



**Guidebook for Starting an
Immigration Service Ministry
2008, Edition 1**

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“Obey the rulers who have authority over you. Only God can give authority to anyone, and he puts these rulers in their places of power.”

Romans 13:1

“Be sure to welcome strangers into your home. By doing this, some people have welcomed angels as guests, without even knowing it.”

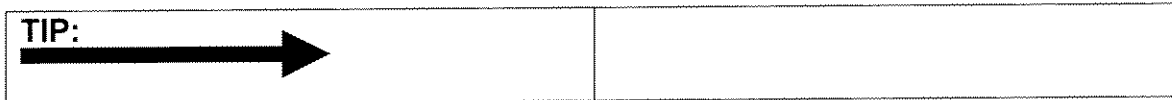
Hebrews 13:2

PREFACE

Welcome and thank you for reading the first edition of Immigration Service and Aid Center (“ISAAC”) *Guidebook for Starting an Immigration Ministry*. We hope that you find the information presented timely, educational, and relevant to your immigration ministry. The purpose of this guidebook is to explain the “recognition” and “accreditation” process required before you can legally set up a ministry center that represents immigrants before the Board of Immigration Appeals (“BIA”), the Department of Homeland Security (“DHS”), or other immigration agencies. This Guidebook will also provide an overview of the statutory and case law involved and practical advice for the development of your ministry.

This Guidebook is not intended to be legal advice pertaining to your specific situation and should not be construed as such. It is for educational and informational purposes only. If you need legal advice, consult a licensed immigration attorney or an accredited representative from a Board of Immigration Appeals (BIA) recognized agency.

At certain points in this Guidebook you may see this:



This will provide you with practical suggestions that will hopefully save you some time and/or effort for certain processes.

You may also see this at certain pages:

►ALERT◄

This is a signal to you that this piece of information is particularly important. So please read it carefully.

This Guidebook is the product of the dedicated service of many people from the Baptist Immigration Services Network (“BISN”), the Baptist General Convention of Texas, and Buckner Children and Family Services, Inc. ISAAC owes a debt of gratitude to the many people that came before it and prayerfully continues their work in this area.

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I.

Welcome to ISAAC!

The Bible commands us to “obey the rulers that have authority” over us. Likewise, we are also commanded to “welcome strangers.” In response, the Baptist General Convention of Texas (BGCT) and Buckner Children and Family Services, Inc. have collaborated to create the Immigration Service and Aid Center (“ISAAC”) – the first nationwide effort to establish a network of local church-based immigration ministries. ISAAC will help local churches and other like-minded organizations set up a federally “recognized” immigration ministry centers. Recognition and accreditation requires the organization to demonstrate that it has “adequate knowledge, resources, and experience” in immigration matters. To gain federal approval, organizations and their representatives must be able to demonstrate a minimum level of competency in immigration law and procedure. The recognition and accreditation process can be rigorous but ISAAC will help its network members by providing technical assistance and facilitating training in immigration law and procedure. It is estimated that it may take a church or individual with no prior experience a year or more to complete the training and application process.

Typically the immigration matters handled by such an organization could range from helping a lawful permanent resident gain U.S. Citizenship to aiding clergy obtain or extend their religious visas. Under current law, the vast majority of undocumented immigrants cannot adjust their status and remain in the country legally. There are certain exceptions for victims of human trafficking, refugees, victims of domestic violence, or family based petitions. These exceptions are extremely limited but are available under certain circumstances. ISAAC will help churches work within the law to aid the immigrants that can be helped. ISAAC will also provide scholarships to network members to help defray the costs of immigration training. In addition, ISAAC will serve our churches by educating them about immigration issues and by spearheading an effort to specifically assist members of our Baptist clergy who wish to become U.S. citizens.

ISAAC will not handle individual immigration cases and will not represent churches in immigration matters. ISAAC will refer specific questions or cases from churches to organizations within and, at times, outside the network. ISAAC is not an advocacy group and does not endorse any particular legislation. ISAAC is not involved in any type of “sanctuary” movement and does not encourage illegal immigration. ISAAC does, however, encourage people of faith to engage in proactive immigration ministries within the law. We believe that ISAAC is one way to fulfill this goal.

We invite you to read on and pray for your ministry success!

II.

Things to think about BEFORE you start an immigration ministry.

We are delighted that you are interested in starting an immigration ministry at your church or association! We do suggest, however, that you consider the following issues before you decide to pursue this process further. These issues are not presented to discourage you from starting such a ministry. Rather, they are listed so that you can have a better understanding of how such a ministry will impact your church work and vision.

A. Ministry Vision

The first thing to prayerfully consider is whether starting an immigration ministry fits within the overall vision for your church or association. We recognize that not every congregation has the volunteer base, resources, time, or facilities to accommodate such a ministry. That is ok. We would rather that you decide that this type of ministry is not right for you before you begin to serve clients in the community. So, take your time to pray, meditate, and discuss this potential ministry with your church leaders and congregation.

B. Organizational issues.

As you will read in the next section, the rules that allow a church to establish an immigration ministry specify that the church or organization must be a non-profit organization. Most churches are non-profit entities but, you should check to make sure your church or organization is organized as a non-profit entity. The easiest way to check is to ask the governing body of your church for a copy of the organization documents and IRS ruling granting non-profit status. If these documents cannot be located, then visiting the Secretary of State for the state where the church was organized should yield the appropriate documents. Most agencies allow you to search on-line so you may not have to travel far. For example, you may access the Texas Secretary of State's corporation database here: <http://www.sos.state.tx.us/corp/sosda/index.shtml>

If you find out that your church or association is not organized in any legal way with the IRS or state authorities, then you should consult an attorney and inquire about incorporating your organization or to possibly start a new non-profit organization to provide the immigration ministry.

