



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[Redacted]

DATE: APR 15 2014

OFFICE: CALIFORNIA SERVICE CENTER [Redacted]

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)

ON BEHALF OF PETITIONER:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

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

The petitioner is a mosque and Islamic center. It seeks to extend the beneficiary's classification as a nonimmigrant religious worker pursuant to section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R), to perform services as an imam (religious leader). The director determined that the petitioner failed to establish that the petition's signatory was authorized to sign on behalf of the organization and failed to establish how it intends to compensate the beneficiary. The director also determined that the petitioner failed to submit sufficient evidence of the beneficiary's previous employment and failed to establish that the beneficiary will be employed in a qualifying position.

On appeal, the petitioner submits copies of previously submitted documents as well as additional evidence. In a January 31, 2013 letter accompanying the Form I-290B, Notice of Appeal or Motion, the petitioner requested additional time to submit a brief and supplemental evidence. To date, the AAO has received no further communication or evidence; therefore the record is considered complete as it now stands.

Section 101(a)(15)(R) of the Act pertains to an alien who:

- (i) for the 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; and
- (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
- (II) . . . 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) . . . 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.

The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 214.2(r)(1) states that, to be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

- (i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;
- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);
- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);
- (iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and
- (v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

The first issue to be discussed is whether the petitioner established that the signatory of the Form I-129, Petition for a Nonimmigrant Worker, was authorized by the petitioner to sign the petition.

The USCIS regulation at 8 C.F.R. § 214.2(r)(7) provides that an employer in the United States seeking to employ a religious worker shall file a petition in accordance with the form instructions. Part 7 of the petition, "Signature," provides in part: "If filing this petition on behalf of an organization, I certify that I am authorized to do so by the organization." Additionally, the regulation at 8 C.F.R. § 214.2(r)(8) states, in part:

*Attestation.* An authorized official of the prospective employer of an R-1 alien must complete, sign and date an attestation prescribed by USCIS and submit it along with the petition. . . .

The petitioner filed Form I-129 on May 25, 2011. Both the petition and the required employer attestation were signed by [REDACTED] who identified himself as the president of the petitioning organization. On February 1, 2012, USCIS issued a Request for Evidence (RFE), in part requesting information about the petitioner's volunteers, as well as an organizational chart. An April 24, 2012, letter of response from the petitioner was signed by [REDACTED]. In the first sentence of the letter, however, [REDACTED] referred to himself as "President." The letter stated that the petitioner's board of directors consists of nine members who serve on a volunteer basis for four-year terms. The petitioner submitted a printout from its website and a separate chart, both of which listed

nine board members and identified [REDACTED] as "Secretary." Both documents also included a statement that the current board, including the President, had been elected on January 28, 2012 for a period of four years. The chart also stated that [REDACTED] had served since 2008, but did not indicate in which capacity he served during those years.

The director denied the petition on January 2, 2013. In the decision, the director noted that Mr. [REDACTED] was initially identified as "President," and later as "Secretary." The director did not dispute that [REDACTED] held either position but found that because [REDACTED] position within the petitioning organization was "not clearly defined," his authority to sign the petition was therefore unclear.

On appeal, the petitioner explains that although Mr. [REDACTED] was previously president of the petitioning organization, his current position is secretary. This explanation is consistent with the evidence that shows that a new board of directors was elected between the filing of the petition and the response to the RFE. The submitted documentation identifying Mr. [REDACTED] as the petitioner's secretary does not contradict the earlier documents identifying him as the petitioner's president. Although [REDACTED] did refer to himself as president after the election, he presumably had authority to sign on behalf of the petitioner either as its president or its secretary. The director's findings on this issue are withdrawn.

The second issue to be discussed is whether the petitioner established how it intends to compensate the beneficiary. The director's decision made separate findings regarding the petitioner's failure to support its attestations about the proposed compensation with documentary evidence and the petitioner's failure to establish how it intends to compensate the beneficiary. As both findings relate to whether the petitioner established its ability to provide the proffered compensation, they are discussed as one issue here.

