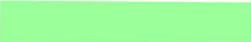


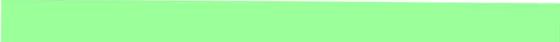


U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JAN 22 2013** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
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:

SELF-REPRESENTED

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The petitioner is a 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 minister – missionary/welfare officer. The director determined that the petitioner failed to establish that it qualifies as a bona fide non-profit religious organization in the United States and how it intends to compensate the beneficiary. The director also found that the petitioner failed to establish that the beneficiary has the requisite two years of continuous, qualifying work experience immediately preceding the filing of the petition and the requisite two years of membership in the petitioner’s denomination immediately preceding the filing of the petition. Additionally, the director found that the petitioner failed to establish that the beneficiary would be employed in a qualifying position and failed to submit a completed Form I-360 petition.

On appeal, the petitioner submits a new Form I-360 petition, a copy of its bylaws, a financial statement, a document providing information about the practices of the petitioning church, a “Membership and Decision Making Record” for the beneficiary, and documents related to the petitioner’s status as a corporation in the state of Maryland. The petitioner also submits a letter from the president of [REDACTED] a letter from the Internal Revenue Service (IRS) confirming [REDACTED] tax-exempt status under 501(c)(3) of the internal revenue code, a letter from [REDACTED] in Nigeria, a blank “Time Sheet” for the beneficiary, and copies of documents already in the record.

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 to be discussed is whether the petitioner has established that it qualifies as a bona fide non-profit religious organization.

The United States Citizenship and Immigration Service (USCIS) regulation at 8 C.F.R. § 204.5(m)(3) provides that in order to be eligible for classification as a special immigrant religious worker, an alien must be coming to work for a bona fide non-profit religious organization in the United States, or a bona fide organization which is affiliated with the religious denomination in the United States. The regulation at 8 C.F.R. § 204.5(m)(5) states, in pertinent part:

(5) Definitions. As used in paragraph (m) of this section, the term:

Bona fide non-profit religious organization in the United States means a religious organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, and possessing a currently valid determination letter from the IRS confirming such exemption.

Bona fide organization which is affiliated with the religious denomination means an organization which is closely associated with the religious denomination and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code and possessing a currently valid determination letter from the IRS confirming such exemption.

The regulation at 8 C.F.R. § 204.5(m)(8) states:

Evidence relating to the petitioning organization. A petition shall include the following initial evidence relating to the petitioning organization:

- (i) A currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization; or
- (ii) For a religious organization that is recognized as tax-exempt under a group tax-exemption, a currently valid determination letter from the IRS establishing that the group is tax-exempt; or

(iii) For a bona fide organization that is affiliated with the religious denomination, if the organization was granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, or subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, as something other than a religious organization:

- (A) A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;
- (B) Documentation that establishes the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;
- (C) Organizational literature, such as books, articles, brochures, calendars, flyers and other literature describing the religious purpose and nature of the activities of the organization; and
- (D) A religious denomination certification. The religious organization must complete, sign and date a religious denomination certification certifying that the petitioning organization is affiliated with the religious denomination. The certification is to be submitted by the petitioner along with the petition.

On the Form I-360 petition, the petitioner listed its IRS Tax # as [REDACTED]. The petitioner submitted a copy of a November 1, 2011 certificate of good standing from the State of Maryland Department of Assessments and Taxation.

On December 22, 2011, USCIS issued a Request for Evidence (RFE) which, in part, instructed the petitioner to submit documentary evidence that it qualifies as a bona fide non-profit organization. The notice specifically instructed the petitioner to submit a determination letter from the IRS confirming that it is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

In response to the request, the petitioner failed to submit such a letter or any evidence pertaining to its tax-exempt status.

The director denied the petition on June 4, 2012, noting that the petitioner was specifically requested to provide a currently valid determination letter from the IRS confirming its exemption from taxation as described in section 501(c)(3) of the Internal Revenue Code but failed to provide such evidence.

