

PASCHAL NWOKOCHA
LAW OFFICES, LLC.

To: All

Re: Update on Religious Worker Petitions

On November 26, 2008, the Citizenship and Immigration Service announced promulgation of new set of rules that affects a) **all** applications for R-1, Religious Worker non-immigrant visa; b) **all** applications for Special Immigrant Religious Worker Status. The new rule and comments are more than 80 pages long, and quite complicated. This update will give you just a summary of what is the most comprehensive revision of the religious worker petition process in decades. Call us with questions about how this may affect you, your employee or your organization.

Effective November 26, applicants can no longer go directly to the U.S. embassy for a R-1 visa. Any person seeking such must have the sponsor file an application on the person's behalf with the Immigration Service in the United States on Form I-129 with the new attestation and supporting documents. Once that application is approved, the person can then apply for R-1 visa at the U.S. consulates. It is therefore important that any person interested in R-1 start the process timely as we do not know how quickly the government will approve R-1 petitions.

Under the new rules, all R-1 visa holders will be admitted for an initial period of 30 months. If the beneficiary continues to meet the conditions of the rule, the status could be extended for another 30 month period for a maximum period of 60 months/5 years.

The immigration forms for religious worker petitions (Form I-129 and Form I-1360) are going to be amended to provide section for "attestation." Petitioners will now be required to attest that the petitioner and beneficiary meet all the requirements of the regulations and intend to comply with it until the end of the employer-employee relationship.

The government will also want to verify supporting evidence provided by a petitioner by conducting on-site inspections on a petitioner's place of business before it approves any petition. Such inspections may include a tour of the organization's facilities, an interview with organization officials, review of selected records, etc.

USCIS is also requiring all petitioner or employer applicants for R-1/Special Immigrant status, who do not already have one, to obtain an IRS determination letter of nonprofit status before filing any petition. This may be an onerous requirement for all. We are recommending that all applicants verify that they have such documents; and if they don't, they should initiate the process of securing the determination letter.

The new rules attempt to redefine some of the terms used in the religious worker regulations. These include "denominational membership", "religious denomination", "religious vocation", "religious profession" or "occupation", and "minister".

The new rules provide procedure for revocation of an approved petition, and what process one can take to appeal or challenge any revocation. A case can be revoked if

the Immigration Service receives information, either through the site inspection or other sources, that leads them to conclude that the approval should not have been issued.

The new rules further clarify the compensation requirements for religious worker petitions. Where applicable, the rule requires employer petitioner to provide evidence that the applicant is compensated for his or her services.

Petitioners are required to notify the USCIS when a religious worker's (beneficiary on an application) employment is terminated, he or she is released from employment, or if the beneficiary is working less than the required number of hours before the expiration of the R-1 stay. The employer must notify the Immigration Service within 14 days. Any religious worker wishing to change employer must have the new employer file a new petition along with appropriate supporting documents.

Finally, consistent with the legislation the president signed into law this fall, the religious worker rules as they apply to non-ministers will sunset in March 2009. We are hopeful that the law will be extended.

We expect the Immigration Service to continue its investigation of all petitions filed. We urge our clients to call us with any questions about site inspection and provide us with a detailed note on how the inspection was conducted.

Feel free to contact us if you have any questions about your case.

Crown Roller Mill ♦ 105 Fifth Avenue South, Suite 550 ♦ Minneapolis, MN 55401
612-465-0060
www.Paschal-law.com