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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: **MAR 27 2009**
LIN 07 104 52598

IN RE: Petitioner: [Redacted]
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)

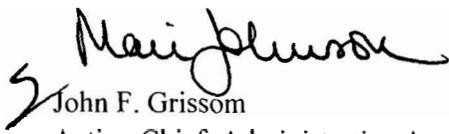
ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

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 a member of the professions holding an advanced degree. The petitioner is the founding president and director of ██████████ for Human Rights and Social Justice, a non-profit advocacy organization. She also seeks to act as a consultant for other organizations. 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 qualifies for classification as a member of the professions holding an advanced degree, but 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.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention 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 U.S. Citizenship and Immigration Services] 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 whose benefit to the national interest would be entirely speculative.

The petitioner filed the petition on February 22, 2007. On Form ETA-750B, Statement of Qualifications of Alien, the petitioner detailed her employment history with various non-profit organizations. She indicated that she had worked as a program associate and program assistant at New Voices National Fellowship Program from October 2000 to August 2002; as a campaign coordinator for Andolan from September 2004 to March 2005; and as an advance peer educator for the Asian Pacific Islander Coalition on HIV/AIDS (APICHA) from January 2005 to June 2005. The petitioner did not specify what compensation, if any, she received from the above organizations. The petitioner asserted that, starting in July 2005, she began working “full time” as president of [REDACTED], “performing the work pro-bono” as an H-4 nonimmigrant, deriving status (but not employment authorization) from her spouse’s H-1B nonimmigrant status.

In a statement accompanying the initial filing of the petition in February 2007, the petitioner stated:

I . . . [seek] to work in the American nonprofit sector as a **nonprofit organizations capacity building consultant**. Specifically this will involve, among others, helping nonprofit organizations in the United States become more effective in their advocacy, organizing and fundraising efforts, so that such organizations may achieve their mission more effectively. In addition I will be working as **an organizer** and **public policy**

advocate by founding nonprofit organizations (such as ██████████ a not-for-profit tax-exempt organization that I founded) and coordinating events designed to advocate and raise awareness of issues relating to social justice, equality and democracy in the US. . . .

My work in the nonprofit sector, specifically pertaining to issues related to social justice, equality, democracy and others, will contribute to raising social consciousness on critical issues underlying democracy in the United States, will strengthen the ability of the American people (particularly new Americans) to self determine their actions by empowering them and will also help spread democratic values, commensurate with American values abroad, thereby enhancing the reputation of the United States abroad.

Further, it is not practical for me to engage in the kind of work I propose with a specialty occupation visa (H1b) or an employer petitioned immigrant visa. First, these visas will tie me to a specific employer, whereas the employment areas I propose are entrepreneurial by nature and require flexibility. Second, as I will be self-employed, I am petitioning on my own behalf. Finally, as I currently hold . . . H4 status, I have been doing all the work . . . without compensation. . . . [T]he ability to reasonably compensate myself for the efforts I put in this work is crucial for my long term involvement in this area. . . .

Adhikaar was founded under my leadership in mid-2005, in order to address the needs of a rapidly growing Nepali immigrant community in the United States. . . .

Underrepresented but important community members of . . . Nepali origin have benefited from the following activities of ██████████

- Providing direct assistance to hundreds of Nepalis living in the New York metro region through interpretation services, employment related counseling, free health screenings and other services
- Facilitating and co-hosting of the first ever health fair for Nepali community in New York, and also a health fair for South Asians
- Organizing and hosting regular skills workshops, panel discussions and information circles
- Launching of the ***Jankari Research Project*** to provide . . . comprehensive data about the Nepali communities living in the United states to assess their needs as well as to disseminate information about their contribution to the American economy and culture

Despite its limited size and resources, the success that ██████████ is achieving illustrates the exemplary utilization of capacity building techniques and that smaller organization[s] can be effective agents of social change and positive consequences with innovative capacity building strategies.

The AAO acknowledges that there are certain occupations wherein individuals are essentially self-employed, and thus would have no U.S. employer to apply for a labor certification. While this fact will be given due consideration in appropriate cases, the inapplicability or unavailability of a labor certification cannot be viewed as sufficient cause for a national interest waiver; the petitioner still must demonstrate that the self-employed alien will serve the national interest to a substantially greater degree than do others in the same field. *Matter of New York State Dept. of Transportation* at 218, n.5. The petitioner must show not only that she is a community activist who works with non-profit organizations, but also that her work in this area stands out to an extent that would justify a waiver of the statutory job offer requirement that would otherwise apply.

The petitioner submitted documentation showing that [REDACTED] has participated in health fairs, training workshops, and other community activities in the New York metropolitan area. This information confirms the petitioner's involvement in such activities, but it offers no basis for comparison between the petitioner and others who are likewise active in community affairs.

