



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

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

In Re: 36671951

Date: FEB. 13, 2025

Appeal of California Service Center Decision

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

The Petitioner, a financial services company, seeks to employ the Beneficiary temporarily as its “Manager – Data Science” 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 California Service Center denied the petition, concluding that the record did not establish that the Beneficiary was employed abroad and would be employed in the United States 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 dismiss the appeal because the Petitioner did not establish that the Beneficiary’s U.S. position would be in a managerial capacity.¹ 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 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 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).

¹ The Petitioner’s claim rests solely on the definition of managerial capacity. The Petitioner does not claim that the Beneficiary was employed abroad or that he would be employed in the United States in an executive capacity.

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. U.S. EMPLOYMENT IN A MANAGERIAL CAPACITY

The issue to be addressed is whether the Petitioner provided sufficient evidence establishing that the Beneficiary's proposed position in the United States would be 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 the beneficiary's job duties, the employer's organizational structure, the duties of a beneficiary's subordinates, 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.

The record includes a supporting statement from [redacted] the Petitioner's Vice President of Data Science, who listed the following eight job duties and responsibilities that would be assigned to the Beneficiary in his proposed position: team leadership, project management, resource allocation, performance management, stakeholder collaboration, strategy development, technical expertise, and mentorship. Under a separate heading titled “Supervision and Control,” Mr. [redacted] added that the Beneficiary “will be actively involved in the hiring process and will possess the authority to make recommendations regarding the hiring and dismissal of team members.” Also, as part of his

supervisory role, the Beneficiary would be tasked with such actions as overseeing performance of his subordinates' assigned tasks, ensuring that subordinates have access to resources and personal mentorship, conducting performance reviews, and setting objectives.

The record contains a separate list of ten duties and responsibilities contained in a document that names the Beneficiary in the heading "Management duties in India and US." This document indicates that its contents pertain to the Beneficiary's current position with the foreign entity as well as his proposed position in the United States. Of the ten items listed, two items – risk management and performance metrics – are specific only to this document while the remaining eight are substantially similar to those in Mr. [] letter. Lastly, we note that the information is on the foreign company's letterhead, as indicated by the India-based address at the top left corner of the page, however, the document contains no name or signature revealing the source of the information.

A third job description is contained in what appears to be a company-generated job listing for the position of "Manager – Data Science." Although the listing is printed on company letterhead, it contains no address and does not mention the Beneficiary. It therefore appears that the job description applies organization-wide – abroad and in the United States – to the listed position. The listing identifies a "Director – Data Analytics" as the data science manager's direct superior and enumerates the position's 13 "key responsibilities" which include personnel management along with a number of IT functions, such as: "Research, design, implement, and validate custom data models and algorithms"; "[b]uild out in-depth knowledge of the business success drivers . . . and deliver value added solutions"; "solv[e] key complex business problems through data creation, analysis, predictive modeling"; "[d]evelop company A/B testing framework and test model quality"; "[d]evelop processes and tools to monitor and analyze model performance and data accuracy"; and "[f]ine tune and iterate different models . . . to address all stakeholder needs by providing optimum output." To the extent that this company-generated job description includes specific IT functions, it is inconsistent with the two job descriptions discussed above. Such discrepancies must be resolved through the submission of independent, objective evidence. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner also provided an organizational chart titled "Data Science (Modeling)," which depicts the Beneficiary as a manager within the data science hierarchy and shows that Mr. [] is the most senior employee within that hierarchy, followed by a functional analytics director and a director of data science as his direct subordinates. The latter is depicted as overseeing the data science component, which is comprised of five units, including "Underwriting (New Customers) A Scorecard" which lists the Beneficiary as its manager overseeing a team of employees and interns. The key at the bottom of the page containing the organizational chart shows that positions are categorized as "India," "US," and "Need Approval." The Beneficiary's position appears to fall within the "India" category, while his subordinates appear to be categorized as "US."² Although the [] letter broadly refers to the Beneficiary's oversight of "our data science team," it does not discuss the team's location or specify whether the team members perform services for the foreign entity, the U.S. entity, or both. The employment letter with the unknown source was similarly ambiguous in that its subject heading

² The key distinguishes the "India" and "US" categories by naming those in the latter inside a shaded rectangle that is outlined in a darker shade, while employees in the "India" category are named inside a shaded rectangle without an outline. The Beneficiary's name appears in the latter, while the names of his team members appear inside rectangles with an outline.

referenced “Management duties in India and US” and did not clearly distinguish between the Beneficiary’s foreign and proposed U.S. employment.