C. Budgetary Issues

Even if your church or organization utilizes volunteers, it will still incur expenses for rent, utilities, copies, postage, and other overhead. These can easily cripple a ministry unless there is sound planning and budgeting. If the immigration ministry is going to be part of your overall church or associational budget, you will need to account for these expenses in your budget planning. As will be discussed later, your organization will be allowed to charge nominal fees for its services but it cannot be solely supported by these fees. Thus, your organization will need an income stream from love offerings, overall church budget allocations, or other types of fund raising.

D. Office Space/Staffing/Hours

Once the public knows that you have a low-cost immigration ministry, be prepared to deal with a large influx of clients. This means that you will need office space that can accommodate several people. Ideally you will have a waiting room and a separate private room to conduct your consultations. Additionally, you will need a copier, computer, desk, table, chairs, filing cabinet, and a phone.

Even if you have the office space, you will need people to staff the immigration ministry center. Someone will need to answer phones, greet visitors, do general intake, and handle filing. Additionally, there will need to be an “accredited” representative who will actually give the immigration assistance. We will discuss the process of becoming an “accredited” representative in a later section. At a bare minimum, you will need two people to staff the ministry: a secretary/receptionist and the “accredited representative.”

Staffing also involves budgeting. Will the staff be employees or volunteers? If you are going to use volunteers, you need to guard against “burning them out” and making them work too hard or too long. If you are going to hire staff, then you need to budget appropriately.

You must also decide what hours you will be open. Some ministries start slow and only open a few hours a week. Others are 40+ hours per week with a full-time staff. If you do decide to open only a few hours per week, be prepared to have a very busy few hours.

E. Insurance/Litigation

We live in a litigious society. Just because you are a non-profit organization or church does not mean that you don't have to worry about litigation. Suppose your immigration ministry forgets to mail a crucial document for a client and that client is forced to leave the country. Can the client sue you or your organization?

You bet.

Therefore, it is crucial that you discuss this new ministry with your insurance agent. If you are part of a church or association, it may have liability insurance that will cover the activities of this ministry. Do not assume it will, however. If your insurance carrier does not cover activities engaged in by the immigration ministry, your organization will need to purchase additional insurance or else it could have significant litigation exposure. Additionally, you may wish to consult with a lawyer who can draft certain waivers and form documents that you and your clients can sign prior to representation. These documents may be able to reduce the impact of any potential litigation.

F. Summary

There are many issues to consider before starting an immigration ministry. There is a great deal of upfront praying and planning involved. The upside is that once you have considered all these and other issues, you should have a clear vision of your future

immigration ministry. We at ISAAC wish you God's grace and wisdom in any decision you make. The remainder of the Guidebook will focus on the process of becoming a federally recognized agency and accredited representative.

II.

Immigration Ministry: A Very Brief Overview

A. Immigration Law

Immigration law is complex and a substantive discussion is beyond the scope of this Guidebook. It is sufficient to state that immigration law is based upon federal statutes, regulations, and court decisions. These laws specify who may come to the United States and under what circumstances. Before we proceed, however, it is important to familiarize yourself with the various agencies that deal with immigration in the United States:

Agency	Function	Abbreviation
The Board of Immigration Appeals of the Executive Office of Immigration Review	This is the highest administrative body for interpreting and applying immigration laws.	BIA
Executive Office of Immigration Review	It is a separate and independent agency in charge of the immigration courts.	EOIR
Bureau of Immigration and Customs Enforcement	It is the investigative and enforcement arm of the Department of Homeland Security (DHS).	ICE
U.S. Citizenship and Immigration Services	The former INS	USCIS or the "Service"
National Visa Center	Division of the U.S. State Department that issues visas for foreign citizens coming to the U.S.	NVC

These agencies interact with one another pursuant to immigration law and decide who can enter into the country either as an immigrant or non-immigrant.

▶ **ALERT** ◀

<p>Immigrant: For purposes of the USCIS, these are lawfully admitted individuals that come to the United States to make the U.S. their permanent home. They are also known as "permanent resident aliens".</p>	<p>Nonimmigrant: These are people who legally enter into the U.S. for a temporary period of time, for a particular purpose. Their visas generally restrict them to certain activities i.e., student visa.</p>
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B. Typical immigration ministry

As noted above, immigration law is complex and can involve many issues. The good news is that the typical immigration ministry will most likely deal with relatively straightforward "adjustment" cases. Most of these types of cases involve determining whether an immigrant is eligible to adjust their immigration status to a different one. If they are eligible for adjustment, then your ministry will assist them in completing and filing certain documents with the Service. For example, a lawful permanent resident that wishes to become a U.S. Citizen will need to complete certain documents. An immigration ministry could help the immigrant determine whether he is able to apply for citizenship and then assist him in completing the application and studying for the citizenship exam.

C. Assistance and Representation

Before a church or other entity can assist or represent an immigrant, it must first be approved by the BIA. The regulations that govern the representation of individuals in immigration matters are found in the *Code of Federal Regulations*. So what is meant by the term "representation"? The term is not conclusively defined but it does, however, incorporate the meanings of "practice" and "preparation", which are defined in the regulations:

i) The term "practice" means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service, or any officer of the Service, or the Board.

...

(k) The term "preparation," constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.

8 CFR §1.1 (i), (k) (emphasis added). See also *id.* at (m).

As you can see the actions and activities covered are quite broad. Thus, if you are engaging in any of the above activities, you may be deemed to be engaging in the representation of individuals in immigration matters. So why is this important?

