U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39302480

Date: SEP. 15, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a supplier of nutritional supplements to the food and beverage industry, seeks to temporarily employ the Beneficiary as its sales director under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and National 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, concluding that the record did not establish that the Petitioner will employ the Beneficiary in a managerial or executive capacity in the United States. 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 seek to enter the United States temporarily to continue rendering their 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 them to perform the intended services in the United States. 8 C.F.R. § 214.2(1)(3).

"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.

II. ANALYSIS

As noted, SCOPS concluded that the Petitioner did not meet its burden to establish that it would employ the Beneficiary in a managerial capacity in the United States. On appeal, the Petitioner asserts that the Director overlooked relevant evidence of eligibility, failed to provide a sufficient explanation of the reasons for denial of the petition, reached erroneous conclusions of fact and law, and did not apply the preponderance of the evidence standard.

For the reasons discussed below, we will withdraw SCOPS' decision and remand the matter for further consideration and entry of a new decision.

To establish that the Beneficiary will be employed in a managerial capacity, the Petitioner must show that he will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A)(i)-(iv) of the Act. If the Petitioner establishes that his proposed position meets all elements set forth in the statutory definition, it must also show that the position will require him to primarily perform managerial duties, as opposed to performing ordinary operational activities alongside other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

In determining whether a given beneficiary's duties are primarily executive, U.S. Citizenship and Immigration Services (USCIS) will consider the petitioner's description of the proposed job duties, the nature and scope of the business, the company's organizational structure and staffing levels, the scope of the beneficiary's authority, the duties of a beneficiary's subordinate employees, the presence of other staff within the organization who relieve the beneficiary from performing operational duties and administrative duties, and any other factors that will contribute to understanding a beneficiary's actual duties and role in a business.

Here, SCOPS' decision does not reflect consideration of all these relevant factors. Rather, SCOPS concluded that the Beneficiary would not be employed in a managerial capacity because the submitted organizational chart shows the Beneficiary would initially have only two subordinates. Based on this observation, SCOPS concluded that "it appears the beneficiary will be primarily involved in the performance of routine operational activities of the entity rather than in the management of a function of your business." The decision also fails to address most of the evidence the Petitioner submitted in response to a request for evidence (RFE). With respect to the Beneficiary's subordinates, SCOPS noted that the Petitioner did not provide evidence to demonstrate their employment with the organization, the duties they perform, or their qualification as professionals, despite the Petitioner's submission of educational documents, job descriptions, and evidence of wages paid to U.S. staff.

Although the record may not ultimately support a conclusion that the Beneficiary is eligible for L-1A classification, such determination cannot be based solely on the Petitioner's U.S. staffing levels, particularly given the Petitioner's consistent claim that other staff within the multinational

organization would support the U.S. position. Further, if staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, USCIS must consider 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.

The record includes a multi-page job description for the Beneficiary's proposed position of sales director, organizational charts and staff lists for both the Petitioner and its foreign parent company, evidence of wages paid to employees, job descriptions for the Beneficiary's claimed subordinates in the United States and China, evidence documenting the nature and scope of the organization's activities, and internal documents intended to corroborate the nature of the duties the Beneficiary performs with the foreign entity. The Director did not discuss the probative value of most of this evidence, even though much of it was specifically requested in the RFE.

Therefore, we agree with the Petitioner that SCOPS did not sufficiently address its claims and evidence in evaluating whether the Beneficiary would be employed in a managerial capacity. An officer's written decision must fully explain the specific reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i). Absent a specific explanation for denial and adequate notice of why the submitted evidence was insufficient to establish eligibility, a petitioner does not have a fair opportunity to contest a denial through the motion or appellate process. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, SCOPS' decision did not include a discussion of the evidence of record and therefore did not explain why that evidence was insufficient to meet the Petitioner's burden to demonstrate that the Beneficiary would be employed in the United States in a managerial capacity.