After reviewing the Petitioner’s initial submissions, the Director issued a request for evidence (RFE). Although the RFE did not specify anomalies or inconsistencies in the submitted evidence, it did seek, in part, clarification pertaining to the Beneficiary’s proposed employment in the United States. Namely, the RFE recognized that the organizational chart depicted the Beneficiary as overseeing a team of subordinates, but it requested further evidence about those subordinates, noting that the lack of sufficient evidence precluded a determination as to whether the Beneficiary’s position would be “higher than a supervisor of non-professional employees.”

In response, the Petitioner provided a statement from the head of human resources (HR),³ who is based out of India. The head of HR explained that the Beneficiary relocated to India in May 2022⁴ from which time he has “continued overseeing the [r]isk function” in his position as data science manager. The statement discussed personnel management as an element of the Beneficiary’s position, stating that the Beneficiary maintains responsibility for staff recruitment, has hiring and firing input, and is responsible for team management, which includes setting goals for his team members and ensuring that those goals are met; it also lists seven team members and their respective position titles, educational credentials, and salaries. We note that the employee salaries are listed in a foreign currency – “INR” or the Indian rupee – thus indicating that the Beneficiary’s subordinates are likely based in India; this leads us to question why the organizational chart classified these employees as part of the organization’s “US” component.⁵ The record does not address this anomaly nor does it further clarify the staffing and reporting structure of the U.S. entity where the Beneficiary’s proposed position is located. And although the head of HR stated that the Beneficiary “will continue guiding and managing the team,” it is unclear whether his proposed position in the United States will continue to include oversight of team members whose foreign salaries indicate that they are physically located and working in India. *See Matter of Ho*, 19 I&N Dec. at 591-92.

Given the deficiencies discussed above, the Director understandably pointed to the lack of sufficient evidence establishing whom the Beneficiary would manage, a deficiency that reasonably explains the Director’s concerns as to whether the Beneficiary “will be in a position that is higher than a supervisor of non-professional employees” which served as a ground for the denial.

On appeal, the Petitioner asserts that the Director disregarded the Beneficiary’s role as a function manager and points to the previously submitted letter from the head of HR, who referred to the Beneficiary’s management of the risk and finance functions of the data science team. We note that despite the vague claims in the HR letter, none of the previously submitted statements specifically claimed that the Beneficiary would assume the role of a function manager. In fact, the organizational chart depicted the Beneficiary as manager of a team of employees and two of the previously submitted statements listed several personnel management duties as part of the Beneficiary’s job description. As such, the current claim being made on appeal is inconsistent with previously submitted evidence. Although the employment letter from the unknown source does mention risk management as one of

³ The signature line lists this individual’s name as [redacted] and does not provide both a first and last name.

⁴ The foreign-based head of HR stated that prior to the Beneficiary’s relocation to India, his position from March 2020 to April 2022 was based in the United States

⁵ *See* FN2.

the Beneficiary's responsibilities, this information is inconsistent with both the organizational chart and the information provided in the [] employment letter, which makes no mention of either risk management or finance within the scope of the Beneficiary's proposed position. Furthermore, while the organizational chart lists "Model Risk Management" as one of the five sections⁶ comprising the data science function, the Beneficiary is not listed as its manager.⁷ *See id.*

We further note that prior to filing this petition, the Petitioner did not clearly put forth the claim that the Beneficiary's role in his proposed position would be that of a function manager. A petitioner making the function manager claim 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). The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Here, however, the Petitioner has not provided such evidence. According to the staffing hierarchy depicted in the previously submitted organizational chart, the Director of Data Science, the position depicted as the Beneficiary's direct superior, manages the data science component. While the chart indicates that the Beneficiary manages one of the data science component's five functions, i.e., "Underwriting (New Customers) A Scorecard," the Petitioner has not explained how this is an essential function, nor does the record show that the Beneficiary will act at a senior level with respect to the data science function, which he is claimed to manage. *See Matter of G- Inc.*, Adopted Decision 2017-05. Given the inconsistencies catalogued herein, we cannot gauge the true nature of the position and determine whether it would be in a managerial capacity. *See Matter of Ho*, 19 I&N Dec. at 591-92.