On appeal, the petitioner submits a copy of its bylaws and documents related to its status as a corporation within the state of Maryland, but again fails to submit a determination letter from the

IRS confirming its status as a tax-exempt organization under 501(c)(3) of the Internal Revenue Code. The petitioner instead submits an IRS determination letter pertaining to [REDACTED] as well as a letter from the president that organization asserting that the signatory of the petition, [REDACTED] is a board member and that [REDACTED] together continues to participate in projects that promote the community.”

The AAO notes that the evidence submitted on appeal is insufficient under the requirements of 8 C.F.R. § 204.5(m)(8). Despite any relationship between the petitioner and [REDACTED] the IRS letter to that organization does not indicate that it was granted a group exemption which would apply to subordinate organizations, nor does it indicate that [REDACTED] is classified as a religious organization. Regardless, at issue here is whether the record before the director established that the petitioner was a tax-exempt organization. As previously indicated, at the time the petition was filed, the petitioner submitted no evidence of a currently valid determination letter from the IRS. In response to the RFE, the petitioner again failed to submit qualifying documentation of its federal tax-exempt status. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. § 103.2(b)(1),(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm’r. 1971).

Accordingly, the AAO finds no error on the part of the director and concurs with the determination that the petitioner failed to establish that it qualifies as a bona fide nonprofit religious organization.

The second issue to be discussed is whether the petitioner has established how it intends to compensate the beneficiary. The USCIS regulation at 8 C.F.R. § 204.5(m)(10) states:

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.

At the time of filing the petition, the petitioner did not provide information or documentation regarding its intended compensation of the beneficiary. On the employer attestation portion of the petition, the petitioner failed to complete question 5d, “Description of the proposed salaried and/or non-salaried compensation,” and failed to indicate that it attested to the required statements relating to compensation, including the following:

7. The prospective employer is willing and able to provide salaried and/or non-salaried compensation at a level that the alien and any dependents will not become a public charge. ...

8. The funds to pay the prospective employee's compensation do not include any monies obtained from the alien, excluding reasonable donations or tithing to the religious organization.

In the RFE issued on December 22, 2011, the petitioner was instructed to submit a completed employer attestation and to submit evidence of how it intends to compensate the beneficiary in accordance with 8 C.F.R. § 204.5(m)(10).

In response to the notice, the petitioner did not submit a completed employer attestation from the Form I-360 petition, instead submitting Supplement E to Form I-129, Petition for Nonimmigrant Worker, which did not contain information about the petitioner's intent or ability to compensate the beneficiary. The petitioner submitted copies of bills from utility companies and other vendors, as well as a copy of an April 8, 2010 check from the petitioner to an individual, [REDACTED] for \$1,000.

In the June 4, 2012 decision denying the petition, the director found that the petitioner failed to submit evidence of its ability to compensate the beneficiary.

On appeal, the petitioner submits a new Form I-360 petition in which the petitioner attests to the required statements regarding compensation but again fails to provide any description of the proposed salaried and/or non-salaried compensation for the beneficiary's position. The petitioner submits a "Statement of Income" covering the years 2008 through 2012, which indicates that the petitioner spent \$28,000 on "Salaries" in 2008, and \$29,475 in 2009 through 2012, with total income exceeding total operating expenses in each of those years. However, the statement does not include a sufficient breakdown of expenses to indicate whether any money was allocated to compensation for the beneficiary, nor does the petitioner submit any verifiable documentary evidence to support the asserted figures contained in the statement. 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)). Accordingly, the AAO agrees with the director's determination that the petitioner has failed to establish how it intends to compensate the beneficiary.

The third issue to be discussed is whether the petitioner has established that the beneficiary has the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that the alien has been working as a minister or in a qualifying religious occupation or vocation, 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 petition was filed on December 5, 2011. Therefore, petitioner must establish that the beneficiary was continuously performing qualifying religious work in lawful status throughout the two-year period immediately preceding that date.

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

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.

