



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

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

MATTER OF T-M- CO.

DATE: FEB. 26, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a producer and marketer of concentrated phosphate and potash crop nutrients, seeks to permanently employ the Beneficiary as a credit manager under the multinational executive or manager immigrant classification. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director, Nebraska Service Center, denied the petition. The Director concluded that the evidence of record did not establish: (1) that the Beneficiary will be employed in the United States in a qualifying managerial or executive capacity; and (2) that the Beneficiary has been employed abroad in a qualifying managerial or executive capacity.

The matter is now before us on appeal. In its appeal, the Petitioner asserts that it submitted sufficient evidence to establish that the Beneficiary has been employed abroad and will be employed in the United States in a qualifying managerial capacity and that Director erred in denying the petition.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority Workers. – Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

....

(C) *Certain multinational executives and managers.* An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to

render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

II. EMPLOYMENT IN A QUALIFYING MANAGERIAL OR EXECUTIVE CAPACITY

The Director denied the petition based on a finding that the Petitioner did not establish: (1) the Beneficiary will be employed in the United States in a qualifying managerial or executive capacity; and (2) the Beneficiary has been employed abroad in a qualifying managerial or 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.

If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, U.S. Citizenship and Immigration Services (USCIS) 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.

A. Employment in a Qualifying Managerial or Executive Capacity in the United States

The regulation at 8 C.F.R. § 204.5(j)(5) requires the Petitioner to submit a statement which indicates that the Beneficiary is to be employed in the United States in a managerial or executive capacity. The statement must clearly describe the duties to be performed by the Beneficiary.

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1. Facts

The Petitioner filed Form I-140 on September 9, 2014, and claimed that it employed 8,000 employees worldwide. The Petitioner did not specify the number of U.S. employees. In a letter dated September 2, 2014, [REDACTED] the Petitioner's director of recruiting, stated that the Beneficiary "will continue to direct and oversee the day-to-day credit activities of [the Petitioner's] [REDACTED] Minnesota credit function," which "is critical to the successful management of customer revenues and Company cash flow operations." [REDACTED] provided a description of the Beneficiary's duties as credit manager with the percentage of time he allocates to six areas of responsibility. Briefly, the Petitioner stated that the Beneficiary allocates 50% percent of his time to credit financial analysis management, 30% to personnel leadership, 10% to relationship development management, 5% to order release, collection and metrics oversight, and 5% to geographic management.

[REDACTED] stated that "[the Beneficiary's] oversight of the daily credit activities for our [REDACTED] Minnesota credit function represents a key component of our larger organizational infrastructure and comprises an essential function within our Company," and noted that the Beneficiary "functions at a senior level" with respect to this function.

[REDACTED] stated that the Beneficiary would "directly oversee the activities of four professional-level employees," specifically two credit analysts and two senior credit analysts. She also stated that the Beneficiary, "in his supervisory capacity, will continue to possess the authority to recommend hiring, firing, and other personnel actions for his subordinates . . . and will report directly to [REDACTED] Credit Manager." An accompanying organizational chart shows the arrangement described above, showing [REDACTED] title as "Manager Credit" rather than "Credit Manager" and indicating that [REDACTED] reports to the Petitioner's vice president and treasurer. The organizational chart does not depict the structure of the entire petitioning organization, but rather the seven-person [REDACTED] in which the Beneficiary works.

The Director issued a request for evidence (RFE) on January 30, 2015, stating that the Petitioner had "provided only a generalized statement of the beneficiary's duties in the U.S." The Director asked the Petitioner to submit "[a] list of the employees . . . in the beneficiary's immediate division, department, or team," with "a summary of their job duties [and] educational level."

In response, the Petitioner submitted a letter dated April 20, 2015, from [REDACTED] the Petitioner's senior director of human resources. [REDACTED] asserted that the Beneficiary's intended position as a credit manager meets all the requirements of a managerial position. [REDACTED] repeated and expanded upon [REDACTED] earlier description of the Beneficiary's duties, and provided a breakdown of those duties, with the approximate percentage of time devoted to each task:

Credit Financial Analysis Management – 50% total:

- **20%:** Analyze, research, evaluate, and provide written financial analysis and credit opinions on the credit worthiness of all assigned strategic customer

accounts in accordance with department procedures to ensure Sarbanes-Oxley (SOX) compliance. Provides credit opinions for values up to \$4 million without the need for executive Company-level approval.