It is important because a person may only represent an immigrant before the Service or Board if they fall into certain specified categories of representatives. See 8 CFR §292.1. The most common representation is by and through licensed attorneys. However,

the regulations allow non-attorneys to represent immigrants under limited or specifically authorized circumstances if they are an “accredited representative” of a “recognized organization.”

This Guidebook will focus on helping churches become a “recognized organization” and assisting some of its members to become “accredited representatives”. This process will be discussed in greater detail in the next section. If you are not an accredited representative of a recognized organization, you should use extreme caution when “assisting” immigrants with their paperwork. If you sign documents on their behalf and file them, the Board of Immigration Appeals (“BIA”) will not recognize your representation, not hear your arguments, and perhaps even reject your filings. The results could be disastrous for you and your client.

Additionally, as an accredited representative, you will generally be in a “safe harbor” with respect to your state’s unauthorized practice of law provisions. While immigration law is federally based, the practice of law in your state is governed by your state’s law. Typically, a state will promulgate rules and regulations regarding who may “practice” law and what the practice of law entails. In Texas, for example, there is a statute devoted to the “unauthorized practice of law”:

In this chapter the "practice of law" means the preparation of a pleading or other document incident to an action... as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge ... the legal effect of which under the facts and conclusions involved must be carefully determined.

Tex. Gov't. Code §81.101

Under this definition, it appears that if you are deemed to be “representing” an individual before the BIA or Service, then you may also be practicing law in the State of Texas. If you are not a licensed attorney or accredited representative, then you could be found to be engaging in the unauthorized practice of law if you are representing immigrants in immigration matters.

► ALERT ◀

The Attorney General of Texas prosecutes individuals and businesses who violate this statute. This includes “*notarios*” and “immigration consultants.” If you are not a licensed attorney in Texas or an accredited representative for a recognized organization, and you give immigration advice to immigrants, help them fill out forms, or file documents on their behalf, you may be engaging in the “unauthorized practice of law.”

TIP: 

If you are not a licensed attorney or accredited representative, please be very careful not to “prepare” documents or give advice “requiring the use of legal skill or knowledge”. When in doubt, seek the advice of a licensed attorney or accredited representative.

D. Recognized Organizations and Accredited Representatives

Fortunately, federal immigration officials recognized that not every immigrant can afford to hire an attorney for their immigration matters.¹ Therefore, a specific class of representatives was developed for immigration agency procedures and tribunals. These are the “accredited” representatives of “recognized” organizations. 8 CFR §292.2 states in relevant part:

A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service alone or the Service and the Board (including practice before the Immigration Court). Such organization must establish to the satisfaction of the Board that:

- (1) It makes only nominal charges and assesses no excessive membership dues for persons given assistance; and
- (2) It has at its disposal adequate knowledge, information and experience.

8 CFR §292.2 (a)(1)-(2) (emphasis added).

Once an organization is recognized and its representatives are accredited, those representatives may help and represent immigrants before the Service or the BIA- even if the accredited representatives are not lawyers.

The first step, however, is that the organization must be “recognized”. This requires submitting a formal application to the BIA. To become recognized, the organization must: 1) be a non-profit; 2) make only nominal charges; and 3) have “adequate knowledge, information and experience” in immigration matters.

¹ Indeed, there are other federal statutes that allow non-lawyers to represent individuals in specific federal agency tribunals such as the immigration courts. See 29 CFR §2200.22(a) (representation before OSHA tribunals by non-lawyers); 31 CFR §10.3(c) (representation of tax payers by non-lawyer “enrolled agents”).

III.
Recognized Organizations

A. Non-Profit Organization

There are several types of non-profit organizations under the United States Internal Revenue Code. One of the most common is organized under Internal Revenue Service Code Section 501(c)(3). Generally churches tend to be non-profit organizations but it also depends on the church's structure. Churches that give to the BGCT's cooperative program, for example, come under the "group ruling" for the BGCT's 501(c)(3) non-profit status. If your church or organization is not organized as a non-profit, then you must either change its status or form a separate non-profit entity to fit into the immigration regulations.

▶ ALERT ◀

Corporate formation and tax issues can be confusing and complicated. There are several "do it yourself" corporation kits on the market. Unless you have prior experience in this field, you need to consult an attorney to set up your non-profit organization.

TIP:





The Baptist General Convention of Texas is a 501(c)(3) non-profit organization and received a "group ruling" from the IRS. If you are a BGCT affiliated church and have given to the Cooperative Program within the last 12 months, you can obtain a letter confirming your church's affiliation with the BGCT. Make your written requests to:

BGCT
Attention: Accounting
333 N. Washington
Dallas, Texas 75246

B. Nominal Charges:

The federal government allows recognized organizations to charge fees for their services. The non-profit organization, however, may only charge "nominal" fees. The Board of Immigration Appeals has held that the term "nominal" means "a very small quantity or something existing in name only as distinguished from something real or actual." *In re American Paralegal Academy, Inc.*, 19 I&N 386, 387 (BIA 1986). Additionally, an organization cannot circumvent the nominal fee requirement by charging excessive membership dues. The fact that your immigration ministry charges less than lawyers in your area does not make your fees nominal *per se*. *Id.*

Appendix A has several examples of different immigration ministry centers' fee schedules. The BIA examines fees on a case-by-case basis and the definition for "nominal", much like the entire application process, has a great deal of subjectivity to it. To demonstrate the existence of only nominal fees, the organization must include a copy of the organization's fee schedule in its recognition application.