According to the record, the beneficiary entered the United States on June 19, 2004 in J-1 nonimmigrant exchange visitor status. Pursuant to the regulation at 8 C.F.R. § 274a.12(b)(11), J-1 exchange visitors are permitted to work according to the specific terms of their exchange program. The petitioner has not submitted evidence to establish that the beneficiary held authorization to work for the petitioning church during the two-year qualifying period immediately preceding the filing of the petition. Accordingly, any work performed for the petitioner during that time would not be considered qualifying experience under § 204.5(m)(11).

On the employer attestation portion of the Form I-360 petition, the petitioner indicated that it attested to the following statement: "The alien has been a religious worker for at least 2 years immediately before Form I-360 was filed and is otherwise qualified for the position offered." The petitioner did not submit any additional information or documentation regarding the beneficiary's work history during the qualifying period.

In the December 22, 2012 RFE, USCIS requested additional evidence of the beneficiary's continuous, lawful, qualifying work experience during the two years immediately preceding the filing of the petition. The petitioner was specifically instructed to submit experience letters written by the previous and current employers including "specific date of employment, description of job assignment allocated per week, a breakdown of specific job duties, number of hours worked per week, form and amount of compensation, and level of responsibility/supervision." The notice also instructed the petitioner to submit evidence of compensation received, including IRS tax return transcripts and wage and income transcripts as well as the beneficiary's IRS Forms W-2 for the years 2009 and 2010.

In a letter responding to the notice, the petitioner stated the following, in pertinent part:

At the present time, we have a volunteer staff of twenty (20) members, Participating in the [REDACTED]

[REDACTED] has been a member of the [REDACTED] since December of 2009, and she is a part of our [REDACTED]

The letter did not provide any further information about the beneficiary's dates of employment or duties within the [REDACTED] nor did it indicate whether she had been compensated for such work. The petitioner additionally submitted a copy of a "Certificate of Achievement," recognizing the beneficiary "as a member of the [REDACTED] on April 20, 2011.

In the June 4, 2012 decision, the director noted that the petitioner had not submitted any evidence of the beneficiary's prior salaried or non-salaried compensation during the qualifying period as required under 8 C.F.R. § 204.5(m)(11). Accordingly, the director found that the petitioner failed to establish that the beneficiary has the requisite two years of qualifying experience.

In the new Form I-360 petition submitted on appeal, the petitioner provides new details about the duties of the prospective position, but does not indicate whether those duties apply to the beneficiary's prior employment during the qualifying period. The petitioner provides no additional information or documentation about the beneficiary's purported religious work during the two-year qualifying period immediately preceding the filing of the petition. As stated above, the financial statement submitted on appeal does not indicate whether the amount listed as "Salaries" included any compensation of the beneficiary. The petitioner submits a "Time Sheet" listing the beneficiary's name, but containing no entries. Additionally, the petitioner submits a letter of recommendation from [REDACTED] which asserts that the beneficiary served as "our Welfare Officer in-charge of outreach services" prior to departing for the United States in 2004. The AAO notes that the religious work referred to in the recommendation letter did not take place during the two years immediately preceding the filing of the petition, and is therefore not relevant qualifying experience.

The AAO agrees with the director's finding that the petitioner has not established that the beneficiary has the requisite two years of continuous, qualifying work experience immediately preceding the filing of the petition. The petitioner has not set forth the dates of its purported employment of the beneficiary or the duties involved in order to establish the continuity or qualifying nature of the work. Furthermore, the petitioner has not submitted sufficient documentary evidence to establish that the beneficiary was continuously engaged in compensated employment during the qualifying period. The regulation at 8 C.F.R. § 204.5(m)(11) requires compensated employment. The petitioner must submit evidence of prior compensation in the form of IRS documentation, or evidence of qualifying self-support. The petitioner has submitted no such evidence. Additionally, as mentioned above, the petitioner has not established that the beneficiary held employment authorization to work for the petitioner during the qualifying period.

The fourth issue to be discussed is whether the petitioner has established the beneficiary's membership in the petitioner's denomination for at least two years immediately preceding the filing of the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(1) provides that in order to be eligible for classification as a special immigrant religious worker, an alien must have been a member of the petitioning organization's religious denomination for at least the two years immediately preceding the filing date of the petition.

