

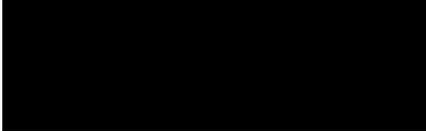
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 14 2004

IN RE:

Petitioner:

Beneficiary:



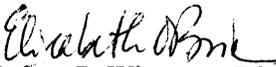
PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability and as a member of the professions holding an advanced degree. The petitioner initially indicated that he seeks employment as a technical writer at Hydro-Aire, Inc., specializing in the defense and civil aviation industries. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner does not qualify for classification as an alien of exceptional ability or as a member of the professions holding an advanced degree, and that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

Section 203(b) of the Act states in pertinent part that:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer.

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

In an introductory letter accompanying the initial filing of the petition, the petitioner has referred to designation under "Schedule A, Group II," and accompanying Department of Labor regulations at 20 C.F.R. § 656.10. Schedule A designation, however, is not the same thing as a national interest waiver. The two are, in fact, mutually exclusive. Schedule A designation requires a job offer, and a petition that includes a request for such designation must be filed by a United States employer, rather than by a self-petitioning alien. See 8 C.F.R. § § 204.5(k)(1) and (4)(i). Schedule A designation is an alternative means of *fulfilling* the job offer requirement, rather than a *waiver* of that requirement.

The first issue in the director's decision concerns the petitioner's eligibility for the classification sought. The director, in denying the petition, stated "[n]o representations have been made that the [petitioner] has an advanced degree." The petitioner's introductory letter appears, at first glance, to contradict this finding, because the petitioner identified himself therein as "a member of a profession holding an advanced degree." He continues, however: "I am an individual that possesses two degrees: a college degree in Electrical Engineering Technology, and a baccalaureate degree in Commerce," earned, respectively, at Vanier College and Concordia University, both in Canada. The petitioner does not specify what "college degree" he earned in Electrical Engineering. A transcript from Quebec's Ministry of Higher Education indicates that the petitioner completed the "Programme Electrotechnology" in 1988, at age 21, with a recommendation of "*DEC Professionnel*." A subsequently submitted English translation explains that the "*DEC Professionnel*" is

a "Diploma of Professional Studies." This "Diploma of Professional Studies" is the first degree that the petitioner received, and thus it cannot be an advanced degree. Significantly, in his initial correspondence, the petitioner always calls this a "college degree," never a "bachelor's degree," the latter being a term he applies only to his subsequent Concordia degree.

Whatever the nature of the petitioner's *DEC Professionnel*, the fact that the petitioner later went on to earn a bachelor's degree in an unrelated field does not make him a holder of an advanced degree, because by definition a bachelor's degree is not an advanced degree. Citizenship and Immigration Services (CIS) regulations at 8 C.F.R. § 204.5(k)(2) define an "advanced degree" as "any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate." The petitioner has not submitted any evidence to show that either of his degrees is above a United States baccalaureate degree.

In the absence of an actual advanced degree, CIS regulations at 8 C.F.R. §§ 204.5(k)(2) and (3)(i)(B) indicate that five years of progressive post-baccalaureate experience will be considered to be the equivalent of a United States master's degree. The petitioner earned his Bachelor of Commerce degree in April 2000, and thus he cannot possibly have accumulated five years of post-baccalaureate experience prior to the filing of the petition in April 2003, only three years later. The petitioner received his *DEC Professionnel* in April 1988, fifteen years before the filing date, but the petitioner has not established, or even claimed, that this is equivalent to a United States bachelor's degree. Furthermore, the petitioner was not primarily employed as a technical writer until August 1998, less than five years prior to the filing date. While the petitioner's employment prior to August 1998 included some element of technical writing, his primary duties were logistical support analysis and system engineering.

Appealing the director's finding that the petitioner has not shown that he holds an advanced degree, the petitioner states "[t]he US National Center for Education Statistics defines an advanced degree as . . . [a]ny formal degree attained after the bachelor's degree. Advanced degrees include master's degrees, doctoral degrees, and first-professional degrees" (the petitioner's emphasis). We note that the controlling definition of "advanced degree" is the definition found in the regulations at 8 C.F.R. § 204.5(k)(2); the petitioner cannot arbitrarily substitute a different definition of his choice. In any event, nothing in the petitioner's preferred definition conflicts with the regulatory definition.

