



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

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

In Re: 36883437

Date: FEB. 13, 2025

Appeal of California Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Religious Worker)

The Petitioner seeks classification as a special immigrant religious worker to perform services as a men's ministry director. This fourth preference immigrant classification allows non-profit religious organizations, or their affiliates, to employ aliens as ministers, in religious vocations, or in other religious occupations in the United States. Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner did not establish eligibility for the requested benefit on multiple grounds. 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.

I. LAW

Non-profit religious organizations may petition for aliens, or an alien may petition on their own behalf, to immigrate to the United States to perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations. The alien must meet certain eligibility criteria, including membership in a religious denomination and continuous religious work experience for at least the two-year period before the petition filing date. *See generally* section 203(b)(4) of the Act (providing classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)).

Specifically, the alien must have been working continuously in a full time, compensated status in one of the three types of qualifying positions, either in the United States or abroad, for at least the two-year period immediately preceding the filing of the petition. If the alien gained this experience in the United States, the evidence of their work experience must show that they received salaried compensation, non-salaried compensation, or provided for their own support and that of any dependents. 8 C.F.R. §§ 204.5(m)(4), (11).

The prospective employer of a religious worker must attest that it has the ability and intention to compensate the alien at a level at which they and their dependents will not become public charges. To demonstrate how it intends to compensate the alien, the prospective employer must submit verifiable evidence such as:

- Past evidence of compensation for similar positions;
- Budgets showing money set aside for salaries;
- Documentation that room and board will be provided; or
- Other acceptable evidence.

Documentation from the U.S. Internal Revenue Service (IRS) such as Form W-2 or certified tax returns, must be provided if available. Where such evidence is not available, its absence must be explained and comparable, verifiable documentation provided. 8 C.F.R. §§ 204.5m(7), (10)

A religious occupation is one which:

- Is recognized by the denomination as a religious occupation;
- The duties primarily relate to a traditional religious function;
- The duties primarily relate to, and clearly involve, inculcating or carrying out the denomination's religious creed and beliefs;
- The duties do not primarily involve administrative or support functions, although limited administrative duties incidental to religious functions are permissible, and;
- Is not religious study or training for religious work.

Positions such as janitors, maintenance workers, clerical employees, fund raisers, donation solicitors, and similar positions do not qualify as religious occupations. 8 C.F.R. § 204.5(m)(5).

A religious worker must be coming to the United States to work for either a bona fide non-profit religious organization or a bona fide organization affiliated with the religious denomination. In both cases, the organization must be exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code, and possess a currently valid determination letter from the U.S. Internal Revenue Service (IRS) confirming that status. A religious organization recognized as tax-exempt under a group determination must also present evidence of its membership in the group. 8 C.F.R. §§ 204.5(m)(3), (5) and (8).

II. ANALYSIS

The Petitioner seeks classification as a special immigrant religious worker in order to be employed as a men's ministry director, which he asserts is a religious occupation, at the [REDACTED] Florida. In her decision, the Director concluded that the Petitioner had not established how [REDACTED] intended to compensate him. She also determined that the Petitioner had not shown that the offered position qualified as a religious occupation, and that it would qualify as a full-time position. Further, the Director concluded that the Petitioner had not demonstrated that he had been continuously employed in a full-time, compensated position for the two-year period immediately preceding the filing of his petition, which in this case runs from March 21, 2022 to March

20, 2024. Per the following analysis, we conclude that the Petitioner has not established eligibility for the special immigrant classification sought.¹

A. Compensation

As noted above, the prospective employer of a religious worker must attest to its ability and intention to compensate the religious worker, and submit evidence of how it intends to do so. 8 C.F.R. §§ 204.5m(7), (10). Here, [redacted] indicated that it would pay the Petitioner an annual salary of \$23,520², and submitted unaudited financial statements for the years 2023 and 2024. But the regulation at 8 C.F.R. § 204.5(m)(10) specifies that IRS documentation must be provided, if available, or if not available its absence explained. Here, the record includes neither IRS documentation showing how [redacted] would compensate the Petitioner nor an explanation of why such evidence was not provided.³ In addition, the unaudited financial statements submitted by the Petitioner, which are the unsupported representations of the organization, are not comparable to tax returns filed with the federal government and are not verifiable evidence. As such, they do not establish how [redacted] intends to compensate the Petitioner.

