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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

C1

[redacted]

DATE: MAY 31 2011 OFFICE: CALIFORNIA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant 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:

[redacted]

INSTRUCTIONS:
Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO subsequently remanded the petition to the director for a new decision based on revised regulations. The director determined that the petitioner had failed to submit required evidence, and therefore the director again denied the petition and certified the decision to the AAO. The AAO will affirm the director's decision.

The petitioner is a Christian church. 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 teacher and deacon. The director determined that the petitioner had not established its qualifying tax-exempt status, or that the beneficiary had the required two years of continuous, lawful, qualifying work experience immediately preceding the filing date of the petition.

In response to the certified decision, the petitioner submits a brief from counsel.

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 September 30, 2012, 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 September 30, 2012, 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
>
> (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 first issue under consideration concerns the petitioner's tax-exempt status. The petitioner filed the Form I-360 petition on May 5, 2008. On that form, the petitioner stated its employer

identification number (EIN) as [redacted], and showed an address on [redacted]. The initial submission identified [redacted] as the petitioner's senior pastor.

At the time the petitioner filed the petition, the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(3)(i) required the petitioner to submit evidence that the organization qualifies as a non-profit organization in the form of either:

> (A) Documentation showing that it is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or
>
> (B) Such documentation as is required by the Internal Revenue Service [IRS] to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

The initial submission included a copy of an October 15, 2007 IRS determination letter, with an effective date of April 21, 1999. The IRS letter shows the name of the petitioning church, and the same EIN shown on Form I-360, but the address on the letter is on [redacted]

A copy of an Assumed Name Certificate, filed with the State of Texas on May 5, 1999, identified [redacted] as the registered agent of a church in Spring with the same name as the petitioning church, but using the assumed name [redacted]. [redacted]'s name also appears on the articles of incorporation for that church, filed on April 21, 1999 – the effective date of exemption shown on the IRS determination letter. A Spanish-language web printout shows a [redacted] street address for [redacted]. That address matches the address shown on Form I-360.

On August 27, 2008, the director issued a request for evidence (RFE), instructing the petitioner to submit, among other things, the evidence required by the regulation at 8 C.F.R. § 204.5(m)(3)(i). The director noted that that the IRS determination letter in the record "indicates an address that is different from the address listed in [the] I-360 petition." In response, the petitioner submitted another copy of the IRS letter showing the Spring address. The petitioner did not discuss or explain why the address on the letter did not match the petitioner's address.

The director denied the petition on December 12, 2008, in part because the petitioner had not shown that it is the tax-exempt organization to which the IRS sent its determination letter. On appeal, counsel noted that the EIN shown on Form I-360 is the same EIN shown on the IRS letter.

While the petition was pending, USCIS published new regulations for special immigrant religious worker petitions. Supplementary information published with the new rule specified: "All cases

pending on the rule's effective date . . . will be adjudicated under the standards of this rule." 73 Fed. Reg. 72276, 72285 (Nov. 26, 2008).

The AAO withdrew the director's decision on July 2, 2009, because the director had based the decision on obsolete regulations. The AAO remanded the petition for a new decision based on the revised regulations. The revised USCIS regulation at 8 C.F.R. § 204.5(m)(8)(i) requires the petitioner to submit a currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization.

The director issued a new RFE on July 28, 2009, instructing the petitioner to submit evidence to meet the new regulatory requirements. In response, the petitioner submitted yet another copy of the 2007 IRS determination letter, and evidence of the church's good standing as a Texas corporation.

The director denied the petition for a second time on January 7, 2010, in part because the petitioner did not submit IRS documentation acknowledging that the entity at the petitioner's current address is tax-exempt. In response to the certified denial notice, counsel states: "Petitioner always maintained same FEIN number and same name of the church since IRS determination of its tax-exempt status, so by definition it is still the same religious organization regardless of the location."