The petitioner argues:

The Concordia University 3 year foreign equivalent Baccalaureate is tantamount to a US Baccalaureate, such as [a degree from] Pepperdine University (refer to **Exhibit B-2**). My Vanier College degree is a 3 year accredited program, also a foreign equivalent, which follows a curriculum of electrical engineering technology (**Exhibit C-2**); the fourth year was used to gain skills in mathematics (i.e. advanced calculus). This evidence satisfies the criteria for an advanced degree.

Exhibit B-2 is a description of the program requirements for a Bachelor of Science in International Business from Pepperdine University's Seaver College. The petitioner does not explain why this material establishes that his first three years at Concordia are "tantamount to a US Baccalaureate." A United States baccalaureate degree is generally found to require four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg. Comm. 1977). The petitioner has submitted no evidence (such as an evaluation by a qualified, independent evaluator) to support his interpretation of his degree. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The petitioner obtained a four-year baccalaureate

degree from Concordia University. Without compelling documentary evidence, we cannot accept the petitioner's claim that this degree represents a three-year program followed by a separate one-year program. We note that the petitioner's transcript from Concordia University does not show that the petitioner took any mathematics courses during his "fourth year" as he claims. Advanced calculus was actually one of the first courses the petitioner took at Concordia, before he took the business and finance courses that led to his degree in Commerce. Because the petitioner's mathematics courses obviously came before he studied the core material that resulted in his bachelor's degree, this mathematics training is not post-baccalaureate in any logically defensible sense of the term.

Exhibit C-2 consists of copies of the petitioner's transcript from Vanier College, its English translation, and documentation regarding the college's grading system. Other documentation refers to the college as "Vanier College of General and Vocational Education," indicating that his "diploma" is a vocational certificate in "instrumentation and control in the electrical engineering technology sector" rather than an academic degree. The petitioner received this diploma over a decade before he received his bachelor's degree, and therefore it is not "above" a bachelor's degree. The petitioner's implied argument that the Vanier College diploma is a "first-professional degree" is not persuasive; the National Center for Education Studies, whose definition the petitioner cites as authoritative, defines a "first-professional degree" as "[a] degree that signifies . . . a level of professional skill beyond that normally required for a bachelor's degree."

The petitioner's vocational diploma and subsequent bachelor's degree do not amount to an advanced degree or its equivalent. The petitioner held no baccalaureate degree until only three years prior to the petition's filing date, and therefore the petitioner cannot meet the alternative requirement of five years of post-baccalaureate experience. We therefore concur with the director's fundamental finding that the petitioner has not shown that he qualifies as a member of the professions holding an advanced degree.

The petitioner has also claimed to qualify as an alien of exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii) lists six criteria for exceptional ability. The petitioner must submit evidence to meet at least three of these criteria. The regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business." Thus, any evidence that the petitioner offers to establish exceptional ability must be considered in light of whether that evidence demonstrates a degree of expertise significantly above that ordinarily encountered in the field. Any trait or qualification that is a basic requirement for employment in a given field cannot demonstrate exceptional ability because that trait or qualification is shared throughout the field. For example, every physician must have a license and a medical degree; therefore, a medical degree and a license to practice medicine are not persuasive evidence of exceptional ability in medicine.

The petitioner claims to have met the following criteria of exceptional ability:

An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability.

The petitioner cites his diploma from Vanier College and his bachelor's degree from Concordia University, both discussed at length further above. The Department of Labor's *Occupational Outlook Handbook*, 2002-2003 edition, states at page 147: "A college degree generally is required for a position as a writer. . . . Technical writing requires a degree in, or some knowledge about, a specialized field." Given that a college degree is a routine requirement for technical writers, a bachelor's degree represents a degree of expertise ordinarily encountered in the field, rather than *significantly above* what is ordinarily encountered.

Furthermore, the petitioner has not shown that his bachelor's degree in Commerce relates to the area of claimed exceptional ability (i.e., technical writing for the defense and civil aviation industries). The petitioner's only diploma in a specialized field relevant to aviation is his electrical engineering diploma from Vanier College of General and Vocational Education. Absent evidence that this diploma surpasses the level of education attained by most technical writers, we cannot find that the petitioner's education rises to the level of exceptional ability.

Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought.

The petitioner submits two letters from employers. An April 18, 2001 letter from Hydro-Aire refers to the petitioner's employment in the future tense, describing what his duties "will" be, and it cannot serve as first-hand evidence of employment after the date it was written. A July 21, 1997 letter from Oerlikon Aerospace attests to the petitioner's employment "from March 1991 to present," a total of roughly six years and four months. This letter does not indicate that the petitioner worked full-time as a technical writer. While the petitioner worked on "Interactive Electronic Technical Manual development," he also engaged in "life cycle cost analysis, LSA development and design proposals for the replacement of obsolete components." Several other letters are from the petitioner's former professors, who attest to his student work. These individuals are not employers, and college study is not full-time experience in an occupation.

