U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

B-5

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: AUG 0 3 2004

IN RE: Petitioner:
Beneficiary: [redacted]

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:

[redacted]

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.

for Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The employment based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily 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 in the arts. 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 did not qualify for classification as an alien of exceptional ability and that he had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, counsel states: "Applicant submits evidence presented amply demonstrated artist of exceptional ability [sic]. At no point was it requested that the prestige of the venues and galleries be provided. Upon submission of the same it will further establish his exceptional ability. It is error to deny on basis of information not requested."

The director, however, did allow the petitioner the opportunity to provide further information and respond to the deficiencies in the record. On June 4, 2003, the director issued a Request for Evidence notice citing the deficiencies in the record. Pursuant to the regulation at 8 C.F.R. § 103.2(b)(8), Citizenship and Immigration Services is only required to issue a request for evidence when initial evidence is missing. In all other circumstances, the director's issuance of a request for evidence is discretionary. We find, therefore, that the director acted in accordance with the regulation at 8 C.F.R. § 103.2(b)(8).

Counsel further states: "Appellant further states that he did meet the national in scope requirement with evidence regarding OAS [Organization of American States] and youth group. Additional issues will be briefed."

Counsel offers no specific arguments regarding the director's findings. For example, counsel's comments do not specifically address the petitioner's evidence and how it satisfies the regulatory criteria for exceptional ability at 8 C.F.R. § 204.5(k)(3)(ii). In regard to the petitioner's failure to demonstrate eligibility for a national interest waiver, counsel does not address the director's finding that the petitioner had not satisfied the third prong of the national interest waiver requirements set forth in *Matter of New York State Dept. of Transportation*, 22 I&N Dec. 215 (Comm. 1998). Regarding the petitioner's claim that his work is national in scope, counsel, in a letter dated August 29, 2003, indicated that "[a]t the OAS [the petitioner] taught and assisted girls ages 8 to 14 paint a mural" and that such work was national in scope.

Matter of New York State Dept. of Transportation, *supra*, the published precedent decision under which this petition has been reviewed, indicates that while education is in the national interest, the impact of an individual teacher would be so attenuated at the national level as to be negligible.

> [T]he analysis we follow in "national interest" cases under section 203(b)(2)(B) of the Act differs from that for...cases under section 203(b)(2)(A) of the Act. In the latter type of case, the local labor market is considered through the labor certification process and the activity performed by the alien need not have a national effect. For instance, pro bono legal services as a whole serve the national interest, but the impact

> of an individual attorney working pro bono would be so attenuated at the national level as to be negligible. Similarly, while education is in the national interest, the impact of a single schoolteacher in one elementary school would not be in the national interest for purposes of waiving the job offer requirement of section 203(b)(2)(B) of the Act.

Id. at 217, note 3.

We find such reasoning applicable to the petitioner's volunteer youth work as well. In this case, the petitioner's impact would generally be limited to the children with whom he interacts.

Counsel indicated that a brief and/or evidence would be submitted to the AAO within thirty days. Counsel dated the appeal December 30, 2003. As of this date, more than seven months later, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.