- **20%:** Oversee annual file reviews, credit file increases, and new customer credit applications. Apply expertise on international financial analysis and credit risk management. Evaluate customer and country risks by applying different analytical methods. Develop monitoring tools and reports.
- **10%:** Work with credit insurance brokers and credit insurance companies to obtain endorsements and to ensure compliance with insurance policies. Recommend and ultimately approve North American credit procedures. Provide internal input for Company credit policy to be approved by the executive VP Treasurer and SR. Credit Manager on an annual basis.

Personnel Leadership – 30% total:

- **10%:** Lead, develop, and coach employees to retain and expand organizational talent through focused efforts.
- **10%:** Provide timely and constructive feedback on a regular basis to ensure adequate knowledge of team member roles and the Company's business. Manage performance issues. Deliver coaching and constructive criticism using the Company tools and annual employee review process.
- **10%:** Work with employees on career development plans. Guide direct reports to develop professional skills. Address personal employee needs and interests.

Relationship Development Management – 10%:

- Lead credit meetings and represent the Company in credit group meetings and external trainings.
- Oversee collaborative tasks and team communications such as [the Petitioner's] global sales activities.
- Direct customer relationship building efforts by determining customer needs through on-site visits and conference calls. Collaborate with commercial area to lead credit activities and provide direction.
- Manage credit training tasks throughout global Market to Cash teams.

Order Release, Collection, and Metrics Oversight – 5%:

- Manage daily order release systems for all assigned customers in accordance with department procedures.
- Communicate, negotiate, and resolve credit hold situations for key stakeholders, including customers and the Market to Cash team.
- Monitor and provide direction to Shared Services personnel on collection activities.
- Oversee the resolution of collection issues.

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- Ensure that receivables remain current and clean, including slow pays, short pays, credits, and disputes.
- Ensure global credit metrics compliance by following up on the Company's aging and internal reports. Request feedback and monitor progress of customer service, credit analysts, and collection technicians.

Geographic Management – 5%:

- Work with credit personnel in the assigned Geography to ensure compliance and alignment of global credit policies and procedures, including the Global Risk Model.
- Provide education and guidance to team members. Offer internal classes to educate employees on the Credit function through screen sharing presentations and conference calls.
- Review, provide a credit opinion for, and process the credit requests for the Company's approval per credit policy.

As examples of the Beneficiary's supervisory work product, the Petitioner submitted copies of employee evaluations he issued to his subordinates. The evaluations showed that the subordinates are not, themselves, supervisors, and therefore the Beneficiary is a first-line supervisor.

The Petitioner did not submit the requested descriptions of the Beneficiary's subordinates' job duties. ██████ stated that the Beneficiary's "four (4) direct reports" are "full-time, professional employees."

Although ██████ had indicated only that the Beneficiary had the authority to recommend hiring and firing, ██████ stated that the Beneficiary "is responsible for hiring the Credit function analysts that report directly to him," and "also has the authority to fire" those subordinates.

The Director denied the petition on June 5, 2015, stating that "the beneficiary devotes most of his time to performing the non-qualifying, operational and administrative tasks of the petitioner's business . . . [and] spends less than half, 30%, of his time on personnel leadership." The Director concluded that the Beneficiary does not primarily engage in qualifying managerial or executive functions.

The Director noted that the four workers who report directly to the Beneficiary are not, themselves, supervisors or managers. The Director added that the Petitioner had not submitted job descriptions for those subordinates as requested in the RFE, and therefore the Petitioner had not established that the Beneficiary's subordinates are professionals. The Director concluded that "it appears that the beneficiary is a first-line supervisor of non-professional workers, the provider of actual services, or a combination of both."

On appeal, the Petitioner submits a brief and supporting documents, including job descriptions for the credit analyst and senior credit analyst positions. The Petitioner asserts that "[t]hese positions

are professional positions as they require the attainment of a minimum of a bachelor's degree to perform the position.”

2. Analysis

Upon review, and for the reasons stated below, we find that the Petitioner did not establish that it will employ the Beneficiary in a qualifying managerial or executive capacity.