On the employer attestation portion of the Form I-360 petition, the petitioner attested to the following statement: "The alien has been a member of the prospective employer's denomination for at least 2 years immediately before Form I-360 was filed."

In the letter responding to the December 22, 2011 RFE, the petitioner asserted that the beneficiary "has been a member of the [redacted] since December of 2009."

In her decision, the director noted that the petitioner had submitted "no independent and objective evidence" in support of its assertion regarding the beneficiary's membership.

On appeal, the petitioner submits a "Church Membership and Decision Making Record" for the beneficiary, dated June 2, 2008.

The AAO notes that the evidence submitted on appeal directly conflicts with the petitioner's prior statement. The petitioner previously asserted that the beneficiary had been a member of the petitioning church since December 2009, while the membership record submitted on appeal lists a date of June 2, 2008. No explanation was provided regarding this inconsistency. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a

reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*, at 591. Accordingly, the AAO agrees with the director's finding on this issue.

The fifth issue to be discussed is whether the petitioner has established that the beneficiary will be employed in a qualifying position.

The USCIS regulation at 8 C.F.R. § 204.5(m)(2) provides that in order to be eligible for classification as a special immigrant religious worker, an alien must:

(2) Be coming to the United States to work in a full time (average of at least 35 hours per week) compensated position in one of the following occupations as they are defined in paragraph (m)(5) of this section:

- (i) Solely in the vocation of a minister of that religious denomination;
- (ii) A religious vocation either in a professional or nonprofessional capacity; or
- (iii) A religious occupation either in a professional or nonprofessional capacity.

The regulation at 8 C.F.R. § 204.5(m)(5) states, in pertinent part:

(5) Definitions. As used in paragraph (m) of this section, the term:

Minister means an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct such religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States, which may include administrative duties incidental to the duties of a minister.

Religious occupation means an occupation that meets all of the following requirements:

- (A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.
- (B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.
- (C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.
- (D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

Religious vocation means a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The religious denomination must have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion. Examples of individuals practicing religious vocations include nuns, monks, and religious brothers and sisters.

Religious worker means an individual engaged in and, according to the denomination's standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.

On the Form I-360 petition, Part 2. Classification Requested, the petitioner indicated that the beneficiary would **not** be working as a minister. The petitioner did not complete question 5 of the employer attestation, therefore failing to provide the title of the position offered, a description of the proposed duties, and a description of the beneficiary's qualifications for the proffered position.

The December 22, 2011 RFE requested additional information about the proffered position as well as evidence to establish that the position meets the regulatory definition of a religious vocation or a religious occupation.

The petitioner's response to the RFE asserted that the beneficiary is a member of its [REDACTED] but did not provide additional details regarding the duties, schedule, or qualifications for the proffered position. Accordingly, the director found that the petitioner had not submitted sufficient evidence to establish that the prospective position is a qualifying religious occupation or vocation.

In the new Form I-360 petition submitted on appeal, the petitioner indicates in Part 2. Classification Requested, that the beneficiary **will** be working as a minister. In the employer attestation portion of the new petition, the petitioner lists the title as "Minister – Missionary/Welfare Officer," and describes the proposed daily duties as follows:

To pray for each Church members, Pastors and Church Leaders.

To be a source of encouragement and help to others

To willingly comply with any responsibility request made by the mission.

More importantly, to consistently become more like Christ with a focus on Evangelism via Personal Relationship (PR) and outdoor Experiences as well as Discipleship via Mentoring and Coaching (MC) in the Church

To evangelize the work of the churches as much as lies within her power

To carry a gospel of comfort and deliverance to the hospitals, jails, convalescent homes and the like

To visit the shut-ins and give physical assistance when there is a need

As a description of the qualifications for the position, the petitioner stated:

Basic qualification: Individual must have a personal relationship with God and be able to articulate at a basic level. Each individual should live his life in an attempt of be consistent with the teachings of the word of God.