<p>TIP: </p>	<p>To help the recognition application, the organization should also submit:</p> <ol style="list-style-type: none"> 1. a copy of the organization's notice to potential clients that they will receive legal services even if they cannot afford to pay the fees; 2. a breakdown of large fees into their smaller components; and 3. a breakdown of the organization's revenue base, comparing fees to all other sources of funding, in order to demonstrate that the organization does not rely completely on fees for its operation.
<p>TIP: </p>	<p>Don't confuse nominal charges <u>for your organization's services</u> with USCIS filing fees-which can be quite expensive. The recognized organization <u>does not</u> have to pay up front or subsidize the cost of filing fees. For example, the filing fee for a citizenship application, the N-400, can cost up to \$675.00 per person!</p>

C. Adequate Knowledge, Information, and Experience:

Once the organization is formed into a non-profit and sets its nominal fee schedule, it must prove to the BIA that it has "adequate knowledge, information, and experience" in immigration matters. The BIA never defined what these terms mean and does not publish any curriculum or minimum number of training hours required. So what is a potential immigration ministry to do?

While ISAAC cannot guarantee that the BIA will accept any particular organization for recognition, we can glean from prior BIA published decisions that a recognized organization must be familiar with "**all aspects** of immigration law and procedure, including the visa petition process, exclusion, and deportation." *In re Florida Legal Servs., Inc.*, 20 I. & N. Dec. 639 (BIA 1993)(emphasis added); *see also Matter of Lutheran Ministries of Florida*, 20 I&N Dec. 185 (BIA 1990).

In addition, the organization's recognition application needs to state all the information resources available. This includes access to human resources (attorneys or other accredited representatives), written immigration law resources, internet resources, online and book law libraries.

<p>TIP: </p>	<p>At a bare minimum your organization should have access to:</p> <ol style="list-style-type: none"> 1. The Immigration and Nationality Act; 2. 8 United States Code of Federal Regulations; and 3. Administrative Decisions Under the Immigration Laws of the United States.
<p>TIP: </p>	<p>Legal resources, law libraries, and training can be costly and require travel. If your organization is a BGCT affiliated church or association and joins the ISAAC network, you will be eligible for programs to defray the cost of training and have access to vast on-line legal resources. To find out more, visit us on the web at www.isaacproject.org or call us at (888) 244-9400.</p>
<p>TIP: </p>	<p>When you take immigration training, always get a certificate of completion or letter of completion from the provider. That way you will have proof that you actually took the training. Additionally, you may want to attach the tables of contents of training materials. This may help answer any questions that the BIA may have regarding your training.</p>

D. Miscellaneous Organizational Issues:

The BIA has also ruled that a recognized organization must have an "independent existence" separate and apart from its accredited or proposed representative(s)." See *Matter of Baptist Educational Center*, Int. Dec. 3210 (BIA 1993). In the above mentioned court case, the Baptist Educational Center was a recognized organization. It had its recognition withdrawn by the BIA because, among other things, the organization failed to exist in its own right. The organization received its mail at its director's home, used the personal checking account of its director, had no expenses, and no connection with any "outside religious, social service, charitable, or similar group." *Id.*

The moral of the story: a recognized organization must exist separate and apart from its individual directors and founders. Directors, officers, and employees can come and go, but the organization must exist in its own right.

E. The Application for Recognition:

Once you have worked through the organizational process, set your fee schedules and procedures, and the organization has obtained "adequate knowledge, information, and experience", the next step is the completion of the *Application for Recognition*. It is Form EOIR-31. Don't let the brevity of this two page form fool you! It is asking for a great deal of information and do not skimp on your presentation. You can find it here:

<http://www.usdoj.gov/eoir/eoirforms/eoir31.pdf>

A checklist for the application is found at Appendix B.

IV. Accredited Representatives

A. Application process for Accredited Representatives:

Even if an organization is recognized, the organization itself does not represent immigrants. The recognized organization is only allowed to "designate a representative or representatives to practice" before the BIA or USCIS. This means that representatives designated must be approved and "accredited" by the BIA as well. According to 8 CFR Section 292.2(d), the representative must be:

- (1) applied for by a recognized organization or an organization itself applying for recognition;
- (2) have experience and knowledge of immigration law and procedure; and
- (3) be of good moral character.

There is no official form promulgated by the EOIR or BIA for representative accreditation. Very often a formal letter from the recognized organization that fully sets out the "nature and extent of the proposed representative's experience and knowledge of immigration and naturalization law and procedure and the category of accreditation sought" will suffice. It should be noted, however, that no "individual may submit an application on his or her own behalf." *Id.*

►ALERT◀

The accreditation of an individual can be sought simultaneously with the application for recognition by the organization. So you can include a formal letter with the certificates of training in the recognition application.

B. Types of Accreditation

An organization may apply for partial accreditation or full accreditation for its representative. The organization **must** specify in its application which type of accreditation it is seeking for its representative, or the BIA will judge the application by the higher standard required for full accreditation.


1. Partial Accreditation

Partial accreditation permits the proposed representative to appear with clients only during interviews and examinations before the DHS. The partially accredited representative may fill out forms and file them on behalf of the immigrant. The partially accredited representative may not, however, appear before an immigration judge or the BIA on behalf of the immigrant.


TIP: 	At a bare minimum, an applicant for <u>partial accreditation</u> should demonstrate experience in, and knowledge and understanding of: <ol style="list-style-type: none">1. Political asylum applications,2. Adjustment of status applications,3. Naturalization applications,4. Family-based visas petitions,5. Consular processing, and6. Client interviewing.
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2. Full Accreditation

Full accreditation permits the proposed representative to appear before the DHS, immigration judges, and the BIA. Full accreditation requires a higher level of experience of the proposed representative than partial accreditation. The BIA requires that the accreditation application make a clear showing of the skills necessary to represent aliens in deportation and exclusion proceedings before the immigration judges and the BIA.


