



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

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

In Re: 28999380

Date: DEC. 05, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner, a church, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as a pastor. *See* Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4). This immigrant classification allows non-profit religious organizations, or their affiliates, to employ foreign nationals as ministers, in religious vocations, or in other religious occupations, in the United States. *See* Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii).

The Director of the California Service Center denied the petition, concluding that the record did not establish that it is a tax-exempt religious organization, that the Beneficiary has the required two-year membership in the denomination, and that it did not satisfactorily complete a compliance site inspection. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Foreign nationals who perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations for non-profit religious organizations in the United States may be classified as special immigrant religious workers. *See generally* section 203(b)(4) of the Act (providing classification to qualified special immigrant religious workers as described in Section 1101(a)(27)(C)(ii) of the Act). The petitioner must establish that the foreign national beneficiary meets the eligibility criteria by submitting the required evidence at 8 C.F.R. § 204.5(m) as described in detail below.

The regulation at 8 C.F.R. § 204.5(m)(1) requires that a beneficiary has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States for at least two years immediately preceding the filing of the petition.

A beneficiary must also 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.” 8 C.F.R. § 204.5(m)(3). A petitioner must show that it is a bona fide, non-profit religious organization through evidence of a currently valid determination letter from the Internal Revenue Service (IRS) showing either that it is a tax-exempt organization or a member of a group that is tax-exempt. 8 C.F.R. § 204.5(m)(8)(i)-(ii).

Furthermore, the regulation at 8 C.F.R. § 204.5(m)(12) discusses inspections, evaluations, verifications and compliance reviews of religious worker petitions and states:

The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization’s facilities, an interview with the organization’s officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, satellite locations, or the work locations planned for the applicable employee.

II. ANALYSIS

The Petitioner filed the instant petition on January 3, 2022, to obtain the special immigrant religious worker classification for the Beneficiary as a pastor. The Director issued a request for evidence (RFE) on May 23, 2022, as the initial filing did not contain evidence to support eligibility for the classification, including the religious organization’s tax-exempt status, the Beneficiary’s qualification and membership in the denomination, verifiable evidence of compensation and two-years of religious work experience, and information about the proffered position such as specific job duties and work location.

In addition, a compliance site inspection took place on June 13, 2022, at the address provided in the petition as the Beneficiary’s work location. However, the inspecting officer found this address to be the signatory’s residence. After obtaining the organization’s new address from the signatory’s wife, the officer visited the organization’s location at [REDACTED] and interviewed the signatory, [REDACTED] indicated that he only signed the forms while [REDACTED]¹ the preparer and interpreter of the petition, drafted the form contents. The Director subsequently issued a notice of intent to deny (NOID), questioning the credibility of the statements made on the petition and noting that the Petitioner had not responded to the request for supplemental documents made by the inspecting officer.

¹ We further note that the Entry of Appearance as Attorney or Representative (Form G-28) submitted with the appeal does not provide a basis for [REDACTED] to enter his appearance as an authorized representative of the Petitioner. Specifically, [REDACTED] indicated in the Form G-28 at Part 2., Item Numbers 4.a. and 4.b. that he was a law student or law graduate, and the Form G-28 was not filed by the supervising attorney or accredited representative, as required. See 8 C.F.R. § 292.1(a)(2) and Form G-28 instructions. Based on the foregoing, we consider the appellant to be self-represented.

In denying the petition, the Director concluded the Petitioner did not establish that: 1) it is a bona fide nonprofit religious organization in the United States; 2) that the Beneficiary has the required two-year membership in the denomination; and 3) that it satisfactorily completed a site inspection. Upon de novo review, we agree with the Director's decision and dismiss the appeal, as discussed below.

First, we will address whether the Petitioner established that the Beneficiary has the two-years of membership in the religious denomination per 8 C.F.R. § 204.5(m)(1). With the appeal, the Petitioner resubmits the undated letter from the signatory previously included in its RFE and NOID response. The letter states that the Beneficiary is an associate minister and has worked for "[t]he [redacted] [redacted] for a period of two (02) years, from the sixteenth (16) day of the month of September of the year 2021 to the present." However, as the instant petition was filed on January 3, 2022, the two-year membership period must be at least from January 4, 2020. Therefore, we agree with the Director that this letter does not establish that the Beneficiary has the requisite membership for at least two years immediately preceding the filing of the petition, as required by 8 C.F.R. § 204.5(m)(1). Furthermore, the Petitioner has not offered any new evidence on appeal to rebut the Director's decision on this issue.

Secondly, we conclude that the Petitioner did not satisfactorily complete the site inspection. On appeal, the Petitioner does not contest the compliance inspection findings or allege any error by the Director. Instead, the Petitioner resubmits the notarized statement from the signatory dated February 21, 2023, which was previously included in its NOID response. We agree with the Director that the notarized statement by the signatory "did not address the discrepancies revealed during the site inspection." The signatory simply asserts that "[his] limited understanding of English" caused misunderstanding, but such assertion without a more detailed explanation does not resolve credibility issues raised by the NOID. The regulation specifies that if USCIS conducts a pre-approval inspection, satisfactory completion of the inspection will be a condition for the petition's approval. *See* 8 C.F.R. § 204.5(m)(12). In this case, the Petitioner has not resolved the discrepancies raised in the site inspection with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Based on the foregoing, we conclude that the Petitioner did not demonstrate the Beneficiary's required membership in the denomination per 8 C.F.R. § 204.5(m)(1) and did not satisfactorily complete the site inspection per 8 C.F.R. § 204.5(m)(12). Although the Director also concluded the Petitioner did not establish that it is a bona fide nonprofit religious organization, we decline to reach any conclusion on this issue as it would not change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

We find that the Petitioner has not established, by a preponderance of the evidence, its eligibility to classify the Beneficiary as an immigrant religious worker. It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Here, the Petitioner has not met this burden.

ORDER: The appeal is dismissed.