The petitioner documented her receipt of various grants and awards, one of the largest of which was a \$20,000 Joseph F. Wall Sesquicentennial Service Award in 2006. Only alumni of Grinnell College qualify for the award; [REDACTED] indicated that the petitioner was one of two winners selected "from among nine very strong alumni applicants." The materials in the record indicate that the award was not presented in recognition of the petitioner's achievements in community service. Rather, the petitioner submitted a proposal for future work, to be funded by the award. The record does not show the results of the petitioner's expenditure of the award money.

The record shows that [REDACTED] has received funds from numerous sources, but the petitioner has not shown that this is unusual for non-profit activist groups. A document from the Sparkplug Foundation, for instance, indicated that the foundation gave out over \$120,000 in "2006 Spring Grants." [REDACTED] received \$5,000 of that total, while many other organizations received as much or more.

The petitioner and/or Adhikaar received coverage on various electronic and print publications, including *New York Nepali Times* and *The desiConnect*, described by one of its publishers as "the first and only weekly magazine dedicated to young, South Asian professionals." The petitioner did not establish the circulation or significance of these publications.

The petitioner submitted copies of letters from various individuals describing how the petitioner and [REDACTED] have helped them. [REDACTED] manager of Women in Sustainable Development, stated that the petitioner "has been helping me with language translation and providing me other advice for advancing my legal case."

[REDACTED] of Lexington, Kentucky, thanked [REDACTED] for sending "a very strong letter" in support of the successful efforts of a woman (whose name has been blacked out of the copy of the letter) to get her job back, after being terminated in what "[s]he believed . . . was an act of discrimination."

In a letter addressed to the petitioner, [REDACTED] of Jackson Heights, New York, stated:

I am thrilled to learn that [REDACTED] has successfully opened a new office space in Jackson Heights, Queens. This is an outstanding achievement for such a young organization. [REDACTED] is already making strides to meet the unmet needs of the greater New York Nepali community. . . .

I also write to congratulate you personally, as a board member and leader of [REDACTED] for your dedication, vision, and skill in bringing the organization to the point where it is now. Your role . . . has been vital in transforming [REDACTED] from an idea into a real institution with tax-exempt status. More recently, your execution of [REDACTED] first annual fundraiser in September 2006 was integral to promoting [REDACTED]s growth and the acquisition of the Jackson Heights office space. Based on my professional experience in development and communications for non-profit organizations, I was impressed at the success of this event – both its robust attendance and the amount it raised. . . . Not only did the event recoup its costs, it also secured close to \$5,000 in funds for the organization, raised in-kind contributions, renewed the conviction and focus of staff and volunteers, and raised awareness about [REDACTED] among members of the public and key partners in the community.

[REDACTED]s letter is clearly very complimentary toward the petitioner, but it offers few means of objectively comparing [REDACTED] to other organizations, or the petitioner to other non-profit entrepreneurs. Ms. [REDACTED] stated that the petitioner’s accomplishments were impressive, but it is not clear how much weight this carries, given that she also called renting office space “an outstanding achievement.” Ms. [REDACTED] referred to her own “professional experience in development and communications for non-profit organizations,” but offered no details. As regards her own employment, Ms. [REDACTED] stated that she is “clerking for a federal district judge this year, and will remain in the city while clerking for a federal appellate judge next year.”

Other letters are more specifically directed toward the petitioner’s waiver request. Many of these letters were from individuals at educational institutions where the petitioner had studied. For example, [REDACTED], Dean of the Woodrow Wilson School (WWS) of Public and International Affairs at Princeton University, stated:

[The petitioner] makes an important value proposition that she seeks to enhance multiethnic and multicultural understanding and cooperation between the United States and South Asia, including the South Asian immigrants already present in the United States. Given her South Asian background and her work experience in South Asia, and the increasing U.S. economic and national security interest in the region, such work promises to yield major benefits not only in enhancing the cohesiveness of American society, but also in serving the higher U.S. goals in that region.

[The petitioner] possesses the requisite intellectual rigor and training to tackle these issues successfully due to her academic training at institutions such as Grinnell College and the Woodrow Wilson School. While a student at the Woodrow Wilson School, she was active in various groups and helped organize many events, including the annual Princeton Colloquium on Public and International Affairs. Given her demonstrated commitment and passion to human rights and democracy and her deep belief in the non-profit sector's capacity to enhance all our lives, I am confident that she will be successful in her ventures and that her work will make contributions to the aforementioned areas to the benefit of the United States.

did not discuss the petitioner's impact on the non-profit sector; instead, she stated that the petitioner's background has equipped her well for a career in that sector.

was an early supporter of of Grinnell College, where the petitioner earned her bachelor's degree, Prof. [REDACTED] stated:

[The petitioner's] work in nonprofit sector capacity building drives at the very core of nonprofit organizational operations, such as operational efficiency in programming, better event management, effective fund raising and scaling up human resources recruitment, training and retention. . . .

[The petitioner] is well prepared to handle the intellectual and analytical rigor that is demanded of a nonprofit consultant, advocate and organizer. Further, the nonprofit sector succeeds because of people like [REDACTED], who possess a depth of passion and commitment to the causes that the sector serves.