The USCIS regulation at 8 C.F.R. § 214.2(r)(11) provides:

*Evidence relating to compensation.* Initial evidence must state how the petitioner intends to compensate the alien, including specific monetary or in-kind compensation, or whether the alien intends to be self-supporting. In either case, the petitioner must submit verifiable evidence explaining how the petitioner will compensate the alien or how the alien will be self-supporting. Compensation may include:

(i) *Salaried or non-salaried compensation.* Evidence of compensation 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. IRS documentation, such as IRS Form W-2 or certified tax returns, must be submitted, if available. If IRS documentation is unavailable, the petitioner must submit an explanation for the absence of IRS documentation, along with comparable, verifiable documentation. . . .

In Part 5 of the Form I-129 petition, "Basic Information About the Proposed Employment and Employer," the petitioner indicated that it currently had one employee and that it would provide the beneficiary with salaried compensation of \$2,800.00 per month and non-salaried compensation in the form of "Parsonage & Auto Expenses." In the "Employer Attestation" portion of Supplement R, the petitioner indicated in two separate responses that it had two employees, both imams, and described the beneficiary's proposed compensation as "\$2,500 per month (Salary) plus Parsonage, including an apartment, utilities, a[nd] car." No explanation was provided for the discrepancies in number of employees and in the proffered compensation. 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).

In addition, the petitioner stated that it had employed the beneficiary as its "religious teacher & leader since May 24, 2008." The petitioner listed \$150,000 as its gross annual income on the petition and wrote "N/A" in the space provided for net annual income. With the petition, the petitioner submitted uncertified copies of the beneficiary's 2009 and 2010 tax returns and IRS Forms W-2, Wage and Tax Statement, showing the petitioner paid the beneficiary \$30,000 and \$30,900, respectively. The petitioner also submitted copies of its bank statements from a [REDACTED] checking account covering the periods from February 3, 2010 to May 5, 2010, July 8, 2010 to August 6, 2010, and September 8, 2010 to October 5, 2010. The ending balances on the statements ranged between \$16,204.92 and \$47,822.77. Although the statements included a list of "Checks Paid" each month, images of the checks were not provided and the recipients were not otherwise identified.

In the February 1, 2012 RFE, the director requested additional evidence of the petitioner's ability to pay the beneficiary's wages and provide the proffered non-salaried compensation. The petitioner was specifically instructed to submit audited financial statements or certified tax returns, IRS Forms W-2 for the years 2008 through 2011, and evidence of past non-salaried compensation. The RFE also requested quarterly wage reports for all employees for the last eight quarters, and copies of payroll records or copies of bank records with cancelled checks showing compensation. The director instructed the petitioner to highlight and identify monetary values corresponding with expenditures on its bank statements.

In a letter responding to the notice, the petitioner stated that it had employed two imams, the beneficiary and [REDACTED] from the time the beneficiary was hired until [REDACTED] left his position in October 2011. The petitioner stated that the two imams had "shared the Imam's residence." The petitioner submitted a deed showing its ownership of the property at 1023 [REDACTED] [REDACTED] as well as a map of the property depicting a three-bedroom "Imam Residence" behind the mosque. The petitioner submitted a copy of the beneficiary's driver's license, issued on April 9, 2009, listing his address as [REDACTED]. Additionally, the petitioner submitted copies of "[REDACTED]" utility bills for residential gas and electric service, addressed to the beneficiary at "[REDACTED]". The bills were dated November 2011, December 2011, and January 2012.

The petitioner submitted copies of its checking account statements for November 4, 2011 through February 3, 2012, listing ending balances between \$8,642.55 and \$10,013.17, which included no indication as to the recipients of checks paid. Although the statements included "Bill Payment" transfers to [REDACTED], the amounts did not correspond to any of the amounts listed on the beneficiary's utility bills. The petitioner also submitted copies of bank account statements for a "Future Project" account addressed to the petitioning mosque for the period of December 1, 2011 through March 30, 2012. The statements indicated ending balances between \$117,990.00 and \$121,142.00. The recipients of checks paid from this account were not identified and the petitioner did not indicate the intended use or purpose of the "Future Project" funds.

