



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 22660957

Date: OCT. 21, 2022

Appeal of Texas Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, a [redacted] firm, seeks to continue<sup>1</sup> its employment of the Beneficiary temporarily as its “Senior Solution Analyst” 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).

The Director of the Texas Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. The matter is before us on appeal.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Petitioner did not establish that the Beneficiary’s position abroad was in a managerial capacity.<sup>2</sup> 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 Beneficiary’s proposed employment 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).

## I. LEGAL FRAMEWORK

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

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<sup>1</sup> Although the Petitioner had not previously filed a Form I-129, Petition for a Nonimmigrant Worker, on the Beneficiary’s behalf, it states that the Beneficiary “joined” its organization in February 2021 and assumed the position of “Senior Solution Analyst” while he was in the F-1 nonimmigrant status. USCIS records show that the Beneficiary requested and was granted work authorization, which was valid from February 1, 2021, to January 31, 2022.

<sup>2</sup> The Petitioner claims that the Beneficiary was employed in a managerial capacity and does not claim that the foreign employment was in an executive capacity.

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. EMPLOYMENT ABROAD IN A MANAGERIAL CAPACITY

The issue to be addressed is whether the Petitioner provided sufficient evidence establishing that the Beneficiary's position abroad was in a managerial capacity.

To be eligible for immigrant visa classification as a multinational 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 establishes that the position in question meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary *primarily* performed managerial duties, as opposed to ordinary operational activities alongside other employees within the foreign entity. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether a given beneficiary's duties are primarily managerial, we consider that beneficiary's job duties, the employer'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.

In a supporting cover letter, the Petitioner claimed [ ] employees in the United States and described itself as an [ ] firm” that addresses “major business problems” for

charitable organizations as well as corporate and government entities. The Petitioner stated that an “engagement team” is created for each client and explained that multiple factors, such as “the nature, complexity, and diversity of the problem being solved,” determine the organization and size of each team. In discussing the Beneficiary’s employment abroad, the Petitioner stated that the Beneficiary was a data analyst in the [redacted] Solutions team” [redacted] whose role was to help clients by providing their pricing decision makers with the data necessary to “set optimal prices to generate the most value from every transaction.”

The Petitioner also provided an untitled organizational chart depicting the Beneficiary at the top of a six-person hierarchy, which shows the Beneficiary directly overseeing a junior solution analyst, an analytics analyst, and a data analyst, and indirectly overseeing a junior analytics analyst and a junior data analyst. Despite indicating that the Beneficiary’s position was supervisory with respect to these positions, the organizational chart pertained exclusively to an unidentified cross section of the foreign organization and included no information clarifying the placement of this cross section within the broader scope of the organization. The Petitioner did not specifically identify the Beneficiary’s clients, nor did it disclose the number of [redacted] clients the foreign entity serviced or claim that the Beneficiary had broad authority and input over all [redacted] clients. Because the Petitioner offered no context for the Beneficiary’s team within the broader organizational hierarchy, we are unable to assess his organizational placement within the overall scope of the organization.

Furthermore, although the Petitioner claims that the Beneficiary assumed a managerial position within the [redacted] team, it did not offer a description of the team’s management and reporting structure, nor did it claim that the Beneficiary primarily managed a department, subdivision, function, or component of the organization pursuant to sections 101(a)(44)(A)(i) of the Act or that he managed an essential function within the organization, or within a department or subdivision of the organization pursuant to sections 101(a)(44)(A)(ii) of the Act.

In a request for evidence, the Director informed the Petitioner that it did not provide sufficient supporting evidence to establish that the Beneficiary was employed abroad in a managerial capacity. As such, the Petitioner was asked to explain its organization’s reporting structure and provide evidence substantiating the claim that the Beneficiary managed professional employees and had the authority to hire and fire or recommend other personnel actions for those individuals.

In response, the Petitioner reiterated much of the information provided in its initial cover letter, including the value of the services that the [redacted] team offers to the foreign entity’s clients and the claim that the Beneficiary assumed a managerial position within that team. Although the Petitioner provided a supplemental organizational chart, the chart included no title and contained no information indicating that it represented the hierarchy of the entire [redacted] team. Further, the supplemental organizational chart depicts the Beneficiary as subordinate to a senior data analyst, thus indicating that the senior analyst, rather than the Beneficiary, may be the manager of the component depicted in the chart. Furthermore, the supplemental chart shows the Beneficiary overseeing “2-3” solution analysts, “1-2” junior data analysts, and “2-3” analytics analysts, whereas the organizational chart that was originally submitted showed the Beneficiary directly overseeing a junior solution analyst, an analytics analyst, and a data analyst, and indirectly overseeing a junior analytics analyst and a junior data analyst. The Petitioner must resolve this inconsistency in the record with independent, objective evidence pointing to where the truth lies. See *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Moreover, because neither

