U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 6455496

Date: NOV. 29, 2019

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Other Worker

The Petitioner seeks to employ the Beneficiary as a church clerk under the third-preference immigrant visa classification for "other workers." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(iii), 8 U.S.C. § 1153(b)(3)(A)(iii).

After initially granting the filing, the Director of the Nebraska Service Center revoked the petition's approval. The Director concluded that the Petitioner did not demonstrate its required ability to pay the proffered wage of the offered position.

The Director found the record lacking required evidence of the Petitioner's ability to pay the annual proffered wage of $27,560 in 2018, the year of the petition's priority date.[1] Petitioners with less than 100 employees, as in this case, must submit copies of their annual reports, federal tax returns, or audited financial statements to demonstrate their abilities to pay. 8 C.F.R. § 204.5(g)(2).

On appeal, the Petitioner submits audited financial statements for 2018. The statements indicate that the nonprofit generated both excess revenues and net current assets exceeding the annual proffered wage amount. Thus, consistent with 8 C.F.R. § 204.5(g)(2), the Petitioner has demonstrated its continuing ability to pay the proffered wage, from the petition's priority date until the Beneficiary obtains lawful permanent residence.

ORDER: The appeal is sustained.

[1] The petition's priority date is February 2, 2018, the date the U.S. Department of Labor accepted the accompanying application for labor certification for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).