The petitioner also submitted copies of the beneficiary's [REDACTED] "Combined Account" statements for the months of July, 2011, through January, 2012, showing activity in the beneficiary's checking and savings accounts. The statements did not identify the source of deposits, but indicated the following total deposits per month:

Month	Deposits in checking account	Deposits in savings account
July 2011	\$1,050.00 (transferred from savings account)	\$2,050.00
August 2011	\$400.00	\$0
September 2011	\$0	\$0
October 2011	\$0	\$2.00
November 2011	\$1,200.00	\$0
December 2011	\$2,600.00	\$0.89
January 2012	\$1,500.00	\$0.05

The petitioner additionally submitted an employment contract, dated February 1, 2012, stating that it "shall pay [the beneficiary] a monthly sum of \$2,900." The contract did not indicate that the petitioner would provide any non-salaried compensation.

In the January 2, 2013 decision, the director found that, although the petitioner indicated that it had employed the beneficiary as an imam since 2008 and an additional imam until 2011, it had not provided verifiable evidence of past compensation including the requested payroll evidence or quarterly wage reports. The director stated that the petitioner failed to provide an explanation for the lack of certified IRS documentation of its ability to compensate the beneficiary, or to provide comparable, verifiable documentation as required under the regulation at 8 C.F.R. § 214.2(r)(11)(i). The director found that the submitted copies of the petitioner's bank statements did not relate to the petitioner's financial situation at the time the petition was filed, and were not accompanied by budgets to establish that sufficient funds were available to provide the proffered compensation.

The director also found that the petitioner failed to resolve inconsistencies in the record regarding the amount of the beneficiary's proposed salaried compensation. Further, the director found that the petitioner had not established that it had provided non-salaried compensation to the beneficiary and

found that the February 1, 2012 employment contract called into question the petitioner's intent to provide the non-salaried compensation listed on the petition and in the employer attestation.

On appeal, regarding non-salaried compensation, the petitioner states that the beneficiary has resided in the petitioner's residence hall "at all times in question since May 24, 2008." The petitioner submits photographs of the interior and exterior of its "Imam's residence." The petitioner submits a copy of a March 6, 2008, letter to the Consulate General, American Embassy, in Pakistan in support of a visa application on behalf of the beneficiary. The letter states, in part: "We will guarantee his starting pay \$1300 (thirteen hundred US dollar) per month along with utilities and accommodation during his stay in the United States of America." The petitioner submits additional copies of utility bills, addressed to the beneficiary at [REDACTED] for January, 2012, through December, 2012. The petitioner also submits a "Notice of Transfer and Release of Liability" indicating transfer of a car from the beneficiary at [REDACTED] on June 28, 2012, as well as records of the beneficiary's current car registration and current and past auto insurance.

The petitioner has established that it has a parsonage at which the beneficiary resides and, therefore, that it has the ability to provide the proffered housing. However, the evidence does not indicate that the petitioner has ever paid for the beneficiary's auto expenses or utilities, despite the petitioner's assertion in its letter to the embassy that it would pay for the beneficiary's utilities. The February 1, 2012 employment contract, submitted in response to the RFE, further calls into question the petitioner's intent to provide the proffered non-salaried compensation of utilities and auto expenses as averred on the petition and in the employer attestation.

