U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41523679

Date: APR. 24, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Petitioner, a nonprofit foundation that supports Little League baseball in Uganda, seeks to employ the Beneficiary as a fundraising associate. The Petitioner seeks to classify the Beneficiary under the employment-based, third-preference (EB-3) immigrant visa category as a professional. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). U.S. employers may sponsor aliens in this category to permanently work in jobs requiring at least a bachelor's degree. *Id.*

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish the Petitioner's ability to pay the Beneficiary's proffered salary of $35,000 per year, beginning on the petition's priority date of November 30, 2023. The matter is now before us on appeal under 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

Any petition filed for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective U.S. employer has the ability to pay the proffered wage. A petitioner must demonstrate this ability from the petition's priority date until the beneficiary obtains permanent residence. 8 C.F.R. § 204.5(g)(2). Initial evidence must generally include copies of an annual report, federal tax return, or audited financial statements for each available year, from the year of the priority date onward. *Id.*; *see generally* 6 *USCIS Policy Manual* E.4(A), www.uscis.gov/policy-manual.

When a petitioner has not employed a beneficiary prior to filing the petition, U.S. Citizenship and Immigration Services (USCIS) considers whether the petitioning employer generated annual amounts of net income or net current assets sufficient to pay the proffered wage. *Id.* at E.4(C)(1). If net income and net current assets are insufficient, USCIS may consider other factors potentially affecting the

petitioner's ability to pay the proffered wage. *See Matter of Sonegawa*, 12 I&N Dec. 612, 614-15 (Reg'l Comm'r 1967).

The Petitioner must establish its ability to pay the Beneficiary's proffered salary of $35,000 per year, beginning on the petition's priority date of November 30, 2023.[1] The Petitioner did not employ the Beneficiary prior to the priority date.

The Petitioner's initial submission included a copy of its IRS Form 990-PF, Return of Private Foundation, for 2023. The Petitioner submitted its 2024 return in response to a request for evidence (RFE). The returns include the following information:

Revenue	2023	2024
Contributions, gifts, grants, etc. received	$810,000	$2,091,030
Dividends and interest from securities	248,011	253,533
Other income	42,981	—
Total	1,100,992	2,344,563
Operating and Administrative Expenses		
Total operating and administrative expenses	97,007	96,477
Contributions, gifts, grants paid	1,580,331	1,710,000
Total expenses and disbursements	1,677,338	1,806,477
Excess of revenue over expenses and disbursements	-576,346	538,086
End-of-year assets		
Cash	3,883	3,950

SCOPS concluded that the Petitioner had established its ability to pay the proffered wage in 2024, but not in 2023, the year of the priority date. In making this conclusion, SCOPS observed that the Petitioner's expenses exceeded its revenues in 2023.

On appeal, the Petitioner asserts that all its reported assets, including investments, are net current assets, and therefore it has established its ability to pay from the priority date onwards.

We agree with SCOPS that not all net assets are net *current* assets, because some assets may not be readily available to liquidate and convert into cash to pay the proffered wage. And we agree with SCOPS that the Petitioner did not provide enough information about its net assets to show that they constitute net current assets.

But the record does not show that SCOPS gave the Petitioner a sufficient opportunity to submit evidence to that effect. Instead, in the RFE, SCOPS asked the Petitioner to submit copies of its annual reports or audited financial statements for 2023 and 2024.

[1] In this case, the priority date is the date the U.S. Department of Labor accepted the Petitioner's labor certification application for processing. *See* 8 C.F.R. § 204.5(d).

Further development of the record may offer further clarity on the question of whether the Petitioner had at least $35,000 in net current assets in 2023.

Also, the Petitioner's Form 990-PF returns from prior years may shed light on whether the 2023 deficit was a one-time occurrence, relevant under *Sonegawa*. Under *Matter of Sonegawa*, USCIS may consider factors such as: the number of years the Petitioner has conducted business; its number of employees; any business growth; its business reputation; its incurrence of any uncharacteristic losses or expenses; the Beneficiary's replacement of another employee or outsourced service; or other potential factors. *See Matter of Sonegawa*, 12 I&N Dec. 612, 614-15; *see also* 6 *USCIS Policy Manual* E.4(C)(3), *supra*. Here, the Petitioner claims one employee on its Form ETA-9089, Application for Permanent Employment Certification, but the tax returns do not reflect any salaries paid, or any compensation of officers. The record does not contain any prior tax returns, evidence of its reputation or uncharacteristic losses or expenses that might be relevant under *Matter of Sonegawa*. *See id.*

Additionally, the Petitioner has a continuing obligation to establish its ability to pay under 8 C.F.R. § 204.5(g)(2). On remand, SCOPS may wish to request evidence of the Petitioner's continuing ability to pay for 2025 and 2026.