The record also does not establish that the Beneficiary's proposed position meets all four elements that comprise the definition of managerial capacity. *See* section 101(a)(44)(A) of the Act. Namely, the record shows that the Petitioner has not adequately addressed the Director's concerns regarding the second prong of the statutory definition, which requires a showing that the Beneficiary would supervise and control the work of supervisory, professional, or managerial employees. Section 101(a)(44)(A)(ii) of the Act. As noted above, the submitted evidence is unclear as to whom the Beneficiary would oversee in his proposed position; although the letter from the head of HR indicates that the Beneficiary currently supervises professional employees, the record does not establish that the Beneficiary would oversee the work of supervisory, professional, or managerial employees in his proposed U.S. position. Since the Beneficiary's current subordinates appear to be in India rather than the United States, additional evidence is necessary to determine precisely how the Beneficiary would remotely manage a team of India-based employees from his proposed U.S. location.

Also, while not specifically discussed in the Director's decision, the reporting structure depicted in the organizational chart does not demonstrate that the Beneficiary's position meets the first prong of managerial capacity, which requires the Petitioner to establish that the Beneficiary "manages the organization, or a department, subdivision, function, or component of the organization." Section

⁶ The other four sections comprising the data science function are: "Marketing/Sales"; Underwriting (New Customers) A Scorecard"; "Management (Existing Customers) B Scorecard"; and "Collection/Legal C Scorecard."

⁷ The manager position of the "Model Risk Management" section is listed as "Manager (open)," thus indicating that this position was vacant at the time of filing. *See* 8 C.F.R. § 103.2(b)(8) and (12).

101(a)(44)(A)(i) of the Act. To be clear, the management hierarchy depicted in the previously submitted organizational chart shows that [redacted] not the Beneficiary, is the at the top of the hierarchy, serving in the position of “VP Data Science.” The same chart shows that two directors – a “Functional Analytics Director” and a “Director of Data Science” – serve as Mr. [redacted] direct subordinates and occupy the next tier of the “Data Science (Modeling)” component’s management. The data science director is shown as overseeing the data science function, which is subdivided into five sections, including “Underwriting (New Customers) A Scorecard,” which the Beneficiary is said to manage. In other words, the Beneficiary is depicted as manager of one of five parts of the data science function; he therefore cannot be deemed as someone who manages the organization. And while the Beneficiary is depicted as managing a section within the data science function, the record lacks evidence to show that this section qualifies as an essential function. *See Matter of G- Inc.*, Adopted Decision 2017-05. As such, the Petitioner has not established that the Beneficiary “manages the organization, or a department, subdivision, function, or component of the organization.”

In addition, the company-generated job description we discussed earlier states that “Manager – Data Science” reports directly to “Director – Data Analytics,” a position that is not listed in the organizational chart. And of the two iterations of job descriptions – one from Mr. [redacted] and the other from an unknown source based in India – neither indicated that the Beneficiary has or would report to a “Director – Data Analytics.” Although the organizational chart lists a functional analytics director as one of Mr. [redacted] two subordinate directors, it is unclear whether this position is synonymous with a “Director – Data Analytics” and the record does not contain evidence resolving this additional anomaly. *See Matter of Ho*, 19 I&N Dec. at 591-92. Likewise, the record does not resolve the multiple iterations of the Beneficiary’s job description which are contained in the [redacted] letter, the letter from the unknown source, and the company generated job description, the latter of which lists several IT functions that are indicative of operational tasks. As previously stated, even if the Petitioner were to establish that the offered position meets all elements set forth in the statutory definition of managerial capacity, the Petitioner must still prove that the Beneficiary will be *primarily* engaged in managerial 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); *see also* section 101(a)(44)(A) of the Act. Here, given the previously discussed IT functions that were listed in the company-generated job description, it does not appear that the Beneficiary’s proposed position would consist of primarily managerial job duties.

For the reasons discussed above, the record does not support the Petitioner’s claim that the Beneficiary would be employed in a managerial capacity.

ORDER: The appeal is dismissed.