Regarding salaried compensation, the petitioner submits copies of [REDACTED] bank statements from August, 2009, to December, 2012, an "Income and Expenses Report" for 2012, and various evidence regarding past compensation of the beneficiary. The regulation at 8 C.F.R. § 214.2(r)(11)(1) provides that, if compensation will be provided, the petitioner must submit IRS documentation or an explanation for its absence along with comparable, verifiable documentation. The regulation further provides that evidence of past compensation for similar positions may be used to establish how the petitioner intends to compensate the beneficiary. On appeal, the petitioner submits a document entitled "Compensation Report," in which it asserts that the petitioning mosque paid the beneficiary \$5,000 in 2008, \$30,000 in 2009, \$30,900 in 2010, \$28,200 in 2011, and \$34,800 in 2012. The documentation indicates that the beneficiary electronically filed his 2011 tax return on January 31, 2012. Although the petitioner submits copies of the beneficiary's respective tax returns, IRS Forms W-2, and IRS Forms 1099-MISC, Miscellaneous Income, corresponding to those years and amounts, the petitioner failed to provide certified copies of the tax returns. Additionally, with the exception of the beneficiary's 2011 tax return, the petitioner provided no evidence that these documents had been filed with the IRS or that the IRS Forms W-2 were filed with the Social Security Administration (SSA). The petitioner also submits copies of Forms 944, Employer's Annual Federal Tax Return, for the years 2008 through 2011. In addition to not being certified, the 2010 Form 944 is undated and the 2008, 2009, and 2011 Forms 944 are all signed and dated in January 2012. Like a delayed birth certificate, the tax returns created several years after the fact raise serious questions regarding the truth of the facts asserted. *Cf. Matter of Bueno*, 21 I&N

Dec. 1029, 1033 (BIA 1997); *Matter of Ma*, 20 I&N Dec. 394 (BIA 1991)(discussing the evidentiary weight accorded to delayed birth certificates in immigrant visa proceedings).

The petitioner states on appeal that state quarterly wage reports are not required for ministers under California law, but provides no explanation for the lack of certified IRS documentation. Nor has the petitioner submitted comparable, verifiable evidence of its ability to provide the proffered salaried compensation. At the time of filing, the petitioner alternately indicated that it would provide \$2,800 per month in salaried compensation, equivalent to \$33,600 per year, or \$2,500 per month, equivalent to \$30,000 per year. The petitioner asserts that it paid the beneficiary \$34,800 in 2012; however the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1), (12). A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg'l Comm'r 1978). The petitioner asserts that it paid the beneficiary less than either of the listed proffered wages in 2011, so even if documented, which it has not been, evidence of that compensation alone would not establish the petitioner's ability to pay the proffered wage at the time of filing.

Although the petitioner also submits its bank account statements for 2011, it has not submitted a budget for that year to show what funds were in fact available for the beneficiary's compensation rather than needed for other expenses. Even if an actual budget had been submitted to document the availability of funds, the fact that the petitioner has not consistently provided the proffered salary raises the question as to whether other financial obligations prevent it from doing so.

Further, inconsistencies in the petitioner's documentation of past employment call into question the reliability of the petitioner's evidence. 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. *Matter of Ho*, at 591.

For 2009, the petitioner submits copies of monthly pay statements indicating that the beneficiary was paid \$2,500 per month for every month of that year. Payment of \$2,500 per month is consistent with the beneficiary's total income of \$30,000 for the year as asserted in the "Compensation Report" and the beneficiary's uncertified tax return and IRS Form W-2. However, the statements indicated an additional \$1,200 payment in April, 2009, which was not included in the year-to-date totals or the 2009 Form W-2.

In addition, the petitioner submitted photocopies of processed "Tri Counties Bank" checks from the petitioner to the beneficiary for 2009 as follows:

Date	Amount	Notation
February 7, 2009	\$350	"Jan 19-31, 2009"
March 1, 2009	\$1,000	"Feb, 09"
April 1, 2009	\$1,000	"Mar 09"
June 27, 2009	\$1,000	"June '09"

August 1, 2009	\$1,000	"For July '09"
September 3, 2009	\$1,200	"Aug 09"
October 4, 2009	\$1,200	"Sept, 09"
November 1, 2009	\$2,500	"Oct. '09"
December 1, 2009	\$2,500	"Nov '09"
January 6, 2010	\$2,500	"Dec. 09"

The amounts of these checks total \$14,250. No explanation was provided for the discrepancies between the amounts of the checks and the wages indicated on the submitted pay statements and uncertified tax documents for 2009.