PRACTICE TIP: 	If you are seeking <u>full accreditation</u> , in addition to the partial accreditation subject areas, you should be able to demonstrate knowledge and
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	<p>understanding of:</p> <ol style="list-style-type: none"> 1. The procedures for practice before the immigration judges and the BIA, 2. The grounds for exclusion and the waivers available in exclusion proceedings, 3. The grounds for deportation and the available forms of relief from deportation, 4. The federal court and BIA case law precedents in these areas. 5. Research and evaluation of a client's legal position, 6. Advocate a client's position at a hearing through the presentation of evidence and questioning of witnesses, and 7. legal brief writing.
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<p>TIP:</p> 	<p>If you are just starting out, you may want to consider seeking partial accreditation first. As a partially accredited representative, you still will be able to counsel clients and accompany them to USCIS interviews. This can be enough work in itself!</p>
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3. Final Touches

To demonstrate the nature and extent of the proposed representative's experience and knowledge of immigration law and procedure, you should include all the certificates of training they have taken. Additionally, it is good practice to give as much information about the training and presenters as possible.

<p>TIP:</p> 	<p>For example, you could list “Deportation Training, 2 hours.” This may be correct but it does not tell the BIA very much.</p> <p>Better practice is to state, “Deportation Training, 2 hours, presented by Jay Smith, J.D., Immigration Attorney, Law Offices of Jay Smith, approved for 2.0 hours of CLE by the State Bar of Texas.” Also, attach the certificate of completion and the table of contents of any accompanying white paper.</p>
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You also need to have evidence of the proposed representative's good moral character. This is usually accomplished by letters of recommendation or civic awards. As with the recognition application, the request for accreditation must also be served upon the local District Director for USCIS of DHS as well as the local Special Agent-in-Charge for ICE of DHS. Also include your certificate of service in your application. An example of a certificate of service is in the Appendix C.

<p>TIP:</p> 	<p>Recently field offices have closed or relocated. Check the government websites to get the most accurate mailing information. For USCIS field offices, go to www.uscis.gov.</p> <p>For ICE Special Agent in Charge Offices, go to: www.ice.gov</p>
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V. BIA Review

A. The Agency Review

The local District Director for the USCIS, within 30 days from the date he or she received the application for recognition, must give the BIA a recommendation for approval or disapproval of the application and the reasons for the decision. The District Director could also request a specified period of time “in which to conduct an investigation or otherwise obtain relevant information regarding the applicant.” 8 CFR §292.2(b). Once the decision is made by the District Director, the applicant will be notified of the

recommendation and will have 30 days in which to file a response if the recommendation is "other than favorable."


The BIA could also request more time to conduct an investigation and set forth additional timetables. The BIA faces no deadline to make a decision on the application. A decision may take from six weeks to a year from the date of submission, although the average time is six months. The time period may be shortened by a detailed application, the social service organization's favorable reputation within the DHS or EOIR, letters of recommendation from prestigious and reputable sources, a pronounced and well-known lack of legal representation for indigent immigrants in the area of the social service organization's operation, or affiliation with local or state bars or professional organizations such as the American Bar Association or the American Immigration Lawyers' Association.

1. Favorable Application

If the District Director's recommendation is favorable, then the BIA generally approves the recognition/accreditation application. The organization is then placed on the roster of recognized organizations and its accredited representatives are listed. A successful accreditation application:

- a. Is valid for a period of three years, but
- b. does not permit the representative to represent the alien in the representative's individual capacity, or outside the representative's connection with the organization.

An organization **must** request renewal of its representative's accreditation at least 60 days before the third anniversary of the date of accreditation.

<p>TIP:</p> 	<p>When renewing your application for accreditation, you must include:</p> <ol style="list-style-type: none">1. A statement setting forth the proposed representative's additional training since prior accreditation, and2. A statement setting forth the proposed representative's experience in immigration practice gained since prior accreditation. <p>A representative's accreditation remains valid pending BIA consideration of the renewal application.</p>
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2. Investigation Required

If the USCIS director requests additional time to conduct an investigation, the organization will be notified. The organization will also be notified of any additional time or informational requirements. The USCIS is then required to “promptly forward the results of any investigation or inquiry to the Board, along with its recommendations for approval or disapproval and the reasons therefore, and proof of service of a copy of the submission on the organization.”

3. Other than Favorable Application

If the organization receives a recommendation that is “other than favorable”, then the organization has 30 days from the date of being served with a copy of such recommendation to “to file a response with the Board to any matters raised therein, with proof of service of a copy of the response on the district director.” During this time period, the organization can request extensions of filing times or request an oral hearing before the BIA. Oral hearings are rare and granted only by the discretion of the Board. There is no time limit after the organization’s response for the BIA to make a decision.

B. Withdrawal of Recognition

Assuming an organization is recognized, the BIA can withdraw the recognition of the organization if it “has failed to maintain the qualifications required by Sec. 292.2(a).” Recall those are: 1) be a non-profit; 2) make only nominal charges; and 3) have “adequate knowledge, information and experience” in immigration matters. The process starts with a formal investigation by the District Director in the area where the organization is operating. The District Director may “conduct an investigation into any organization it believes no longer meets the standards for recognition.”

If the investigation “establishes to the satisfaction of the District Director that withdrawal proceedings should be instituted,” the District Director will then send a notice to the organization stating the grounds upon which withdrawal is sought. The notice will also require the organization to appear before a special inquiry officer for a formal hearing on the matter. This will be a quasi-legal proceeding and a “record”, testimony, and evidence will be presented. After the hearing the special inquiry officer will make a recommendation and forward the complete record to the BIA.

