U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39839493

Date: OCT. 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a wholesaler of beverage dispensing equipment and supplies, seeks to temporarily employ the Beneficiary as its president under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The Petitioner asserts that it qualifies as a new office. 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.

SCOPS denied the petition, concluding that the record did not establish that: (1) the Beneficiary has been employed abroad in a managerial or executive capacity; and (2) the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity within one year after approval of the petition. The matter is now before us on appeal under 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 in a petition involving a new office, 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 seek to enter the United States temporarily to continue rendering services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id*. The petitioner must also establish that the beneficiary's prior education, training, and employment qualify the beneficiary to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3). The petitioner must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. *See generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. ANALYSIS

Throughout this proceeding, the Petitioner has asserted that the Beneficiary's position abroad and prospective position in the United States qualify as both managerial and executive. SCOPS discussed the regulatory definitions of both managerial and executive capacity, and determined that the Petitioner did not establish that either of the Beneficiary's positions qualifies as either managerial or executive. SCOPS further noted that a petitioner's staffing levels were relevant to consider for either type of capacity.

A petitioning U.S. employer must submit evidence to show that the beneficiary's employment abroad was in a qualifying capacity. 8 C.F.R. § 214.2(l)(3)(iv) and (v)(B).

"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.

"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.

To show that a beneficiary is eligible for L-1A nonimmigrant visa classification as a manager, a petitioner must show that the beneficiary has performed and will perform all four of the high-level responsibilities set forth in the above statutory definitions. If a petitioner establishes that the offered position meets all four elements set forth in either statutory definition, the petitioner must then prove that the beneficiary has been and will be *primarily* engaged in qualifying 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 the beneficiary's duties have been and will be primarily managerial or executive, we consider the description of the 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 the beneficiary's actual duties and role in the business.

If staffing levels are used as a factor in determining whether an individual is acting in a managerial capacity, we must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act.

Accordingly, we will discuss evidence regarding the Beneficiary's job duties along with evidence of the nature of the U.S. and foreign employer's businesses and their staffing levels.

The Beneficiary is the president of [redacted], the Petitioner's affiliate in India that exports beverage dispensing equipment and supplies and other goods.[1] The Beneficiary also owns a controlling interest in both the petitioning U.S. entity and its foreign affiliate. Throughout this proceeding, the Petitioner has described Beneficiary's position in India and his intended U.S. position as both managerial and executive in nature. The Petitioner does not clearly distinguish between the two capacities, which have separate statutory and regulatory definitions. The introductory brief submitted with the petition indicated that the Beneficiary "holds . . . a key executive managerial role" with "executive managerial responsibilities."

SCOPS determined that the Petitioner had not met its burden of proof to show that the Beneficiary's past and intended future positions meet the requirements of either a managerial or an executive capacity. On appeal, after acknowledging SCOPS' conclusion that the Petitioner had not shown the Beneficiary was employed abroad in a managerial capacity, the Petitioner states: "Please note that we have identified the position as an executive position." But later in the same paragraph, the Petitioner states that "the Beneficiary is managing an essential function," and the Petitioner cites *Matter of G-Inc.*, Adopted Decision 2017-05 (AAO Nov. 8, 2017), which pertains only to managerial positions, rather than executive positions.[2]

The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* sections 101(a)(44)(A)(i) and (ii) of the Act. Personnel managers are required to primarily supervise and control the work of other supervisory, professional, or managerial employees. The term "function manager" applies generally when a beneficiary's managerial capacity derives not from supervising or controlling a subordinate staff, but instead from primarily managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act. But in this case, the Petitioner has repeatedly claimed that the Beneficiary had authority over managers and other personnel at QSNAP.

We will begin with the Beneficiary's job description, because that was the focus of SCOPS' decision.

The Petitioner filed the petition in November 2024. The Petitioner indicated that the Beneficiary spent 60% of his time overseeing [redacted] Operations Department, and 40% overseeing the Administrative Department. The initial job description consisted mainly of vague, general responsibilities, including the following examples:

- Provide visionary leadership, establishing strategic plans and goals for the organization while overseeing its day-to-day activities.
- Oversee the work of the General Manager. . . .
- Oversee the work of the Administrative Head. . . .
- Continuously align the company's mission and vision with its daily operations. . . .

[1] The Petitioner asserted that [redacted] also manufactures the equipment, but the record indicates that manufacturing is contracted to "Outside Manufacturing Companies." [redacted] has no manufacturing infrastructure or personnel.

[2] In response to a request for evidence, immediately after asserting that the Beneficiary served as a function manager at [redacted] the Petitioner asserted: "There is no doubt that [the Beneficiary's duties] and responsibilities with the foreign Company are executive and fall under the definition of [executive capacity at] 8 CFR § 214.2(l)(1)(ii)(C)."

- Formulate key strategic decisions for the company's overall direction. . . .
- Formulate budgets [and] monitor expenditures. . . .