For 2010, the petitioner submits copies of processed checks with notations indicating payments to the beneficiary of \$2,500 each for the months of January, February, March, April, June, July, and September. Two additional checks to the beneficiary indicated payments of \$2,800 each on November 7, 2010, and December 6, 2010. The petitioner also submits "Payment Receipt" forms stating that the beneficiary was paid \$2,500 for the month of August, 2010, and \$2,800 for the month of October, 2010. The forms are dated January 22, 2013, but the petitioner does not indicate whether this is the date the salary was paid or merely the date the records were created. Additionally, the petitioner provides no explanation for the lack of documentary evidence for the remaining claimed monthly payments. Regardless, the checks and receipts indicate total payment of \$28,400 for the year, which is not consistent with the 2010 Form W-2 issued by the petitioner to the beneficiary and the petitioner's "Compensation Report."

For 2011, the petitioner submits a "Payment Receipt" form for each month, indicating total payment of \$28,200. The receipts are all dated January 22, 2013. Although the petitioner lists check numbers under "Mode of Payment," the petitioner does not provide an explanation as to why copies of the checks were not provided. Further, the beneficiary's bank statements for 2011, discussed previously, do not reflect corresponding deposits.

For 2012, the petitioner asserts that it paid the beneficiary \$34,800, or \$2,900 per month, which is consistent with the amount indicated on the uncertified copy of the beneficiary's 2012 tax return and IRS Form W-2. However, copies of processed Bank of America checks indicate that the beneficiary was paid \$1,500 for the month of January, 2012, and \$2,900 per month thereafter, for a total of \$33,400.

As discussed above, although the petitioner's bank documentation indicates that it may have sufficient funds in its various accounts to pay the beneficiary the proffered salary, the failure to provide a verifiable budget does not establish that those funds are available for the beneficiary's salary. Further, the petitioner has failed to establish that it consistently compensated the beneficiary in accordance with the terms set forth in the petition. Moreover, the evidence submitted to support the petitioner's claim of paying the beneficiary's salary for 2009 through 2012 contains numerous unexplained inconsistencies and the petitioner has failed to provide any other verifiable

documentation, such as IRS or Social Security transcripts to support its claims. Accordingly, the petitioner has not established its intent and ability to compensate the beneficiary.

As a third basis for denial of the petition, the director found that the petitioner failed to submit sufficient evidence of the beneficiary's previous R-1 employment. The director additionally determined that the beneficiary failed to maintain lawful nonimmigrant status.

The USCIS regulation at 8 C.F.R. § 214.2(r)(12) requires that any request for an extension of stay as an R-1 must include initial evidence of the previous R-1 employment (including IRS documentation if available). Under 8 C.F.R. § 214.2(r)(5), extension of status is available only to aliens who maintain R-1 status. However, the issue of the beneficiary's maintenance of R-1 nonimmigrant status is relevant only insofar as it relates to the application to extend that status. An application for extension is concurrent with, but separate from, the nonimmigrant petition. There is no appeal from the denial of an application for extension of stay filed on Form I-129. 8 C.F.R. § 214.1(c)(5). Because the beneficiary's maintenance of status is an extension issue, rather than an issue of eligibility for the R-1 petition, the AAO lacks authority to decide this question.

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

As stated previously, the regulation at 8 C.F.R. § 214.2(r)(1) provides that the beneficiary must work at least in a part time position (average of at least 20 hours per week) either solely as a minister or in a qualifying religious vocation or occupation. The USCIS regulation at 8 C.F.R. § 214.2(r)(3) includes the following definitions:

*Minister* means an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct 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 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.

The USCIS regulation at 8 C.F.R. § 214.2(r)(10) requires the petitioner to submit the following documentation if the alien will work as a minister:

- (i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and
- (ii) Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological education is accredited by the denomination, or
- (iii) For denominations that do not require a prescribed theological education, evidence of:
  - (A) The denomination's requirements for ordination to minister;
  - (B) The duties allowed to be performed by virtue of ordination;
  - (C) The denomination's levels of ordination, if any; and
  - (D) The alien's completion of the denomination's requirements for ordination.