The petitioner claims to have worked for Bombardier Aerospace from August 1998 to April 2001, and for Del-Sen from May 2001 to July 2001, but the record contains nothing from those claimed employers. The petitioner has submitted a credit report dated October 31, 2000, which contains the line "Current Employment: BOMBARDIER," but this brief notation is not proof of two and a half years of full-time employment as a technical writer.

Given the above deficiencies, the petitioner has not submitted satisfactory evidence of any full-time experience as a technical writer.

Evidence of membership in professional associations.

The petitioner asserts that he satisfies this requirement because he is the vice chair of the Coastal Los Angeles Section of the Institute of Electrical and Electronics Engineers (IEEE) and a senior member of the Society for Technical Communication (STC). The petitioner submits nothing to establish the requirements for STC membership.¹ Also, the petitioner submits no evidence from the IEEE to establish his claimed vice chairmanship of a local chapter section. The only evidence of the petitioner's IEEE membership is a March 9, 2000 letter, advising the petitioner that "additional information on your professional experience is required to clearly determine your qualifications for Member grade." Absent such evidence, the petitioner would be assigned the lesser membership grade of "Associate." The letter states "Member grade recognizes those who

¹ According to STC's web site, "[i]ndividual membership is open to all those interested in technical communication" and "[t]he grade of senior member is conferred automatically on each member after five years of Society membership." (Source: <http://www.stc.org/types.asp>). Interest in technical communication does not establish a level of expertise above that normally encountered in the field of technical communication. Because anyone interested in the field can join as an individual member, promotion to the rank of senior member is not a sign of exceptional ability; rather, it is a passive act, the automatic result of five years' membership.

have achieved professional proficiency, as demonstrate either by degrees or work experience.”² Proficiency is more closely synonymous with competence than with exceptional ability.

The director instructed the petitioner to submit further evidence to establish exceptional ability. The petitioner asserted that he had already submitted sufficient evidence, but nevertheless the petitioner claimed to have satisfied an additional criterion:

Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

The petitioner cites “[m]emoranda from industry professionals and government entities . . . provided in Exhibit D-1.” Exhibit D-1 consists of three documents. A January 13, 2000 electronic mail message from [REDACTED] (employer and title not specified) provides the petitioner with two potential contacts regarding the petitioner’s “electronic book project.” Mr. [REDACTED] tells the petitioner “I sure have a lot of respect for the work you are doing with text conversions and formats.” A September 11, 1992 facsimile message from L [REDACTED] of Canada’s Low Level Air Defence reads:

1. Format Comments on the BIT Manual.
2. You have tech comments from the TEEOC WG.
3. The official response will come through the usual channels.

A document dated April 15, 1992, appears to list suggested revisions and proofreader’s comments regarding a draft document that is not in the record. The petitioner’s name does not appear on the document. The comments, by [REDACTED] conclude with the statement “[i]n general this 100% draft submission has greatly improved from past publication submissions. OA is to be commended.”

The petitioner does not explain how any of the above documents amount to evidence of recognition for achievements or significant contributions to the field.

The director then denied the petition, in part because the petitioner had failed to establish exceptional ability. On appeal, the petitioner states that the director’s findings “do not accurately reflect the evidence submitted.” The petitioner maintains that his previously submitted evidence is sufficient, and he makes additional claims as well. The petitioner acknowledges that the letter from Oerlikon Aerospace lists his employment dates “from March 1991 to present,” i.e., July 1997; but the petitioner contends that he “was employed . . . at this company from 1989 to 1998.” A new letter, from Hans Jurg Flückiger, manager of Integrated Logistics Support and Products Support at Oerlikon, asserts that the petitioner “was involved in the development, testing and analysis of air defense missile systems from January 1989 to August 1998.”

The petitioner does not explain or reconcile the conflict in employment dates. We note that, on a form submitted with the initial filing of the petition, the petitioner indicated that he began working for Oerlikon in 1990. Doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to

² The “Understanding Membership” page at IEEE’s web site, <http://www.ieee.org>, provides examples of qualifying levels of education and/or experience for Member grade, such as “a baccalaureate (or equivalent) or higher degree from an [IEEE-approved] institution, and in an IEEE-designated field” or “at least six years of, professional work experience in an IEEE-designated field.”

explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988).