In general, when examining the executive or managerial capacity of a given position, we review the totality of the record, starting first with the description of the beneficiary's proposed job duties with the petitioning entity. *See* 8 C.F.R. § 204.5(j)(5). Published case law has determined that the duties themselves will reveal the true nature of the beneficiary's employment. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). We then consider the beneficiary's job description in the context of the petitioner's organizational structure, the duties of the beneficiary's subordinates, and any other relevant factors that may contribute to a comprehensive understanding of the beneficiary's actual duties and role within the petitioning entity.

In addition, while performing non-qualifying tasks necessary to produce a product or service will not automatically disqualify the beneficiary as long as those tasks are not the majority of the beneficiary's duties, the petitioner still has the burden of establishing that the beneficiary is “primarily” performing managerial or executive duties. *See* Section 101(a)(44) of the Act.

The subordinates' job descriptions requested in the RFE, but not submitted until the appeal, provide the following breakdown of their duties:

- 70% Review all assigned customer accounts in accordance to department procedures to ensure SOX compliance.
- 10% Manage[] the order release system for all assigned customers in accordance with department procedures.
- 10% Manage the accounts receivable to make sure it is clean, which includes slow pays, short pays, overpays and disputes.
- 5% Evaluate the credit worthiness of all incoming credit applications for customers in your assigned area of responsibility in accordance with department procedures.
- 5% Other related credit department activities including back-up and assistance to other Credit team members as needed.

The Beneficiary's own job duties include many of the same tasks listed above, such as evaluating credit worthiness of applications and reviewing accounts receivable. Evaluating risks and developing monitoring tools and reports are, likewise, operational rather than managerial functions. These functions occupy 45% of the Beneficiary's time, according to the breakdown provided by the Petitioner. Another 15% of the Beneficiary's time consists of incompletely-defined activities such

as working with insurance brokers and companies and reviewing credit requests. The Petitioner has not fully explained what this work entails, to establish that it is managerial in nature.

“Personnel Leadership” activities occupy only 30% of the Beneficiary’s time. Supervisory duties account for much of another 15% of his time in the form of “Relationship Development Management” and “Geographic Management.” Even then, one of the functions under “Geographic Management” is to review and process credit requests, which appears to be a duty also performed by his subordinate credit analysts. Therefore, the Petitioner has not shown that the Beneficiary primarily performs managerial functions.

The statutory definition of “managerial capacity” allows for both “personnel managers” and “function managers.” See section 101(a)(44)(A)(i) and (ii) of the Act, 8 U.S.C. § 1101(a)(44)(A)(i) and (ii). Personnel managers are required to primarily supervise and control the work of other supervisory, professional, or managerial employees. Contrary to the common understanding of the word “manager,” the statute plainly states that 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.” Section 101(a)(44)(A)(iv) of the Act; 8 C.F.R. § 204.5(j)(2). If a beneficiary directly supervises other employees, the beneficiary must also have the authority to hire and fire those employees, or recommend those actions, and take other personnel actions. 8 C.F.R. § 204.5(j)(2).

The position descriptions submitted on appeal indicate that the subordinate positions of credit analyst and senior credit analyst qualify as professional. However, the record indicates that the Beneficiary spends less than half of his time supervising subordinate staff, and that he also performs many non-managerial duties that overlap with those performed by his subordinates. Accordingly, the record does not show that he is primarily performing the duties of a personnel manager.

The Petitioner also claims in the alternative that the Beneficiary manages an essential function of the company. The term “essential function” is not defined by statute or regulation. If a petitioner claims that the beneficiary is managing an essential function, the petitioner must furnish a written job offer that clearly describes the duties to be performed in managing the essential function, i.e. identify the function with specificity, articulate the essential nature of the function, and establish the proportion of the beneficiary’s daily duties attributed to managing the essential function. See 8 C.F.R. § 204.5(j)(5). In addition, the petitioner’s description of the beneficiary’s daily duties must demonstrate that the beneficiary manages the function rather than performs the duties related to the function. 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 sections 101(a)(44)(A) and (B) of the Act (requiring that one “primarily” perform the enumerated managerial or executive duties); see also *Matter of Church Scientology International*, 19 I&N Dec. 593, 604 (Comm’r 1988). In this matter, the petitioner has not provided evidence that the beneficiary manages an essential function.