SCOPS issued a request for evidence (RFE) in February 2025, stating: "The description of the beneficiary's duties abroad is vague." SCOPS asked for more details to show how the Beneficiary's position abroad met the regulatory requirements of a managerial or executive capacity.

The Petitioner's response included essentially the same job description, annotated to show the estimated time that the Beneficiary devoted to each responsibility per week.

SCOPS denied the petition, concluding: "The evidence suggests that the beneficiary has been directly involved in the daily operations of the foreign entity, has been working along with lower-level employees, and therefore has not been primarily performing in a managerial capacity." SCOPS also noted that the "submitted evidence was insufficient to show that the position abroad was executive."

On appeal, the Petitioner maintains that the duties described show "that the Beneficiary manages and directs ten (10) subordinate employees in an executive capacity and oversees the operations function of the foreign company," with lower-level employees handling "the day-to-day tasks."

We agree with the Petitioner's assertion that the job duties, as described, would generally deal with higher-level functions rather than day-to-day operational tasks. But the job description emphasizes the level of responsibility rather than the specific tasks that the Beneficiary would perform to fulfill those responsibilities. Control over a business does not necessarily establish that a given position qualifies as a primarily managerial or executive capacity based on the regulatory definition, if that business lacks the organizational complexity to support such a capacity. The Beneficiary's broadly worded vague job description, in isolation, may reflect general executive functions, but the record does not establish that the job description accurately reflects the Beneficiary's actual duties with [redacted].

Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). The actual duties themselves reveal the true nature of the employment. *Id.* at 1108.

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. QSNAP's organizational chart at the time of filing shows the following hierarchy under the Beneficiary's authority:

- President (the Beneficiary)
  - General Manager
    - Purchase Manager
    - Sales and E-marketing Manager
      - Assistant Sales and E-marketing Manager
      - Data Analytics Specialist
  - Administrative Head
    - Administrative Assistant

This organizational chart indicates that [redacted] consists almost entirely of managers and other high-level employees; of the seven specified subordinates, five have titles with the word "manager" or "head." The record, however, does not adequately support this characterization of the foreign entity. As we will explain below, we agree with SCOPS' conclusion that "the beneficiary has been supervising lower-level employees." As with the Beneficiary, the executive or managerial nature of the subordinate positions derives from the duties rather than the job titles.

The general manager's job description includes "[c]onduct[ing] market research," which appears to be an operational task. The job description also indicates that the general manager "[l]ead[s] and manage[s] a team of traders, salespeople, marketers, and other staff." But the organizational chart does not show any "traders." The chart shows two individuals associated with sales and marketing, both with managerial titles. The Petitioner did not initially submit full job descriptions for these positions, but the capsule descriptions in the organizational chart read as follows:

Sales and E-marketing Manager
- Sales strategy development
- E-marketing campaigns
- Lead generation
- Customer Relationship Management
- Sales reporting

Assistant Sales and E-marketing Manager
- Assist in sales strategy development
- E-marketing campaign execution
- Lead generation support
- Assist in sales reporting
- Customer co-ordination
- Other Administrative tasks

The descriptions do not specify the duties performed with regard to sales and marketing. In the absence of any subordinate staff under the positions with managerial titles, it appears that the sales and e-marketing manager and assistant manager are, themselves, performing rather than overseeing the sales and marketing functions. If these individuals are [redacted] first-line sales staff, then they are not managing any sales staff or the company's sales function, and authority over those positions is not at the executive level.

The Petitioner's response to the RFE includes an updated organizational chart, showing additional positions that were not on the original chart submitted at the time of filing. We need not consider this revised chart at length, because the Petitioner must meet all eligibility requirements at the time of filing. *See* 8 C.F.R. § 103.2(b)(1). The later addition of any managerial positions does not reflect [redacted] structure at the time of filing. But we will briefly note that the revised chart added a marketing manager and an assistant marketing manager, but no further sales or marketing staff with

non-managerial titles.[3] The capsule descriptions shown above are unchanged. On the revised chart, the duties of the administrative assistant are identical to those of the sales and e-marketing manager.

Also in response to the RFE, the Petitioner submitted a job description indicating that the sales and e-marketing manager:

> is responsible for developing and executing comprehensive sales and digital marketing strategies . . . includ[ing] designing and implementing e-marketing campaigns . . . . He is also handling our company website. He is mainly responsible for generating and nurturing leads from our online database software . . . [and] managing customer relationships through CRM systems, analyzing performance metrics, collaborating with data analytics, creating engaging content, managing budgets, and staying updated on industry trends.

Another job description indicates that the assistant sales and e-marketing manager assists with the above tasks, and "communicate[s] via emails with all potential clients and generate[s] leads to forward to" the sales and e-commerce manager, who "can start dealing with the client." These descriptions indicate that both individuals are directly engaged in sales activity, rather than overseeing any "sales team" that the record mentions but never documents. Consistent with this conclusion, minutes from a February 2025 meeting indicate that the general manager, sales and e-marketing manager, marketing manager, and assistant marketing manager all "receiv[ed] export orders from different clients."