It remains that the new letter, like the previous letter, indicates that the petitioner performed a range of duties, not restricted to technical writing. The newest list of duties reads “acceptance testing, reliability engineering, technical writing, logistics engineering, and administration.”

Regarding his employment from 2001 onward, the petitioner states that he worked for United States employers with proper visa authorization, and that CIS should be in possession of the documentation relating to those visas. The burden is on the petitioner to provide the required documentation, not on CIS to search its own voluminous archives to uncover evidence favorable to the petitioner’s claim. Furthermore, proof of visa issuance is not proof of full-time experience, because the employment would have taken place after the visas were issued. The regulation at 8 C.F.R. § 204.5(k)(3)(ii)(B) plainly requires letters from employers, attesting to the required experience. The regulation at 8 C.F.R. § 103.2(b)(2)(i) states that the non-existence or other unavailability of required evidence creates a presumption of ineligibility.

Elsewhere in his appellate submission, the petitioner submits a copy of Del-Jen’s job offer letter, dated April 18, 2001. This is the same date as the job offer letter from Hydro-Aire, referenced above. For reasons already cited, a job offer letter is not evidence of employment that purportedly took place after the letter was written.

The petitioner claims, on appeal, to have satisfied yet another criterion:

Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability.

The petitioner states that he now fulfills this criterion because his “salary has increased from \$65,000 to \$108,160 per year,” which the petitioner claims “is FAR above the 99th percentile.” As evidence, the petitioner cites a consulting agreement dated June 16, 2003. This agreement was not in effect when the petitioner filed the petition in April 2003. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date based on a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). At the time of filing, assuming that the petitioner was earning \$65,000 per year (a figure which has not been corroborated), that sum is slightly under the mean salary of \$67,540 cited in the statistics that the petitioner provides on appeal.

Furthermore, the agreement does not show that the petitioner earns \$108,160 per year. Rather, it shows that the petitioner is to receive a consulting fee of \$52 per hour; this amounts to \$108,160 per year only if we assume that the client, Hydro-Aire, utilizes the petitioner’s consulting services on a full-time basis, year-round. As it stands, the consulting agreement covers only three months, “beginning June 16, 2003 and continuing through September 15, 2003.”

With regard to recognition for achievements and significant contributions, the petitioner reiterates past claims and observes that he has performed services “for non-profit organizations . . . that mentor underprivileged children.” While admirable, such work does not require or establish a degree of expertise significantly above that ordinarily encountered in the field. Regarding other evidence provided on appeal, letters solicited by the petitioner in which the witnesses refer to the petitioner’s “exceptional ability” do not constitute recognition for achievements and significant contributions. Documentary evidence that exists solely because of an alien’s

accomplishments carries substantially greater weight than private letters, from witnesses personally chosen and solicited by the alien, specifically for the purpose of supporting the petition.

For the above reasons, we affirm the director's finding that the petitioner has failed to establish that he qualifies as an alien of exceptional ability in his field.

The remaining issue is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now CIS] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Comm. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The petitioner, in his initial submission, asserts "I believe that it is of national interest to allow immigrants that possess skills in civil aviation safety systems and military planning, from allied nations, expedient entry into disciplines where there is a lack of skilled personnel." As acknowledged in *Matter of New York State Dept. of Transportation*, *supra*, the labor certification process exists in order to identify and remedy situations "where there is a lack of skilled personnel." The statute and regulations provide no blanket waiver for aliens with "skills in civil aviation safety systems and military planning." The petitioner's choice of occupation is not, by itself, grounds for a waiver. General assertions regarding his experience and skills cannot suffice to qualify him for the waiver, because, by law, exceptional ability does not automatically entitle an alien to exemption from the job offer requirement.

The director requested further evidence to meet the guidelines published in *Matter of New York State Dept. of Transportation*. In response, the petitioner asserts that, as a nonimmigrant, his access to certain types of aviation information is restricted. The petitioner asserts that the sooner he is allowed to become a permanent resident, the sooner he will be able to work without limitations. This explains why a waiver would be in the *petitioner's* interest, but it does not explain why it is in the national interest to ensure that this particular alien remains in the United States as a technical writer.

The petitioner asserts "I am not seeing a national interest waiver based on a shortage of qualified worker[s]," but on the same page, the petitioner asserts "the skills required for this type of employment are rare and . . . unqualified candidates may be chosen since no qualified candidates are available." This assertion appears to be functionally equivalent to an argument based on a shortage of qualified workers. Also, the labor certification process does not require the hiring of unqualified workers (i.e., workers who do not meet the minimum requirements of the position).

