



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

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

In Re: 25982994

Date: MAR. 27, 2023

Appeal of Nebraska Service Center Decision

Form I-360, Petition for Special Immigrant (Iraq National)

The Petitioner, an Iraq national, seeks special immigrant status based on his prior employment in Iraq by the U.S. Government. *See* National Defense Authorization Act of 2008 (NDAA) § 1244, as amended.¹ This special visa classification affords protection to Iraq nationals who have provided faithful and valuable services in Iraq while employed by or on behalf of the U.S. Government for more than one year and who, as a result, have experienced or are experiencing an ongoing serious threat.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not submit an approved recommendation from the Chief of Mission (COM), confirming employment and faithful and valuable service to the U.S. Government. 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.

Section 1244(b) of the NDAA, as amended, provides:

- (1) Principal Aliens.—An alien is described in this subsection if the alien—
- (A) Is a citizen or national of Iraq;
 - (B) Was or is employed by or on behalf of the United States Government in Iraq, on or after March 20, 2003, for not less than one year;
 - (C) Provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation, subject to paragraph (4), from the employee's senior supervisor or the person

¹ *See also* Immigration and Nationality Act (the Act) sections 101(a)(27), 203(b)(4) and 204(a)(1)(G)(i), 8 U.S.C. §§ 1101(a)(27), 1153(b)(4) and 1154(a)(1)(G)(i).

currently occupying that position, or a more senior person, if the employee's senior supervisor has left the employer or has left Iraq; and

- (D) Has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government.

....

(4) **Approval By Chief of Mission Required.**—A recommendation or evaluation required under paragraph (1)(C) shall be accompanied by approval from the Chief of Mission, or the designee of the Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable services to the United States Government prior to approval of a petition under this section.

At initial filing of the petition, the Petitioner did not provide evidence of approval from the Chief of Mission (COM), or the designee of the COM, who conducted a risk assessment and an independent review of records confirming employment and faithful and valuable service to the U.S. Government. In response to the Director's request for evidence, the Petitioner did not submit evidence of COM approval; instead, the Petitioner offered identification documents, recommendation letters, and certificates. Accordingly, the Director denied the petition.

On appeal, the Petitioner offers the same type of RFE response documentation without showing that he obtained COM approval. Section 1244(b)(4) of the NDAA, as amended, requires approval from the COM to confirm employment and faithful and valuable services to the U.S. Government. COM approval is not optional, but requisite to special immigrant status. We have no discretion to approve a petition lacking the mandatory COM approval. Because the Petitioner has not submitted the essential documentation, the Petitioner did not demonstrate eligibility for special immigrant status based on his prior employment in Iraq by or on behalf of the U.S. Government.

ORDER: The appeal is dismissed.