On the Form I-129 petition, the petitioner stated that it would employ the beneficiary in a full-time (40 hours per week) position as "Imam (Religious Leader)." In an addendum to Form I-129 Supplement R, the petitioner described the proposed duties as follows:

[The beneficiary's] duties leading daily prayers, organizing and leading religious services in observance of religious holidays and celebrations throughout the year (*i.e.* *Ramadan, Eid-Ul Fitre, Eid-Ul-Adha, and Eid Melad-Ul Nabi*), performing marriages and naming ceremonies for new born children, performing various blessing and religious prayers on other special occasions such as new homes or business or special birthdays or anniversaries. In addition our Imam will be responsible for visiting members who have family problems such as illnesses or death and providing counseling to community members. Also our Imam has the primary responsibility for organizing, and administrating a religious and cultural program for our children and our young adults, our adult education program, providing our community with both religious and cultural lectures and representing our community in various inter-faith community outreach programs.

The petitioner also described the beneficiary's qualifications for the position offered:

[The beneficiary] has served as our Mosque's religious teacher & religious leader since May 24, 2008. Prior to coming to our community he served from June 2006 to August 2007 as a teacher and Imam at [REDACTED] and 1998 to 2004 as a teacher and Imam at [REDACTED]. He also has achieved certifications as [REDACTED] religious certifications awarded in recognition of his knowledge of the Holy Quran and the proper form of reciting the Holy Quran.

The February 1, 2012, RFE included a request for additional evidence about the proffered position. The petitioner was instructed to provide detailed information regarding the requirements for the position as well as evidence of the beneficiary's qualifications. The RFE also instructed the petitioner to provide a detailed daily and weekly schedule of the beneficiary's duties.

The petitioner submitted a letter in response to the RFE which appears to be missing one or more pages, as the final page begins mid-sentence. However, the final page of the letter contains the following statements about the proffered position:

[P]ersonal life: the Imam is always on call to members of our community who need his help and counsel. He leads Prayers five times a day, every day. He has free time between prayers and can, on occasion as adult males in our community to stand in.

Prior to [the beneficiary] joining our community [REDACTED] served as our community's from 2006 to 2009 and the after [sic] [the beneficiary] joined our community [REDACTED] continued to serve our community on a part-time basis until 2011 at which time he left our community and moved out of the state.

The petitioner submitted a printout from its website describing the beneficiary's qualifications and role as Imam. The petitioner also submitted copies of certificates awarded to the beneficiary and a letter from [REDACTED] in Pakistan stating that it employed the beneficiary as a teacher and an imam from 1998 to 2004.

In denying the petition, the director found that the petitioner had not submitted a detailed explanation, as requested, of its requirements for the proffered position. The director therefore found that, although the petitioner submitted additional documentation of the beneficiary's credentials and past work history, USCIS could not "make an eligibility determination about the petitioner's requirements for the proffered position and the beneficiary's qualifications for the position." Further, the director found that the petitioner failed to submit a detailed daily and weekly schedule of the beneficiary's duties, as instructed in the RFE.

On appeal, the petitioner submits additional copies of certificates earned by the beneficiary. The petitioner also submits a June 7, 2007, letter from the petitioner to the Consulate General, American Embassy in Pakistan, which states in part:

[The beneficiary's] position includes such duties as to recite the Holy Quran during the Holy Month of Ramadan and teach our children. Those duties are performed only by the person who has memorized the Holy Quran by heart and have teaching credentials with well reputed institution. [REDACTED] have [sic] both of these experiences as being a teacher and have [sic] memorized the Holy Quran by heart.

This description, together with the evidence of the beneficiary's credentials and work history, is sufficient to establish the petitioner's requirements for the position and that the beneficiary has the qualifications to meet these requirements. The director's findings on this issue will be withdrawn.

However, regarding the duties and schedule of the proposed position, the petitioner's general description of the beneficiary's duties included several duties which are administrative in nature. The regulation at 8 C.F.R. § 214.2(r)(3) provides that a ministerial position "may include administrative duties incidental to the duties of a minister." As the petitioner has not provided the requested daily and weekly schedule showing a breakdown of the beneficiary's schedule and time devoted to the listed tasks, the petitioner has failed to establish that the majority of the beneficiary's time will be spent on ministerial duties rather than incidentally on administrative tasks. Therefore, the petitioner has not established that the beneficiary's work will be in a qualifying ministerial position.

We conduct appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate 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.