The regulation also allows for the submission of evidence such as past compensation for similar positions, budgets showing monies set aside for salaries, or other acceptable evidence. *Id.* But the record does not include any of these types of evidence. Instead, with his appeal, the Petitioner submits a signed statement from the senior pastor of [redacted]. This statement refers to other evidence submitted on appeal which is very similar to evidence previously submitted. The first of these is another document the senior pastor signed, titled “W-2 Absence Explanation.” In this document he asserts that once the petition is approved, the Petitioner “will transition to the church’s payroll system and receive a formal salary of \$23,520 annually.” The second document is titled “Sponsor Affidavit” and is signed by the Petitioner, thus having very little evidentiary weight in showing how the church will compensate him as an employee. Given the lack of required documentation already discussed, these signed statements are insufficient to establish how [redacted] intends to compensate the Petitioner. The Petitioner has therefore not established that his proposed employer meets this requirement.

¹ We note that [redacted] indicated in Part 9 of Form I-360 that it is affiliated with a religious denomination, [redacted] [redacted] which was attested by an authorized official of that denomination. But the Petitioner did not include a tax-exempt determination letter from the IRS for [redacted] as required per 8 C.F.R. § 204.5(m)(8)(iii)(A), nor did he submit sufficient evidence of the affiliation between [redacted]. While the Director did not identify these issues as grounds for denial in her decision, the Petitioner must address these deficiencies in any further proceedings in this matter.

² On appeal, the Petitioner submits evidence from [redacted] stating for the first time that his compensation also includes room and board in addition to a salary. A petitioner may not make material changes to a petition that has already been filed to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm’r 1998). As a change in the Petitioner’s offered compensation is material to how [redacted] intends to compensate him, we will not consider this change on appeal.

³ We acknowledge that documentation from the IRS, as well as an explanation of the lack of certain IRS documentation, was submitted regarding the issue of the Petitioner’s past compensation, but that is a separate issue which will be addressed in the next section.

B. Qualifying Work Experience

As explained above, to demonstrate that an alien has been continuously employed in a full-time, compensated religious worker position for the two years immediately preceding the filing of the petition, a petitioner must submit evidence of salaried or non-salaried compensation, or provide evidence of self-support. Here, the Petitioner submitted the previously mentioned “W-2 Absence Explanation,” in which he states that because [] cannot compensate him until after his petition is approved, he “sponsored” by a company named S-C-C- LLC. He further explains that while he is the owner of this company, he does not engage in secular employment. Instead, he states that his spouse manages the daily operations of this company.

In addition to this signed statement, the Petitioner submits the IRS Form 1120 federal tax returns for S-C-C- LLC for the years 2022 and 2023. Attached to these returns is a form which shows that the Petitioner is the sole officer of this company, that he devotes 100% of his time to this business, and that he received \$36,000 of compensation for this role in each of those years. Also, the returns do not indicate that any other compensation was paid to other employees or officers. This evidence does not support the Petitioner’s assertion that he was not working for his own company in the relevant period or that his spouse manages the company’s operations.

More importantly, this evidence does not show that the Petitioner provided for his own support and was not engaged in nonqualifying secular work. To show how a petitioner provided for their own support, the regulation at 8 C.F.R. § 204.5(m)(11)(iii) states that they may submit evidence including audited financial statements, bank and brokerage account statements, trust documents, or “other verifiable evidence acceptable to USCIS.” Not listed amongst the suggested types of evidence are documents showing a petitioner’s receipt of compensation, since this compensation would consist either of qualifying salaried compensation as a religious worker under section (m)(11)(i) or non-qualifying compensation for secular employment. In addition, there is nothing in the regulation which allows for the type of “sponsorship” which the Petitioner asserts he received.

For the reasons discussed above, the Petitioner has not established that he was continuously employed in a full-time, compensated position as a religious worker in the two years immediately preceding the filing of his petition.

III. CONCLUSION

Per the foregoing analysis, the Petitioner has not established his eligibility for classification as a religious worker. We note that the Petitioner also challenges the Director’s conclusions that the offered position is not full-time and not a qualifying religious occupation. Because the Petitioner has not established his eligibility for the requested benefit, we need not reach, and therefore reserve, these remaining issues. *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).

ORDER: The appeal is dismissed.