Accordingly, we will withdraw SCOPS' decision and remand the matter for further consideration and entry of a new decision. On remand, SCOPS is instructed to evaluate all previously submitted evidence relating to the Beneficiary's proposed U.S. employment, as well as the Petitioner's claims on appeal.

In a letter submitted at the time of filing, the Petitioner stated the Beneficiary, in his proposed role as sales director, will be responsible to "expand the sales team and direct [the Petitioner's] Divisions of Internal Sales, Business Development and Sales." The Petitioner stated that his position and job duties would be "identical" to those he performs for the foreign parent company.[1] However, the initial descriptions of the two positions did not support that claim. The Petitioner initially stated the Beneficiary's U.S. responsibilities would include: determining annual unit and gross-profit plans; establishing sales objectives for existing and new products; maintaining sales volume; maintaining "national staff job results" by counseling and disciplining employees; and planning, monitoring and appraising "job results." However, it indicated that the Beneficiary's current duties with its parent company include sales and marketing management (25%), operations and cost management (25%); compliance management (20%), representation and stakeholder relationships (15%) and people

[1] The Petitioner stated that the Beneficiary's position with its parent company is "Overseas Sales and Marketing VP" while a letter from the foreign company states that the Beneficiary is employed as the Deputy General Manager of the company. The parent company's organizational chart identifies him as both the head of "Sales Department 1" and as the Deputy General Manager.

management (15%). While there is some overlap in the sales management area, the jobs did not appear to be identical, as claimed.

Although the Petitioner responded to SCOPS' request for a more detailed job description of the Beneficiary's proposed responsibilities in response to the RFE, the response did not elaborate on the list of five duties provided at the time of filing. Rather, the Petitioner provided an expanded job description that is essentially identical to that provided for the Beneficiary's overseas position, a role that does not appear to extend to directing sales and business development departments in the United States. Further, the foreign parent company's organizational chart depicts the Beneficiary as both the head of one of three sales departments and as deputy general manager of the company as a whole. It is reasonable to question whether all the duties he performs in both capacities would carry over to his role as a sales director in the United States. Based on the foregoing, the record contains inconsistent descriptions of the Beneficiary's U.S. role and does not clearly indicate the scope of his authority. The Petitioner's claim that the U.S. position will be identical is not adequately explained, given its claim that the stated purpose of the intracompany transfer relates to expansion of U.S. sales activities.

A related issue is the Petitioner's consistent claim that the Beneficiary will continue to supervise the same China-based marketing and sales staff upon assuming his role as sales director in the United States. If a petitioner claims that foreign staff will support a managerial or executive position in the United States, it must submit sufficient evidence and explanation to support that claim. *See generally* 2 USCIS Policy Manual L.8(C), https://www.uscis.gov/policy-manual. The Petitioner provided evidence relating to the foreign staff, including their position descriptions, payroll records, and educational qualifications. However, it has not sufficiently explained the tasks they will perform in support of the Beneficiary's U.S. responsibilities, nor did it claim that any of the foreign sales staff (which include regional managers for the European Union, Southeast Asia, and Asia-Pacific regions) have responsibilities that extend to the U.S. market. In addition, while not dispositive of its claim, the Petitioner has not included the foreign staff as the Beneficiary's direct or indirect reports on its organizational chart. Additional evidence and explanation would therefore be needed to demonstrate that such staff should be included among the Beneficiary's proposed subordinates, as claimed, and/or whether they would otherwise relieve the Beneficiary from engaging in the operational and administrative tasks associated with his objective of expanding the U.S. sales organization.

As SCOPS has not yet addressed the issues discussed above, it should allow the Petitioner an opportunity to submit additional evidence prior to issuing a new decision.

III. CONCLUSION

For the reasons discussed above, SCOPS' decision is withdrawn and the matter is remanded for further review and entry of a new decision. If SCOPS ultimately denies the petition, the new decision must explain the specific reasons for denial in accordance with 8 C.F.R. § 103.3(a)(1).

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