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The record indicates that the Beneficiary reports to a “credit manager” or “manager credit,” indicating that he is not the Petitioner’s ranking authority in terms of credit management issues. The Director requested a broader organizational chart, which would have given additional perspective on where the Beneficiary fits into his part of the petitioning entity, but the Petitioner did not submit that evidence. Omission of requested evidence that precludes a material line of inquiry shall be grounds for denying the petition under 8 C.F.R. § 103.2(b)(14).

The Petitioner has consistently claimed that the Beneficiary manages the credit management function for the [REDACTED] Minnesota office. The narrow focus of the organizational chart does not distinguish between credit management at the [REDACTED] office and credit management for other locations. The limited information that the Petitioner has provided does not establish that the Beneficiary qualifies as a function manager. Rather, he reports to a similarly-titled higher official within the credit organization, and shares many operational duties with his subordinate credit analysts, to the extent that he appears to be, in many respects, a supervisory credit analyst rather than primarily a manager.

For the above reasons, the Petitioner has not established that it seeks to employ the Beneficiary in a qualifying managerial capacity in the United States, and the Petitioner has not claimed that the Beneficiary would work in an executive capacity. Therefore, the appeal will be dismissed.

B. Foreign Employment in a Qualifying Managerial or Executive Capacity

If the beneficiary is already in the United States working for the foreign employer or its subsidiary or affiliate, then the regulation at 8 C.F.R. § 204.5(j)(3)(i)(B) requires the petitioner to submit a statement from an authorized official of the petitioning United States employer which demonstrates that, in the three years preceding entry as a nonimmigrant, the beneficiary was employed by the entity abroad for at least one year in a managerial or executive capacity.

1. Facts

In her letter dated September 2, 2014, [REDACTED] described the Beneficiary’s past employment history. Only two positions fell within the three years preceding the Beneficiary’s October 2013 entry as a nonimmigrant. [REDACTED] stated:

From 2008 to 2012, [the Beneficiary] worked as Credit and Collection Supervisor with [REDACTED] in Argentina. In this role, [the Beneficiary] was responsible for the grain exchange process, collections, reporting, and sales management. He also led a team of fifteen (15) professional-level employees. He was responsible for the commercial partnership developing financing alternatives for [the company’s] clients. He was also responsible for credit planning, financial and credit analysis, and authorizations with consideration of the credit policy. [The Beneficiary] was responsible for the standardization of the credit process aligned with the corporate process. He established new administrative

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processes from SAP implementation. [The Beneficiary] was responsible for material reduction of bad debts and implemented agricultural credit cards.

From 2012 to 2013, [the Beneficiary] worked as [redacted] Treasury Supervisor with [redacted] in Argentina. In this role, [the Beneficiary] directed and oversaw the Treasury function of our Argentinian subsidiary. He managed risk and cash management activities for the Treasury function, as well as prepared and controlled budgets and cash flow tasks. He directed the development and execution of funding strategies and managed foreign exchange (FX) and regulatory procedures. [The Beneficiary] led market research efforts and oversaw the execution of hedging activities. He was responsible for developing key relationships with banks and insurance brokers, directing capital infusion analyses, and managing payments operations. He was also responsible for risk management, central bank compliance, cash management, FX management, bank relationship management, reporting management, and personnel leadership. [The Beneficiary] managed and led a team of two (2) professional-level employees.

In the RFE, the Director stated that the Petitioner had “provided only a brief description of the beneficiary’s duties abroad.” The Director requested a letter from an authorized official of the foreign organization, describing the Beneficiary’s specific daily tasks and the time spent on each duty. The Director also asked for an organizational chart showing the foreign entity’s “overall structure and staffing levels.”

The Petitioner did not submit a letter from an authorized official of the foreign entity. The record shows that the Petitioner sold all of its Argentinian assets on [redacted] 2014, two months after it filed the petition. The record does not reveal whether the company in Argentina still exists under new ownership, but it was no longer affiliated with the Petitioner when the Director issued the RFE.

