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U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: NOV 01 2004

IN RE: Petitioner: [redacted]

Beneficiary

PETITION: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a conference of churches. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a minister. The director determined that the petitioner had not established that the beneficiary was qualified for the position within the religious organization.

On appeal, the petitioner submits a letter and additional documentation.

Section 203(b)(4) of the Act provides 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), which pertains to an immigrant who:

> (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;
>
> (ii) seeks to enter the United States--
>
> > (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
> >
> > (II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
> >
> > (III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and
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> (iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The regulation at 8 C.F.R. § 204.5(m)(3) states, in pertinent part, that each petition for a religious worker must be accompanied by:

> (ii) A letter from an authorized official of the religious organization in the United States which (as applicable to the particular alien) establishes:
>
> > (B) That, if the alien is a minister, he or she has authorization to conduct religious worship and to perform other duties usually performed by authorized member s of the clergy, including a detailed description of such authorized duties. In appropriate, cases, the certificate of ordination or authorization may be requested.

In a letter accompanying the petition, the petitioner's superintendent, states, "As a bilingual minister, [the beneficiary's] Japanese-speaking abilities have been invaluable in providing religious services, preparing and giving sermons, performing baptisms, weddings, funerals and providing religious counseling to our Japanese-speaking congregation. We strongly desire to have [the beneficiary] continue working full-time at the Peninsula Free Methodist Church." The petitioner also submitted a copy of the beneficiary's graduation certificate from the Tokyo Biblical Seminary's Master of Divinity program in 1993.

In a request for evidence (RFE) dated June 23, 2003, the director instructed the petitioner to "[s]ubmit evidence to show that the beneficiary has been ordained and the requirements for ordination. If the religion does not have formal ordination procedures, there must be other evidence that the individual has authorization to conduct religious worship and perform other services usually performed by members of the clergy."

In response, the petitioner submitted a copy of what it identifies as extracts from the 2001 and 2002 yearbooks of the Free Methodist Church, which includes the beneficiary. The petitioner also submitted a copy of a document labeled "Appointments Pacific Coast Japanese Conference 2003-2004, which contains the name of the beneficiary followed by the word "supply." The petitioner did not submit evidence of the beneficiary's ordination.

On appeal, the petitioner submits a copy of the beneficiary's ordination certification by the Japan Holiness Church, indicating that he was ordained as an evangelist in the church on April 1, 1993, as a deacon on April 1, 1994, and as an elder on March 27, 1999. Although the petitioner submits a statement identifying the name of the translator and her credentials, the translation is not accompanied by a certification from the translator.[1] The petitioner also submitted a letter describing the church's "process of accepting ministers from other denominations." The document states that as the beneficiary "is ordained by another denomination . . . we call him a 'supply pastor.' Granting [the beneficiary] the title of 'supply pastor' recognizes his ordination from another denomination and gives him all the ministerial rights and privileges of a minister ordained by the Free Methodist Church . . . In the Free Methodist denomination, an appointment to a local church is one on an annual basis and is read at the annual conference." The petitioner submitted a copy of an excerpt of The Free Methodist Church yearbook, with the previously submitted list of appointments attached. The petitioner additionally submitted a copy of excerpts from The Book of Discipline 1999 of The Free Methodist Church of North America, which lists the requirements and qualifications for ordainment as a minister in the denomination.

The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

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[1] The regulation at 8 C.F.R. § 103.2(b)(3) requires that documents submitted in a foreign language "shall be accompanied by a full English translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence of the beneficiary's ordination to be considered, it should have submitted the documents in response to the director's RFE. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal. Consequently, the appeal will be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.