It does not appear that the director was concerned that the petitioner lost its tax-exempt status by moving to a new location. Rather, the issue appears to be the possibility that the petitioner is fraudulently using an IRS determination letter issued to a different organization. The AAO acknowledges the need for vigilance against the abuse of another organization's documents, but there is no evidence of such activity in this proceeding. The record amply demonstrates [redacted] involvement with the petitioner from 1999 to the present. The use of different addresses appears to be the result of administrative decisions about mail delivery. (Other documents in the record show yet other addresses, often corresponding to the residential addresses of church officials.) The record contains documentation showing that the church leases worship space from a retail establishment, and as such has no permanent location of its own.

The AAO agrees with counsel that the petitioner has consistently used the name and EIN shown on the IRS determination letter. There is no evidence that the entity in Spring named on the IRS letter is a completely different organization, falsely identified as the intending employer. The petitioner has submitted satisfactory evidence of its qualifying tax-exempt status. The AAO will withdraw the director's finding to the contrary.

The above finding, however, does not clear the way for the approval of the petition. Another issue remains that is not so easily overcome.

At the time the petitioner filed the petition, the USCIS regulations at 8 C.F.R. §§ 204.5(m)(1) and (3)(ii)(A) required the petitioner to establish that the beneficiary continuously engaged in qualifying religious work throughout the two years immediately preceding the petition's filing date.

On the Form I-360, the petitioner provided the following information about the beneficiary:

> Date of Arrival: 1994
> I-94# [Arrival/Departure Record]: EWI [entered without inspection]
> Current Nonimmigrant Status: none
> Has the [beneficiary] ever worked in the U.S. without permission? No

The only way all of the above information could be internally consistent would be if the beneficiary never worked in the United States. If the beneficiary entered the United States without inspection and has no current nonimmigrant status, then any employment in the United States under those circumstances would be unauthorized.

The petitioner's initial submission included documentation of the beneficiary's religious training and ordination, but no specific claims or information about the beneficiary's past employment.

In the August 2008 RFE, the director instructed the petitioner to "[s]ubmit evidence of the beneficiary's work history beginning May 5, 2006 and ending May 4, 2008," including evidence of compensation. In response, [redacted] stated:

> [The beneficiary] began her ministry with the [petitioning] Church on March 18, 1995. She was ordained as a minister on that day. . . .
>
> In the past and at the present time, [the beneficiary] did not receive a salary for her work with our parishioners and only worked part time, specifically at 20 hours per week. However, she will be employed on a full time basis . . . upon approval of our petition.
>
> Despite the fact that [the beneficiary] did not receive a salary from our Church, she has received and is still receiving compensation for any and all expenses associated with her work for the Church. This was done due to the fact that she does not have authorization for work. However, upon approval of her petition, she will be officially given a salary.

The petitioner submitted copies of the beneficiary's income tax returns from 2005 to 2007. In 2006 and 2007, the beneficiary and her spouse reported income from a janitorial service called [redacted]

The director, in the first denial notice, found that the petitioner had not established the beneficiary's qualifying past experience. The director added that the beneficiary's documents "indicate that her principal profession or service is janitorial services."

On appeal from that decision, counsel stated: "the janitorial service is a family owned business, which by no means [i]mplies that it is beneficiary's full time profession." On the 2006 and 2007 tax

returns, the beneficiary identified her occupation as "Self Janitor Contractor." Both tax returns are marked as "self-prepared," which eliminates the possibility of a misunderstanding by a third-party preparer. According to the tax returns, [redacted]' gross income was $119,332 in 2006 and $48,439 in 2007. The 2007 return identified the beneficiary as the proprietor of Alpha Contractors. Given this information, and the petitioner's prior assertion that the beneficiary only worked part-time for the church, the record offers little reason to believe that the beneficiary devoted more time or effort to religious work than to secular endeavors.