The Petitioner submitted the minutes of an April 2024 [redacted] meeting, which indicated that the Beneficiary performed performance appraisals for all employees. This responsibility appears to be more supervisory than executive. The Beneficiary also signed the monthly pay receipts for subordinates at all levels, likewise suggesting a degree of direct involvement rather than more general, delegated oversight through layers of management.

The Petitioner stated that the Beneficiary's executive authority is evident from his execution of contracts. The documents submitted to support this assertion are sales orders that the Beneficiary signed as a buyer on [redacted] behalf. But a "purchase manager" two levels below the Beneficiary on the revised organizational chart is said to be responsible for "negotiating contracts" and "[m]anag[ing] purchase activities."

On appeal, the Petitioner submits expert opinion letters attributed to two college professors. A professor at the [redacted] asserts that the Beneficiary's position is executive; a professor at [redacted] considers the position to be both executive and managerial. The letters rely on the descriptions of the Beneficiary's duties that the Petitioner submitted with the petition. In the absence of credible, independent evidence, the letters do not resolve the issues that arise when comparing those duties to other materials in the record. Furthermore, the letters cite [redacted] revised structure from the RFE response, rather than the structure that existed on the petition's filing date. As noted above, the revised chart and structure would not demonstrate the organizational structure at the time of filing for eligibility purposes. Also, the letters do not introduce new information that is material to the outcome of the appeal.

[3] The job description for the newly hired marketing manager indicates that the individual reports directly to the Beneficiary, whereas the revised organizational chart shows the marketing manager reporting to the general manager.

When examining the managerial or executive capacity of a beneficiary, U.S. Citizenship and Immigration Services reviews the totality of the record, including descriptions of a beneficiary's duties and his or her subordinate employees, the nature of the employer's business, the employment and remuneration of employees, and any other facts contributing to a complete understanding of a beneficiary's actual role in a business. The evidence must substantiate that the duties of the beneficiary and his or her subordinates correspond to their placement in an organization's structural hierarchy. An organization must establish that it is sufficiently complex to support an executive or manager position. An individual whose primary duties are those of a first-line supervisor will not be considered to be acting in a managerial capacity merely by virtue of his or her supervisory duties unless the employees supervised are professional. *See* Section 101(a)(44)(A)(iv) of the Act.

In the present matter, the totality of the record does not support a conclusion that the beneficiary's immediate subordinates at [redacted] are supervisors, managers, or professionals. Instead, the record indicates that the Beneficiary's immediate subordinates perform the business's actual day-to-day sales, marketing, and administrative tasks. Some of the submitted job descriptions indicate that the positions require a baccalaureate degree, consistent with the definition of "profession" at 8 C.F.R. § 204.5(k)(2), but the record does not adequately substantiate this claim.

Discrepancies in the record also raise broader questions of credibility regarding other aspects of the petition. For instance, an organizational chart and job descriptions in the record indicate that the petitioning U.S. entity employs a main technician and assistant technician who "[i]nstall machinery & air conditioning units," although the record does not otherwise indicate that the Petitioner is in the air conditioning maintenance business. Invoices and a warehouse inventory list in the record do not mention air conditioner parts, installation, repair, or maintenance. The Petitioner's business plan includes detailed discussions of the Petitioner's current and intended future activities and revenue sources, with no mention of air conditioning maintenance except in a reproduced image of the aforementioned organizational chart. Such unresolved inconsistencies can raise broader questions regarding the credibility and reliability of the evidence submitted in support of the petition. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). As a result, we conclude that the Petitioner cannot meet its burden of proof with unsubstantiated assertions that some of the Beneficiary's subordinates qualify as professionals.

The Petitioner has not provided credible, consistent evidence of an organizational structure sufficient to elevate the beneficiary to a supervisory position that is higher than a first-line supervisor of non-professional employees. The Petitioner has not satisfactorily shown that the Beneficiary's position with [redacted] qualifies as primarily managerial or executive under the pertinent statutory definitions.

The above conclusion determines the outcome of the appeal. Therefore, we need not reach, and therefore reserve, the remaining issue concerning the Beneficiary's employment at the Petitioner's new office. *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).[4]

[4] At the same time, we note that any further filings by the Petitioner relating to this matter must establish that the petitioning U.S. entity qualified as a new office at the time of filing. A new office is an organization which has been doing business

III. CONCLUSION

The Petitioner has not met its burden of proof to establish, by a preponderance of the evidence, that QSNAP employed the Beneficiary in a primarily managerial or executive capacity. Therefore, we will dismiss the appeal.

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.

in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). "Doing business" means the regular, systematic, and continuous provision of goods, services, or both. The Petitioner asserts that it acquired "a pre-existing beverage distribution business . . . in May 2023," with "an initial customer base of approximately 250 convenience stores" in Texas. The petitioning organization in the United States filed the petition a year and a half later, in early November 2024. The Petitioner's claimed status as a new office therefore warrants a closer review.