In response to the RFE, [redacted] stated that the Beneficiary “worked for [redacted] in Argentina as [redacted] Treasury Supervisor for five (5) years, from 2008 to October 2013.” Elsewhere in the same letter, [redacted] repeated the prior claim that “[f]rom 2008 to 2012, [the Beneficiary] worked as Credit and Collection Supervisor with [redacted] and held the title of [redacted] treasury supervisor “[f]rom 2012 to 2013.” Regarding the credit and collection supervisor position, [redacted] repeated the description from [redacted] earlier letter. With respect to the Beneficiary’s later position, [redacted] stated:

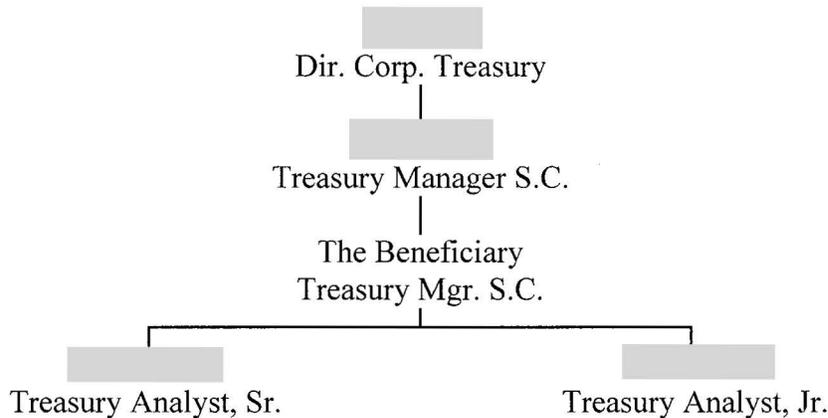
As [redacted] Treasury Supervisor at [redacted] [the Beneficiary] served in a managerial capacity as he (1) managed and oversaw the essential Treasury function within our organization; (2) supervised and controlled the work of other professional employees; (3) had the authority to hire, fire, and recommend personnel actions for his direct reports; (4) functioned at a senior level within our organizational hierarchy and functioned at a senior level with respect to

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the essential Treasury function he managed; and (5) exercised direction over the day-to-day operations of a major subdivision within our organization.

The Petitioner did not submit an organizational chart that showed the foreign organization's overall structure and staffing levels, as instructed in the RFE. Instead, the Petitioner submitted an organizational chart for "Treasury & Credits / [redacted] the component of the company that had employed the Beneficiary. The chart included the following relevant information:



The foreign organizational chart showed the Beneficiary's title as "Treasury Manager," but all other documentation in the file states his title as [redacted] Treasury Supervisor." [redacted] asserted that both of the Beneficiary's subordinates identified above held bachelor's degrees.

In the denial notice, the Director stated that the Petitioner did not break down the time the Beneficiary spent on various tasks while employed abroad, and therefore the Petitioner did not submit enough information to allow a determination that the Beneficiary "spent most of his time on qualifying executive or managerial duties." The Director also stated that "the record does not show the beneficiary supervised or controlled the work of other supervisory, professional, or managerial employees, or managed an essential function of the foreign organization."

On appeal, the Petitioner asserts that the Beneficiary served in a managerial capacity as the [redacted] treasury supervisor. The Petitioner submits copies of the résumés of the Beneficiary's former subordinates; a performance evaluation for one of those subordinates; and background information about financial managers.

2. Analysis

Upon review, and for the reasons stated below, we find that the Petitioner did not establish that the Beneficiary previously worked abroad in a qualifying managerial or executive capacity.

The Petitioner has provided two conflicting claims (2008 and 2012) as to when the Beneficiary became a [redacted] treasury supervisor. The latter date is more plausible, given the assertion

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that the Beneficiary was a credit and collection supervisor from 2008 to 2012. The Petitioner has not specified when in 2012 the Beneficiary became a [REDACTED] treasury supervisor. This information is material and relevant because the Beneficiary left the foreign company in October 2013. Therefore, if his last foreign assignment began in late 2012, then he would have served for less than the required one year in that position.

The record contains minimal information about the Beneficiary's work as a credit and collection supervisor. In response to the RFE and again on appeal, the Petitioner has instead emphasized the Beneficiary's subsequent position as [REDACTED] treasury supervisor, stating that the position qualifies as managerial. (The Petitioner has not claimed that the position qualifies as executive.) The Petitioner has not established that the Beneficiary's 2012-2013 foreign position meets all the requirements to establish managerial capacity.