chart offers information about the broader scope of the foreign entity's organizational hierarchy, we have no means of gauging the placement of the Beneficiary and his team with respect to others in the organization. This lack of clarity hinders our ability to properly assess the Beneficiary's position within the context of the foreign entity's organizational hierarchy, which is a critical element in determining whether the Beneficiary was employed in a managerial capacity. In addition, without further information about the Beneficiary's reporting structure, we cannot rule out the possibility that he was subordinate not only to a senior data analyst but also to other management tiers that may be more senior within the organizational hierarchy, thus calling into question whether the Beneficiary's position abroad was truly in line with the statutory definition of managerial capacity. *See* section 101(a)(44)(A) of the Act.

Further, although the Petitioner broadly stated that the Beneficiary "was the leader of critical workstreams for the Firm and had sole day-to-day discretion over the project team's activities," it did not explain what the "critical workstreams" are or clarify their relationship to the [ ] team or their placement within that team and the foreign entity's broader organizational hierarchy. The Petitioner also stated that the Beneficiary "[e]valuated the performance of subordinate professional employees . . . and contribut[ed] to their formal evaluation process based on their performance," but it provided no evidence to support this claim or to show that the Beneficiary had authority to take or recommend personnel actions with regard to the positions listed as his subordinates. Also, the Petitioner referred to the Beneficiary's subordinates only by position title and stated that the team "varied depending upon the size and complexity of the project," thereby indicating that the Beneficiary's supervision of a given team did not extend beyond project completion and likely did not include the authority to hire and fire employees or recommend personnel actions with respect to the analysts who worked on the client projects that the Beneficiary led. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

Although the Beneficiary may have exercised discretion over the day-to-day operations of certain projects within the [ ] team, the Petitioner must still establish that the position meets all elements of the statutory definition of managerial capacity in the course of performing primarily managerial duties. For the reasons discussed above, the Petitioner has not established that the untitled organizational charts discussed above represented a department, subdivision, function, or component of the foreign organization and that the Beneficiary managed a department, subdivision, function, or component of that organization, as required by section 101(a)(44)(A)(i) of the Act.

The Petitioner also did not establish that the Beneficiary managed an essential function pursuant to section 101(a)(44)(A)(ii) of the Act. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act. If a petitioner claims that a beneficiary will manage an essential function, it must clearly describe the duties to be performed in managing the essential function. In addition, the petitioner must demonstrate that "(1) the function is a clearly defined activity; (2) the function is 'essential,' i.e., core to the organization; (3) the beneficiary will primarily *manage*, as opposed to *perform*, the function; (4) the beneficiary will act at a senior level within the organizational hierarchy or with respect to the function managed; and (5) the beneficiary will exercise discretion over the

function's day-to-day operations." *Matter of G- Inc.*, Adopted Decision 2017-05 (AAO Nov. 8, 2017).

In the matter at hand, the Petitioner claims that the Beneficiary's position abroad involved "functional managerial responsibilities," which are said to include project planning, project management, and resource deployment management. The Petitioner also states that the Beneficiary's focus, as that of all data analysts within its organization, is "to assist clients, managing discrete parts of the project and performing analyses within each work stream." However, the Petitioner has not identified a specific function or shown that the Beneficiary managed an essential function. Rather, the Petitioner describes the Beneficiary's role as that of a senior team leader with respect to "any given engagement," thus indicating that the Beneficiary managed client projects. However, the organizational chart that the Petitioner submitted in response to the RFE shows a senior analyst above the Beneficiary's position, thereby indicating that the more senior position, rather than the Beneficiary, assumed the role of project manager. Alternatively, the Petitioner has not established that the projects the Beneficiary is said to have managed represented a clearly defined activity or that the projects, either individually or collectively, were "essential" to the organization, as required by the first two prongs of the function manager analysis. Although the Petitioner indicated that the foreign organization serviced many clients, it did not indicate that there was a hierarchy among those clients, nor did it demonstrate that the projects that the Beneficiary is claimed to have managed were particularly critical to the organization so that they would have been deemed "essential" within the organization, or a department or subdivision of the organization.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary's position abroad was in a managerial capacity as defined in the statute governing this classification.

**ORDER:** The appeal is dismissed.