Regarding the petitioner's assertion on appeal that the beneficiary will be employed as a minister, the AAO finds that this constitutes a material change to the original petition, which indicated that the position would be non-ministerial. A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). Furthermore, the petitioner has not established that the position, as newly described, meets the statutory definition of a minister under 8 C.F.R. § 204.5(m)(5). That regulation provides that a minister must be "fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct such religious worship and perform other duties usually performed by authorized members of the clergy of that denomination." The petitioner has not provided evidence of its training and authorization standards for members of its clergy, nor has it submitted evidence that the beneficiary's meets such standards. Further, the regulation provides that the definition does not include a "lay preacher or a person not authorized to perform duties usually performed by clergy." It is not evident from the petitioner's description of the proposed duties that these duties would not normally be performed by a lay person.

Accordingly, the AAO agrees with the director's determination that the petitioner failed to establish the qualifying nature of the prospective position.

Finally, the director found that the petitioner failed to complete the Form I-360 petition.

The USCIS regulation at 8 C.F.R. § 103.2(b) states the following, in pertinent part:

An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. All required application or petition forms must be properly completed and filed with any initial evidence required by applicable regulations and/or the forms instructions.

The regulation at 8 C.F.R. § 204.5(m)(7) requires an authorized official of the prospective employer of an alien seeking religious worker status to complete, sign and date an attestation providing specific information about the employer, the alien, and the terms of proposed employment. The regulation at 8 C.F.R. § 204.5(m)(7) states that the prospective employer must specifically attest to all of the following:

- (i) That the prospective employer is a bona fide non-profit religious organization or a bona fide organization which is affiliated with the religious denomination and is exempt from taxation;
- (ii) The number of members of the prospective employer's organization;
- (iii) The number of employees who work at the same location where the beneficiary will be employed and a summary of the type of responsibilities of those employees. USCIS [United States Citizenship and Immigration Services] may request a list of all employees, their titles, and a brief description of their duties at its discretion;
- (iv) The number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past five years by the prospective employer's organization;
- (v) The number of special immigrant religious worker and nonimmigrant religious worker petitions and applications filed by or on behalf of any aliens for employment by the prospective employer in the past five years;
- (vi) The title of the position offered to the alien, the complete package of salaried or non-salaried compensation being offered, and a detailed description of the alien's proposed daily duties;

- (vii) That the alien will be employed at least 35 hours per week;
- (viii) The specific location(s) of the proposed employment;
- (ix) That the alien has worked as a religious worker for the two years immediately preceding the filing of the application and is otherwise qualified for the position offered;
- (x) That the alien has been a member of the denomination for at least two years immediately preceding the filing of the application;
- (xi) That the alien will not be engaged in secular employment, and any salaried or non-salaried compensation for the work will be paid to the alien by the attesting employer; and
- (xii) That the prospective employer has the ability and intention to compensate the alien at a level at which the alien and accompanying family members will not become public charges, and that funds to pay the alien's compensation do not include any monies obtained from the alien, excluding reasonable donations or tithing to the religious organization.

The employer attestation portion of the petition, Part 8 of the Form I-360, although signed by the petitioner, was only partially completed. Only questions 11 and 12 were answered. As stated above, the December 22, 2011 RFE instructed the petitioner to submit a completed employer attestation. However, the petitioner instead submitted a Form I-129 Supplement E. In her decision, the director found that the petitioner failed to submit a completed I-360 petition form.

On appeal, the petitioner submits a new Form I-360 petition. However, in addition to containing a material change from the initially filed petition as discussed above, the employer attestation portion of the petition is again incomplete. The petitioner failed to respond to question 5d, "Description of the proposed salaried and/or non-salaried compensation." Accordingly, the petitioner has not met the requirements of 8 C.F.R. § 204.5(m)(7)(vi), which requires the petitioner to attest to "the complete package of salaried or non-salaried compensation being offered." The AAO agrees with the director's finding on this issue.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.