The Petitioner's initial discussion of the Beneficiary's work as a [REDACTED] treasury supervisor provided few details about that position. The Petitioner listed various activities under the Beneficiary's oversight, such as "risk and cash management activities" and "developing key relationships with banks and insurance brokers," but the Petitioner did not specify what tasks these responsibilities entailed. In the RFE, the Director had requested an accounting of "[t]he specific daily tasks that . . . were involved with the completion of each duty and the percentage of time spent on each duty." The Petitioner's response to the RFE somewhat expanded on the original description of the Beneficiary's foreign duties, but the Petitioner has not provided the type and level of detail that the Director had requested.

As with the U.S. position, the Petitioner did not claim that the Beneficiary's subordinates in Argentina were supervisory or managerial. The Petitioner asserts that the Beneficiary supervised "two professional employees" when he worked as the [REDACTED] treasury supervisor. The Petitioner submits the résumé of one of those subordinates, senior treasury analyst [REDACTED] indicating that he earned a degree as a "Public Accountant." The record does not specify whether this degree is equivalent to a baccalaureate, and the résumé does not establish that the treasury analyst position qualifies as professional. The Petitioner cannot meet its burden of proof by simply asserting that the positions were professional. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The Petitioner did not provide its own descriptions of the treasury analyst positions. The senior treasury analyst's résumé includes a capsule job description:

Tasks and Responsibilities: Prepare and analyze [REDACTED] Cash Position. Execute book transfers & recommend amount of Investments. Responsible for [REDACTED] Risk Management. Support Accounting and Collections' areas on Banking Reconciliation. Foreign Trade back office. Prepare electronic and check payments. Bank accounts and software's management. Checks Portfolio custody,

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deposits and reconciliation. Booking Treasury operations in SAP. Argentina Compliances & Regulation. Bank Trading.

The résumé in the record appears to be an English translation of a presumably Spanish-language original. The regulation at 8 C.F.R. § 103.2(b)(3) requires an English translation of a foreign-language document to include the translator's certification that he or she is competent to translate from the foreign language into English. The résumé includes no such certification. Errors and imperfections in the English-language résumé limit its evidentiary value.

The submitted job descriptions are vague and general. For example, the job descriptions indicate that the Beneficiary was "responsible for risk management," while the senior treasury analyst was "[r]esponsible for [REDACTED] Risk Management." These nearly-identical phrases suggest a degree of overlap between the Beneficiary's duties and those of his subordinates.

[REDACTED] asserted that the Beneficiary "was responsible for [the foreign company's] Treasury function," "functioned at a senior level within" the foreign company, and "reported directly to . . . [the] [REDACTED] Treasury Manager, who was employed in an executive-level managerial role." The Petitioner, on appeal, states that the organizational chart submitted in response to the RFE "clearly demonstrates that [the Beneficiary] was the third highest level employee within the Treasury function of the [REDACTED] organization." That chart showed only four levels of employees, and therefore the Beneficiary's rank on "the third highest level" does not attest to what the Petitioner calls a "senior level role within the Treasury function." Rather, it shows that the Beneficiary was a first-line supervisor of two treasury analysts. The Beneficiary reported to a "Treasury Manager," who, in turn, reported to a "Dir. Corp. Treasury." The Petitioner has not established that it was the Beneficiary, rather than those superiors, who managed the foreign company's treasury function.

The Petitioner has not shown that the Beneficiary managed the organization, or a department, subdivision, function, or component of the organization, or managed an essential function therein. Like the U.S. organizational chart, the foreign organizational chart shows only a small component of the company without broader information to provide context. Such a chart need not account for every employee, but it should show the component's overall place within the company's organizational structure. The Petitioner claims nearly 9,000 employees worldwide; the foreign organizational chart shows ten positions (including some outside the chain of command for the Beneficiary's position)

The Petitioner contends that the Beneficiary had hiring and firing authority at the foreign company, and exercised discretion over the day-to-day operations of the [REDACTED] treasury's activities. The Petitioner's description and information about the Beneficiary's former employment abroad shares many of the deficiencies identified above regarding the Beneficiary's current and intended future employment in the United States. The Petitioner has not established that the Beneficiary worked abroad in a qualifying managerial or executive capacity.

III. CONCLUSION

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of T-M- Co.*, ID# 15717 (AAO Feb. 26, 2016)