Because the petitioner's own assertions cannot suffice to establish eligibility, the petitioner asserts that his "past record of achievements is confirmed [by the letters from] previous employers and professors," submitted with the initial filing, and in newly-submitted supplementary letters. The initial letters discuss the petitioner's basic qualifications and duties, showing that the petitioner is qualified to work in his chosen field, but they contain no attempt to show that the petitioner's admission would be in the national interest. The petitioner's professors express positive opinions regarding the petitioner, but they do not discuss his current work as a technical writer, specializing in aviation.

The two supplementary letters are from [REDACTED] human resources manager for Hydro-Aire, and [REDACTED] founder and executive director of Tomorrow's Aeronautical Museum. Mr. [REDACTED] praises the petitioner's "vast experience," and lists various ways that the petitioner's work "benefits the nation." These benefits, such as "providing cost effective solutions to the maintenance and operation of commercial and military aircraft," and the observation that "[t]echnical manuals are also used to train aviation support staff," are general observations about the petitioner's occupation. These assertions establish the need for technical writers in the field of aviation, but they do not demonstrate that it is in the national interest to ensure that the petitioner is the one doing the technical writing.

[REDACTED] states that the petitioner "has been one of the greatest assets in our organization's development and implementation," and that the petitioner "is playing an intricate role" in events to honor aviation pioneer [REDACTED] and the Tuskegee Airmen." The petitioner does not explain what this letter has to do with his employment as a technical writer. There is no indication that Tomorrow's Aeronautical Museum has ever employed the petitioner, or that it seeks to do so. The petitioner seeks an employment-based immigrant classification, and any arguments in favor of the petition must relate to the petitioner's employment. Volunteer activities with a local museum are not employment-related. Also, the scope of this work appears to be local in nature; the museum is described as an "innovative leader of after school enrichment programs for the youth of Los Angeles."

The director denied the petition, stating that the evidence submitted falls "far short" of establishing the petitioner's eligibility for a national interest waiver. On appeal, the petitioner repeats the assertions that employers cannot locate sufficient numbers of qualified United States workers, and that he will be unable to obtain necessary security clearances without permanent resident status. The petitioner submits job announcements from military contractors such as Northrop Grumman, showing that only United States citizens are eligible for some technical writer positions. The petitioner concludes that he cannot obtain a labor

certification, because these employers will only hire United States citizens, and therefore he must become a citizen first, before pursuing these employment opportunities. While the petitioner may not be able to obtain labor certifications in conjunction with these particular job offers, the record irrefutably proves that the petitioner has been able to obtain other technical writing jobs with United States employers. That the petitioner would apparently rather work for a major defense contractor is a matter of the petitioner's personal preference rather than an issue of national interest.

With respect to citizenship requirements, we also observe that the national interest waiver does not in any way expedite the processing time for adjustment of status, or, after that, naturalization. The national interest waiver is a factor only at the visa petition stage; after that point, individuals with such waivers receive no special or preferential treatment of any kind. Even if this petition were to be approved immediately, it would be several years before the petitioner becomes eligible to become a United States citizen.

The petitioner asserts that, although he is "currently employed as a technical writer," he is also qualified to undertake a broad variety of engineering and management tasks, and therefore it is not entirely accurate to refer to him only as a technical writer. On his own I-140 petition form, asked to provide "basic information about the proposed employment," the petitioner himself listed the "job title" as "technical writer." He described the job as "writes operation/maintenance manuals for military/aerospace products/systems." Having claimed, initially, that he seeks employment as a technical writer, the assertion on appeal that he is qualified for other jobs is without effect. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169 (Comm. 1998). Having stated, under penalty of perjury, that he seeks employment as a technical writer, the petitioner cannot seek reconsideration on the grounds that he may seek employment in other related, but distinct, occupations. This inconsistency regarding the petitioner's intended occupation also further complicates the issue of determining exceptional ability.

The petitioner has established that he is an experienced and qualified technical writer, who also possesses knowledge in engineering and related areas. The petitioner has not, however, submitted sufficient evidence to show that he qualifies as exceptional, or as a member of the professions holding an advanced degree. The petitioner has also failed to demonstrate that his admission would serve the national interest to an extent that would warrant a special waiver of the job offer requirement that, by law, normally attaches to the classification that the petitioner has chosen to seek.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

This denial is without prejudice to the filing of a new petition by a United States employer accompanied by a labor certification issued by the Department of Labor, appropriate supporting evidence and fee.

ORDER: The appeal is dismissed.