Both the District Director and the organization have the opportunity to appear at an oral hearing before the BIA. The BIA will consider all the evidence in the record and oral arguments. The BIA will then render a final decision in the matter.

C. Discipline of Practitioners

An accredited representative who engages in any of the prohibited behaviors listed at 8 C.F.R. 292.3(a) may be suspended or barred from further practice before the

Department of Justice by an immigration judge, the BIA, or the Attorney General. These prohibited behaviors include:

1. receiving any direct or indirect compensation for services rendered, except the regular compensation of the organization itself,
2. bribing or coercing a party to a case, an officer of the DHS, or a member of the BIA in connection with a case, or attempting to do so,
3. willfully misleading a Department of Justice official "concerning a material or relevant fact in connection with a case,"
4. willfully deceiving, misleading, or threatening "any party to a case relating to any matter relating to the case,"
5. willfully making false and material statements concerning qualifications to represent others in a case, engaging in frivolous behavior in a proceeding before an immigration judge or the BIA.

The regulations define "frivolous behavior" as actions the representative knows or reasonably should have known "lack an arguable basis in law or in fact, or are taken for an improper purpose, such as to cause unnecessary delay." These actions, if taken for an improper purpose, include the making of a factual or legal argument, or the filing of a motion or an appeal.

►ALERT◀

The EOIR has a *List of Disciplined Practitioners*. It can be found here:

<http://www.usdoj.gov/eoir/profcond/chart.htm>

VI. SUMMARY

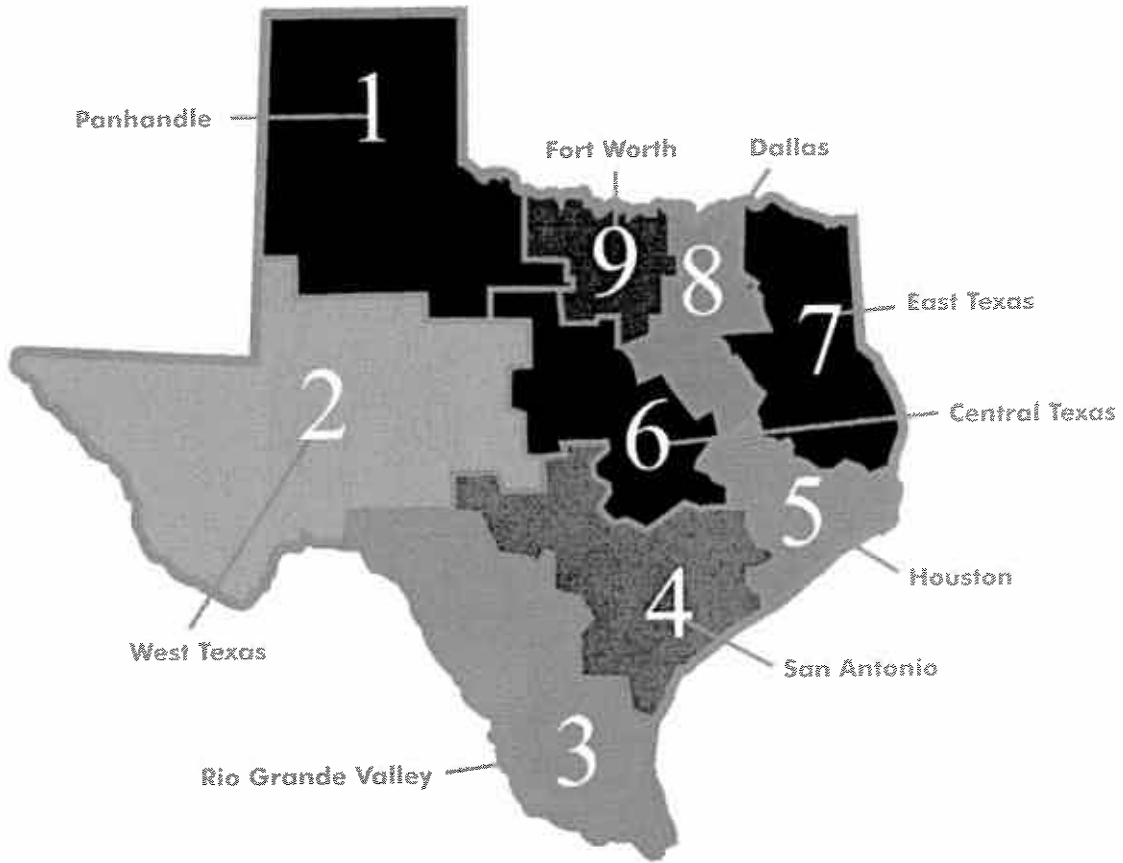
As you can see the recognition and accreditation process can be rigorous and complex. As we noted in the Preface, it is believed that a church or other organization can complete this process in approximately one year. ISAAC is here to help your organization successfully complete this process. Additionally, there are several organizations listed in Appendix D that can be a source of assistance or referral for your ministry.

If you are a BGCT affiliated church or association, ISAAC may be able to help you defray the costs of training and provide you with valuable tools to use in your ministry. Please visit us on the web at: www.isaacproject.org or call us at (888) 244-9400 for more information.

Appendices

Appendix A

Sample Fee Schedules



**Baptist General Convention of Texas (BGCT)
Regional Mapping**

2.

**SUGGESTED DONATION SCHEDULE OF
(REGION 4)**

The amounts below represent suggested amounts clients are asked to pay toward the work that goes into each matter. No client below 125% of the poverty guidelines is refused services based on inability to pay these suggested amounts. Detained clients will not be asked for donations.