The revised regulation at 8 C.F.R. § 204.5(m)(4) requires that the beneficiary must have been performing qualifying religious work, either abroad or in lawful immigration status in the United States, continuously for at least the two-year period immediately preceding the filing of the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) reads:

> *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and:
>
> (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
>
> (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
>
> (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.
>
> If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

After the AAO remanded the petition for a new decision under the revised regulations, the director, in the July 2009 RFE, the director requested further evidence of the beneficiary's employment and financial support during the 2006-2008 qualifying period, including "an itemized record from the Social Security Administration [SSA] on Form SSA-7050-F4." The petitioner submitted copies of previously submitted materials, and a "Social Security Statement" dated June 23, 2009. This

statement listed the beneficiary's total reported income for each year, but it is not Form SSA-7050-F4 and did not identify the employers. The statement showed no reported income for 2006 or 2007, but did show that the beneficiary reported earning $14,197 in 2008. The petitioner submitted nothing to identify the beneficiary's 2008 employer. On her 2008 income tax return, the beneficiary identified her occupation only as "Labor."

The director, in the certified denial notice, determined that the petitioner had not established that the beneficiary continuously performed qualifying religious work throughout the two-year qualifying period. The director also noted the beneficiary's "unauthorized employment."

In response to the certified denial, counsel stated that the beneficiary's "services that were provided to the Church for many years were never done in violation of immigration law, since they were volunteered." Counsel asserts that the "Beneficiary is grandfathered under the provision of the INA § 245(i), since she had a petition that was filed on her behalf and subsequently approved prior to April 30, 2001."

Counsel refers, here, to an earlier Form I-360 petition that the petitioner filed in 1997. USCIS records show that USCIS revoked the approval of that petition on October 11, 2006, five months into the two-year qualifying period. There is no evidence that the beneficiary applied for adjustment of status while the approval of the petition was in effect (she filed Form I-485 two days after service of the revocation notice), and therefore she never derived lawful status from the approval of the 1997 petition. The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Matter of Ho*, 19 I&N Dec. 582, 589 (BIA 1988). USCIS records show that the beneficiary applied for employment authorization at various times after the approval of the 1997 petition, and filed the last such application on January 6, 2005. USCIS approved that application, granting the beneficiary employment authorization until September 5, 2005. The beneficiary had no employment authorization after that date.

Section 245(i) of the Act, 8 U.S.C. § 1255(i), states, in pertinent part:

> **Adjustment of Status for Aliens Physically Present in the United States**
>
> (1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States –
>
> (A) who –
>
> (i) entered the United States without inspection ; or
> (ii) is within one of the classes enumerated in subsection (c) of this section;
>
> (B) who is the beneficiary . . . of –

> (i) a petition for classification under section 204 that was filed with the Attorney General on or before April 30, 2001
>
> * * *
>
> (C) who, in the case of a beneficiary of a petition for classification . . . that was filed after January 14, 1998, is physically present in the United States on the date of the enactment of the LIFE Act Amendments of 2000 [enacted December 21, 2000];
>
> may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a sum equaling $1,000 as of the date of receipt of the application . . . .

Section 245(i) of the Act permitted certain aliens who were physically present in the United States on December 21, 2000, and who were otherwise ineligible to adjust their status, such as aliens who entered the United States without inspection or failed to maintain lawful nonimmigrant status, to pay a penalty and have their status adjusted without having to leave the United States. Section 245(i) of the Act expired as of April 30, 2001, except for those aliens who are "grandfathered." "Grandfathered alien" is defined in 8 C.F.R. § 245.10(a) to include "an alien who is the beneficiary . . . of . . . [a] petition for classification," such as a Form I-360 petition, "which was properly filed with the Attorney General on or before April 30, 2001, and which was approvable when filed."[1]

The regulation at 8 C.F.R. § 245.10(a)(3) states:

> *Approvable when filed* means that, as of the date of the filing of the qualifying immigrant visa petition under section 204 of the Act . . . , the qualifying petition . . . was properly filed, meritorious in fact, and non-frivolous ("frivolous" being defined herein as patently without substance). This determination will be made based on the circumstances that existed at the time the qualifying petition or application was filed.

