the business will have the necessary staffing after one year to sufficiently relieve the Beneficiary from performing operational and administrative tasks. *See Matter of Chawathe*, 25 I&N Dec. at 375-76. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. *See, e.g.*, sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); *Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 604 (Comm'r 1988).

Here, the record contains a hiring plan which leads us to question how the Petitioner will meet its daily operational needs and how much time the Beneficiary will allocate to those efforts beyond the

Petitioner's first year given the staffing projections provided in the business plan. In essence, the record is unclear as to whether the organization's staffing plan will realistically allow the Beneficiary to allocate his time primarily to tasks of a managerial nature.

Next we will address the issue concerning the size of the U.S. investment. The business plan offers a list of the Petitioner's intended business expenses and revenue projections over a five-year period. The plan lists five phases of activities – the first three are slated for the Petitioner's first year of operation – and states that the Petitioner has $65,000 allocated to pay the cost of "critical startup activities." The record also includes bank records for multiple accounts belonging to the Petitioner's foreign parent entity; no evidence, however, was offered to show that the allocated funds, or any portion thereof, had in fact been transferred to an account bearing the Petitioner's name. And while the record contains a signed lease that was scheduled to commence several months prior to this petition's filing date, no evidence was submitted to show that any lease payments had been made or if so, what was the source of such payments.

In response to a request for evidence (RFE), the Petitioner referred to "significant challenges to opening U.S. corporate bank accounts due to strict regulatory compliance requirements" and stated that it would open a U.S. bank account upon the Beneficiary's entry into the United States following the approval of an L-1A visa. We note, however, that 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). Here, although the Petitioner provided the foreign entity's bank records showing funds in several accounts, there is no evidence that the foreign entity specifically earmarked $65,000 within its accounts as the designated U.S. investment that would be used to fund the Petitioner's start-up costs as opposed to simply being used to fund the foreign entity's ongoing operation in Nigeria. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Lastly, the business plan states that Beneficiary's operational setup duties, which are listed in the business plan under the heading "Initial Responsibilities," would include "secur[ing] the necessary licenses and permits, ensuring that [the Petitioner] operates within the regulatory framework of the U.S." Although the business plan refers to the Beneficiary's "experience in navigating regulatory environments in Nigeria," it is unclear that his credentials and experience carry over to the United States and there is no evidence that the Beneficiary is equipped with the requisite knowledge of applicable regulations and licensing requirements of the U.S. renewable energy market. As such, the Petitioner has not established that the Beneficiary would realistically be able to execute the operational setup duties required to start selling renewable energy products and services in the United States.

In sum, the record lacks sufficient evidence to show that: 1) the Petitioner was adequately funded to cover the cost of its "critical startup activities"; 2) the Petitioner's projected hiring plan would result in adequate staffing to support the Beneficiary in a managerial position within one year of this petition's approval; and 3) the Beneficiary had sufficient knowledge to obtain the necessary licensing and meet the applicable regulatory requirements to commence doing business in the United States as a provider or renewable energy products and services.

III. CONCLUSION

The new office regulations are premised on the understanding that a new company will, within one year of a new office petition's approval, progress to a stage of development where it will be able to support a beneficiary in a managerial or executive capacity. For the reasons discussed above, we conclude that the Petitioner has not established that the Beneficiary will be employed in a managerial capacity within one year of the petition's approval.

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.