	< 125% Poverty Guidelines	125% - 200% Poverty Guidelines
<u>LEGALIZATION SERVICES (Affirmative filing)</u>		
Asylum	\$50	\$125
ABC /NACARA	\$125	\$300
Each additional family member	\$ 25	\$ 50
Temporary Protected Status	\$20	\$ 50
VAWA	\$100	\$250
T & U Visas	\$100	\$250
EAD Renewals	\$ 10	\$25
<u>RELIEF FROM REMOVAL SERVICES</u>		
Voluntary Departure	\$ 25	\$ 50
Asylum	\$50	\$125
Cancellation of Removal	\$ 75	\$175
Administrative Closure for T/U VISA	\$ 75	\$175
Motion to Reopen	\$ 50	\$125
BIA Appeal	\$ 60	\$150
<u>FAMILY VISA SERVICES</u> <i>(existing clients only)</i>		
Initial Filing of I-130 (Non-USC client)	\$75	\$150
Each additional family member	\$20	\$ 50
Adjustment of Status	\$250	\$500
Each additional family member	\$ 50	\$100
V Visas	\$150	\$300
Waiver of Prior Deportation	\$75	\$150
Consult / Invitation Packet for B Visa	\$150	\$350

Dated: 02/20/2006

Fee schedule of "X" Organization: as of June 26, 2006 (REGION 6)

Intake consultation	IN	\$25.00
Biographical Information	G325A	\$50.00
Bio Info: an easy one of a pair	2G325A	\$30.00
Replacement of LPR Card	190	\$30.00
Replacement of I-94	I102	\$30.00
I-129F Petition for Alien Fiance for K-1	K1	\$110.00
I-129F Petition for Alien Fiance for K-3	K3	\$90.00
Relative Petition	I130	\$90.00
Travel Document	I131	\$35.00
Affidavit of Support, old	I134	\$35.00
Special Immigrant Petition (<u>not</u> V A W A)	I360	\$85.00
Adjustment of Status	I485	\$100.00
Change Non-immigrant Status to V	I539V	\$50.00
Extend Non-immigrant (tourist) Status	I539B	\$50.00
Waiver for Grounds of Excludibility	I601	\$75.00
Refugee HHS statistical form	I643	\$30.00
Refugee! Asylee Relative Petition	I730	\$50.00
Removal of Condition	I751	\$80.00
Work authorization	I765	\$35.00
Family Unity	I817	\$110.00
TPS	I821	\$55.00
duplicate Approval Notice	I824	\$25.00
Naturalization	N400	\$100.00
Replace Naturalization Certificate.	N565	\$35.00
Certificate of Citizenship	N600	\$65.00
Packet Three; DS-230 I + postage: 45+5	P3	\$55.00
Packet Four; DS-230 II, with copy of DS-230 I	P4	\$35.00
Translations, simple	Trans	\$20.00
Translations, complex (ie. divorce decrees)	Trans	\$20/page
Translations, "walk-ins"	TrW	\$25.00
Photos	photo	\$6.00
Re-schedule or follow-up appointment, client negligence	RE	\$20.00
Change of Address for one person.	COA	\$20.00
Change of Address for more than one person	COA	\$25.00
FOIA	FOIA	\$20.00
Status Inquiry	SI	\$20.00
Upgrade	UP	\$20.00
Letter	LTR	\$20.00
Consular V visa forms (each/both kinds)	V	\$35.00
CERTIFIED MAIL & FAX	post	\$7.00

Lista de Cuotas (REGION 9)

Cuota para la consulta inicial \$25.00
 Consultas Adicionales \$5.00

Procedimientos	Cuota de CIS	Cuota de "X organization"
I-130	\$190	\$115
I-485	\$325	\$195
I-485 DORA	\$325	\$200
I-824	\$200	\$120
I-751	\$205	\$125
I-601	\$250	\$155
I-129F	\$170	\$105
245i	\$1000	\$155
N-400	\$330	\$120
N-600	\$255	\$105
DORA (I-485 & I-130)	\$515	\$325
I-765	\$180	\$110
I-360 (self petitioner)	\$190	negociable
Huellas Digitales	\$70	000
STATUS 1 (Internet)		\$25
STATUS 2 (Encuesta)		\$40
Servicios de Notario Publico para su caso		00
Servicios de Notario Publico para cualquier otro caso o uso		\$6

Sample of Proposed Budget for Center in Region 6

EXPENSES:

	Initial Costs	Monthly	First Year	Possible Sources
Rent	\$1,500	\$500	\$7,500	Church
Utilities		300	3,600	Church
Copier	8,500	20	8,740	Donation
Printer	1,500		1,500	Donation
Network	2,500		2,500	Donation
Computers (2)	2,000		2,000	Donation
Cabinets	200		200	Donation
 Sub-total	 \$16,200	 \$820	 \$26,040	
 Personnel			\$32,400	Fees
Executive Director			4,800	Church
Training		\$200	2,400	Donations
Postage/Shipping		150	1,800	Fees
Supplies	100	50	700	Donations
Travel/Lodging		100	1,200	Donations
Insurance		50	600	Donations
Immigration Software	400		400	Donations
Legal Support		250	3,000	Donations
Bank Fees		50	600	Fees
Pro-bono Svcs (20%)			7,680	Donations
 Sub-total	 \$500	 \$850	 \$55,580	
 TOTAL	 \$16,700	 \$1,670	 \$81,620	

REVENUE BASE:

Expenses covered by fees	\$34,800	42.64%
Expenses covered by donations	30,920	37.88%
Expenses covered by church	15,900	19.48%
Total	\$81,620	100.00%

APPENDIX B

RECOGNITION APPLICATION CHECKLIST	
A cover letter with index of application documents	
Completed Form EOIR-31	
Organizations charter or articles of incorporation	
Bylaws and constitution (if applicable)	
Proof of tax-exempt status	
Fee schedule	
Statement of organization's other sources of funding	
Statement regarding the knowledge, information, and experience in immigration and nationality law and procedure at the organization's disposal <u>and a list of resources.</u>	
A description of the organization's staff structure describing its operating officers and supervisory system	
Staff resumes	
Letters of recommendation	
Examples of organizational publicity	
Letter asking for accreditation of a specific representative (information in next section)	
Certificate of service of a copy of the application on the local District Director for USCIS and the Special Agent-in-Charge for ICE.	

APPENDIX C

Certificate of Service

(Name of Organization)

(Address)

PROOF OF SERVICE

On _____, I _____, mailed or
(date of mailing or delivery) (printed name of person signing below)

delivered a copy of this _____ and any
(name of document being served)

attached pages to _____ at the following address:
(name of party served)

(address of party served)

by _____
(method of delivery, for example: overnight courier, hand-delivery, first class mail)

(signature)

(date)

APPENDIX D

Immigration Organizations

Immigration Resources

American Bar Association, Commission on Immigration
740 15th Street, N.W. Washington, DC 20005-1019
<http://www.abanet.org/publicserv/immigration/home.html>

The ABA monitors and analyzes legislative and regulatory developments on immigration policy issues. Publications include a manual for establishing a pro bono immigration project, a guide to Board of Immigration Appeals recognition and accreditation, and a collection of legislative documents relating to the Immigration Act of 1990.

American Immigration Lawyers Association (AILA) and American Immigration Law Foundation (AILF)
918 F Street, NW, Washington, DC 20004
<http://www.aila.org/> & <http://www.ailf.org/>

AILA is the national legal organization for immigration practitioners, which publishes legal reference materials on a full range of immigration topics and provides advocacy in Washington. AILF has a legal action center (ALAC) that will assist or co-counsel litigation on key immigration issues. AILA publications include Deborah Ander's "The Law of Asylum in the United States," a fair hearings pleading manual, a guide to consular processing, Ira Kurzban's "Immigration Law Sourcebook," and a series of practice advisories including "Advocacy Before an INS Asylum Officer," "Responses to Notices of Intent to Deny," and "Emergency Motion to Rescind Deportation Order and Reopen Proceedings."

Catholic Legal Immigration Services Inc. (CLINIC)
Theological College, 401 Michigan Ave, NE, First Floor, Washington D.C. 20017
<http://www.cliniclegal.org> or email: national@cliniclegal.org

CLINIC is the nation's largest network of charitable grassroots organizations providing legal immigration services. CLINIC provides high-quality immigration trainings throughout the year to the staff of its member agencies and to staff of community-based nonprofit organizations. The CLINIC website offers up-to-date information on immigration issues, facts and figures, and political advocacy around the nation. Membership in this organization provides access to CLINIC's 800 number in which legal staff assist partner agencies with legal immigration questions. Though their mission involves assisting Catholic churches and diocese in the development of immigration ministries, CLINIC generously offers their services, training, and expertise to non-Catholic church based immigration ministry programs.

Immigrant Legal Resource Center (ILRC)
1663 Mission Street, Suite 602 San Francisco, CA 94103
<http://www.ilrc.org/>

ILRC promotes high quality, professional training to immigration lawyers and non-attorney advocates. ILRC offers a 40-hour training program for immigration paralegals employed by nonprofit organizations. ILRC also offers deportation hearing skills training for paralegals who are accredited or seeking accreditation. ILRC has training programs on other varied topics, including case management, citizenship, media advocacy, and the immigration consequences of criminal convictions. ILRC also cosponsors trainings for lawyers with the National Immigration Law Center on IRCA employment discrimination and alien rights issues for legal services lawyers.

ILRC publishes a wide variety of resource materials for advocates including manuals on family unity, asylum, suspension of deportation, 212© cases, legalization appeals, criminal law and immigration matters in California, and a guide for paralegals on immigration law. Titles include "Winning Asylum Cases" and "Establishing Pro Bono Programs."

National Lawyers Guild, National Immigration Project
14 Beacon Street, Suite 602, Boston, MA 02108
<http://www.nationalimmigrationproject.org/>

The National Immigration Project offers technical assistance and advice to practitioners and nonprofit programs on legal questions, joins in impact litigation, and offers high-quality, in-depth legal training on complex legal issues. The project also publishes the quarterly "Immigration Newsletter" with legal analysis and political comment on issues of interest to practitioners, a bond practice manual, and maintains a brief bank index of pleadings, briefs, court decisions and opinions addressing immigration issues. Clark Boardman Callagan publishes the Project's popular titles "Immigration Law and Crimes" and "Immigration Law and Defense."

National Immigration Law Center (NILC)
3435 Wilshire Blvd., Suite 2850 Los Angeles, CA 90010
<http://www.nilc.org/>

NILC provides free technical assistance to legal services programs, community-based nonprofit organizations, and pro bono attorneys throughout the U.S. The Center also co-counsels impact litigation, conducts trainings, and publishes legal materials. Among its publications are the monthly newsletter "Immigrants' Rights Update," the practical legal manual "Immigration-Related Employment Discrimination," the "Immigrants' Rights Manual," the "Guide to Alien Eligibility for Federal Programs," a directory of assistance programs, and community education materials.