However, section 245(i) relief applies to adjudication of a Form I-485 adjustment application, not to adjudication of the underlying immigrant petition. Specifically, section 245(i)(2)(A) of the Act mandates that an alien seeking section 245(i) relief be "eligible to receive an immigrant visa." *See INS v. Bagamasbad*, 429 U.S. 24, 25 n. (1976) (per curiam); *Lee v. U.S. Citizenship & Immigration Servs.*, 592 F.3d 612, 614 (4th Cir. 2010) (describing the legislative history of 8 U.S.C. § 1255(i)).

The law does not require aliens to adjust their status on every grandfathered immigrant petition, nor does the law require every grandfathered immigrant petition to be approved. However, in order to seek relief under section 245(i) of the Act based on classification under section 204 of the Act, the

[1] The regulation at 8 C.F.R. § 245.10(a)(2) defines "properly filed" to mean that "the application was physically received by the Service on or before April 30, 2001, or if mailed, was postmarked on or before April 30, 2001, and accepted for filing as provided in § 103.2(a)(1) and (a)(2) of [8 C.F.R.]."

alien in this case must first have an approved immigrant petition and an approvable when filed immigrant petition or labor certification filed on or before April 30, 2001.

The law does not require USCIS to approve every immigrant petition filed on behalf of an alien who intends to seek section 245(i) relief. Rather, such relief presupposes an already-approved immigrant petition. Without an approved immigrant petition, the beneficiary in this case has no basis for adjustment of status, and therefore section 245(i) relief does not apply.

The new regulations at 8 C.F.R. § 204.5(m) say nothing about what benefits are or are not available to the beneficiary at the adjustment stage, and the director, in this proceeding, did not bar the beneficiary from ever receiving benefits under section 245(i) of the Act. Rather, the director found that the beneficiary's lack of lawful status and employment authorization during the two-year qualifying period prevents the approval of the present immigrant petition based on the regulatory requirements at 8 C.F.R. §§ 204.5(m)(4) and (11). Counsel's assertion that the beneficiary is eligible for section 245(i) relief at the adjustment stage does not require us to approve the underlying immigrant petition before the beneficiary has even reached that stage.

Furthermore, the record contains no persuasive evidence that the beneficiary would be eligible for section 245(i) relief. In order to qualify for section 245(i) relief, an alien must be the beneficiary of a petition or labor certification that was approvable when filed on or before April 30, 2001. 8 C.F.R. § 245.10(a)(1)(i)(A). That is, the petition must have been properly filed, meritorious in fact, and non-frivolous. 8 C.F.R. § 245.10(a)(3). The record available to USCIS does not include documentation of the 1997 petition, but the revocation of the approval of that petition is, on its face, evidence that USCIS did not consider the petition to be properly approvable.

The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the beneficiary's experience in the United States to have been in lawful immigration status. The petitioner has not shown or claimed that the beneficiary held lawful immigration status throughout the two-year qualifying period.

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) requires either IRS documentation of compensation or else verifiable evidence of qualifying self-support. Further information about this self-support appears in the regulation at 8 C.F.R. § 214.2(r)(11)(ii):

> (A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.
>
> (B) An established program for temporary, uncompensated work is defined to be a missionary program in which:
>
> > (1) Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;

(2) Missionary workers are traditionally uncompensated;

(3) The organization provides formal training for missionaries; and

(4) Participation in such missionary work is an established element of religious development in that denomination.

(C) The petitioner must submit evidence demonstrating:

(1) That the organization has an established program for temporary, uncompensated missionary work;

(2) That the denomination maintains missionary programs both in the United States and abroad;

(3) The religious worker's acceptance into the missionary program;

(4) The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and

(5) Copies of the alien's bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination's churches), or other verifiable evidence acceptable to USCIS.

The petitioner has not claimed or shown that the beneficiary's activities meet the regulatory description of qualifying self-support. Unauthorized secular employment is not qualifying self-support, and the petitioner has not produced evidence on a par with IRS documentation to show that her claimed religious work happened at all. The petitioner simply claims that the work took place.