Accordingly, we will withdraw SCOPS' decision and remand the matter for further consideration and entry of a new decision.

There is another issue that may require further attention on remand. The record indicates that the job offered to the Beneficiary requires "2 years of fundraising experience."

Evidence relating to qualifying experience shall be in the form of letter(s) from current or former employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien. 8 C.F.R. § 204.5(g)(1).

The Petitioner submitted two experience letters, both signed by [redacted], president of the petitioning U.S. entity. In the first letter, dated December 11, 2023, [redacted] attested to the Petitioner's experience at [redacted] in Uganda. The letter appears to be deficient for several reasons:

- The letter is not on [redacted] letterhead, and [redacted] did not specify his title, if any, with the school. Instead, he signed the letter in his capacity as president of the petitioning entity, based in New York. The record does not establish that [redacted] is the Beneficiary's employer, with standing to attest to the Beneficiary's experience at the school.
- [redacted] referred to "our school," implying that the school has some kind of formal affiliation with the petitioning U.S. entity, but the record does not establish the nature of that affiliation. The Petitioner's Form 990-PF returns do not mention the school.
- The letter indicates that the Beneficiary has worked for the school "from January 20213 [sic] to present." Because of the typographical error in the date, the letter does not indicate how long the Beneficiary had worked in the position described.
- The letter refers to the Beneficiary as the school's "Managing Director," and lists a combination of duties, some of them related to fundraising, others to school administration. Therefore, the extent of the Beneficiary's fundraising duties is not evident.

In the other letter, dated December 12, 2023, [redacted] stated that the Beneficiary "is currently employed by our Foundation since January 2022 to the present, performing the position of Chief Executive." Like the other letter, this letter has several deficiencies:

- As above, this letter is not on any employer's letterhead, and therefore it is not entirely clear that "our Foundation" is the petitioning entity. The Petitioner's Form 990-PF returns indicate that the Petitioner did not pay any salaries in 2023 or 2024, and therefore the returns do not show that the Petitioner employed the Beneficiary or anyone else as its chief executive. The Beneficiary is not among the corporate officers listed on those Form 990-PF returns.
- The letter indicates that it was "issued . . . in the city of [redacted] Uganda," but [redacted] is based in New York.
- The letter refers to the Beneficiary's "experience in budgeting" and "ability to effectively communicate the corporation's mission to donors," but does not indicate that fundraising occupied a significant amount of her time. Instead, the letter states that the Beneficiary "is responsible for . . . [b]uilding the [redacted], coordinating the setting up and installation of the medical equipment to get the center operating . . . [and] communicating and working with the [redacted] regarding the operation of the [redacted]."

For the above reasons, the two letters are not persuasive evidence that the Beneficiary possesses the required two years of experience as a fundraiser.

The record contains a printout of the "History" page of the Petitioner's website, which mentions the Beneficiary three times. The entry dated November 2021 refers to the Beneficiary as the managing director of [redacted] and "the most successful softball coach in Uganda," but does not indicate that she had any fundraising duties.

Because the Petitioner's existing evidence appears to indicate that the Beneficiary's past employment was not primarily in a fundraising capacity, any further claims about the Beneficiary's past fundraising experience should be supported by independent, objective evidence. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (stating that attempts to explain or reconcile conflicting accounts will not suffice unless supported by competent objective evidence pointing to where the truth lies). Therefore, for instance, a new letter from [redacted] revising his prior statements, will not be sufficient by itself to establish that the Beneficiary possesses the necessary experience as a fundraiser.

SCOPS issued an RFE in July 2025, but that RFE did not address the issue of the Beneficiary's experience. Therefore, the Petitioner has not yet been apprised of this deficiency in the record.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.