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 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)). Furthermore, in this instance, credibility issues further limit the evidentiary value of the petitioner's unsupported claims. As noted previously, on Form I-360, the petitioner answered "No" when asked if the beneficiary had ever worked in the United States without authorization. Later, the petitioner admitted that the beneficiary worked for years without authorization, which means that the petitioner's earlier, contrary claim was false. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 591. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or

reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

In addition to requiring credible evidence that qualifying work took place, the regulation at 8 C.F.R. § 204.5(m)(11) also requires that qualifying experience, if acquired in the United States, must have been authorized under United States immigration law. The affirmative wording of this passage indicates that some kind of authorizing event or action, such as the issuance of a visa or employment authorization document, must apply to the qualifying experience. The petitioner admits that the beneficiary had no employment authorization, but claims that, because the beneficiary purportedly worked without compensation, the lack of employment authorization is not disqualifying. This claim, however, does not establish that the beneficiary's claimed experience was affirmatively "authorized under United States immigration law." The petitioner cites no statute, regulation, case law, or case-specific action by USCIS or any other agency that authorized the beneficiary to volunteer part-time at a church while unlawfully running a janitorial contracting service.

For the reasons discussed above, the AAO agrees with the director's finding that the petitioner has not shown that the beneficiary engaged in authorized religious work while in lawful immigration status during the two years immediately preceding the filing of the petition. The AAO will therefore affirm the certified denial of the petition.

Beyond the director's decision, the AAO finds another issue of concern. The AAO may identify additional grounds for denial beyond what the Service Center identified in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

The USCIS regulation at 8 C.F.R. § 204.5(m)(10) reads:

> *Evidence relating to compensation.* Initial evidence must include verifiable evidence of how the petitioner intends to compensate the alien. Such compensation may include salaried or non-salaried compensation. This evidence may include past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; verifiable documentation that room and board will be provided; or other evidence acceptable to USCIS. If IRS documentation, such as IRS Form W-2 or certified tax returns, is available, it must be provided. If IRS documentation is not available, an explanation for its absence must be provided, along with comparable, verifiable documentation.

The petitioner has twice submitted uncertified copies of its IRS Form 1023 Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Part IX of that application includes a "Statement of Revenues and Expenses." From the total revenues and total expenses, it is possible to calculate the petitioner's net annual income:

	2004	2005	2006	Jan.-Aug. 2007
Total Revenues	$137,536	$167,698	$167,649	$135,654
Total Expenses	137,712	159,050	162,775	149,269
Net Income (Loss)	(176)	8,648	4,874	(13,615)

The petitioner has claimed that it will pay the beneficiary $30,000 per year. The petitioner does not claim that the beneficiary has already been earning that amount, or that the beneficiary will replace an employee already earning that salary. Rather, the petitioner claims that the beneficiary has already worked for the petitioner, without pay, for several years. Therefore, the beneficiary's salary would represent an added $30,000 expense every year. The above figures, however, do not indicate that the petitioner would be able to absorb that expense.

Furthermore, the petitioner's intent to compensate the beneficiary is in doubt. In a letter dated October 15, 2009, [redacted] stated: "We currently employ 21 individuals on salary or volunteer basis." On the IRS Form 1023, the petitioner indicated that it paid two compensated officers ([redacted]. [redacted] and [redacted]), and did not claim to pay any other salaries. Therefore, the church relies almost entirely on unpaid volunteer labor of the type that the beneficiary is said to have supplied for several years.

Given the petitioner's near-total reliance on volunteer labor, and the financial figures quoted above, there is considerable doubt that the petitioner truly intends, or is able, to convert the beneficiary's claimed part-time volunteer position to a $30,000-a-year, full-time position. This conclusion amounts to another ground for denial of the petition.

The AAO will affirm the certified decision for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The director's decision of January 7, 2010, is affirmed. The petition is denied.