[REDACTED] Director of New Voices National Fellowship Program of the Academy for Educational Development (AED), described New Voices as "a national fellowship grant program focused on developing a new generation of leaders and small nonprofits dedicated to social justice." Regarding the petitioner's work there, [REDACTED] stated:

While at New Voices (October 2000 to August 2002), [the petitioner] was our in-house expert and resource person on women's rights and international economic policy. She was responsible for marketing our program to small non-profits and emerging leaders, managing the grant selection process, building our presence on the worldwide web, administering our financial aid program, and identifying resources and strategies helpful to addressing intersections between leadership, gender, and economics. She also helped organize our biannual leadership development conferences. . . .

In addition to her program responsibilities, [the petitioner] also played an important role in our fundraising efforts, which secured more than \$2 million dollars [*sic*] each year for our program. She also received [the] 2001 Innovation Award, given to a few individuals

for outstanding performance each year, for her role in securing the 2-year extension of New Voices program.

[The petitioner] joined us towards the beginning of the program, and helped us develop systems to increase efficiency and improve communication with our fellows. She happily went above and beyond her job description to assist in all aspects of the program. Outside the program, she was also active in promoting the voice of the administrative support staff, and was elected as their representative to advance their cause within AED. She organized professional development activities, and also met with the President of AED to advocate for more recognition and additional resources to support administrative staff. . . .

With the additional experience that she has acquired through her involvement in many other nonprofit organizations . . . , [the petitioner] is well positioned to make significant contributions to the nonprofit sector.

Managing Director of the Panta Rhea Foundation, Sausalito, California, stated:

Many years ago I did some media related work in Nepal where I forged very close relationships and friendships with [REDACTED] a colleague of [the petitioner]. . . .

[The petitioner] has done commendable work in the social justice arena. . . . Her leadership in establishing and running [REDACTED] . . . proves her passion for being a part of the solution as well as the ability to do so.

[REDACTED] Senior Research Scholar and Research Director at Columbia University Teachers College, President of the America-Nepal Friendship Society and General Secretary of the Nepalese American Council, stated:

I met [the petitioner] in February 2005, when we both worked together to organize the first public discussion about the deteriorating democracy and human rights situation in Nepal immediately after the king seized power. . . .

[The petitioner] has carved out a leadership position for herself. Now, many men and women from the community seek her out for support and advice. Additionally, with her work in other non-profit organizations and coalitions, she is also establishing herself as a leader beyond the Nepali community. . . .

[The petitioner] is building leadership capacity of newcomer communities and also her own leadership potential. . . .

I recently spoke at the first award ceremony and fundraiser organized by [REDACTED]. The attendees were an impressive assemblage of accomplished Nepali-Americans, South

Asians, and others – a vote of confidence to this newborn organization! Many of the attendees left with multi-year pledges to help [REDACTED] financially and to provide pro-bono services. This event gives an illustration of [the petitioner's] ability to inspire people to be socially responsive and commit their resources and efforts towards making things better.

On April 3, 2008, the director issued a request for evidence (RFE), instructing the petitioner to submit documentary evidence to support several of the claims put forth in the initial submission. The director also instructed the petitioner to establish her influence on her field. In response, counsel asserted that the petitioner's founding of [REDACTED] addressed a previously unmet need:

The fact that no US worker had previously organized efforts and worked to address the problems facing the Nepali speaking community in the US prior to [the petitioner] demonstrates that **possession of similar minimum qualification is not sufficient to perform work of this nature** and certainly not in the caliber that [the petitioner] has performed.

Counsel appears to assert that, because the petitioner was the first to establish a Nepalese advocacy organization in the United States, she must have been the first person who was capable of doing so. This presumption is flawed and baseless. The record does not definitively establish that the petitioner was, indeed, the first person to establish such an organization, and even if she was, this does not imply that only the petitioner has been able to do so. It may well be the case that other individuals fully trained in the operation of non-profit organizations simply chose to turn their attention to issues other than advocating for Nepalese interests. There are countless non-profit organizations in the United States, and there is no evidence that operating such an organization on behalf of Nepalese immigrants is fundamentally any more difficult or challenging than operating an organization with a different focus.

Counsel stated: “[REDACTED] has created paid work opportunities for US workers. The organization employs up to 5 people, including interns, in paid capacity.” Counsel added: “[REDACTED] has offered learning opportunities for many other people.” Counsel failed to explain how these assertions are unusual or set the petitioner apart from the leaders of other non-profit organizations. Furthermore, the record lacks documentary support for these assertions.

The petitioner submitted documentation showing that she received the Helen LaKelly Hunt Neighborhood Leadership Award, a local award presented by the New York Women's Foundation, in September 2007. The award received some local media attention at the time. The record does not establish the significance of this award. Under 8 C.F.R. § 204.5(k)(ii)(F), evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations can form part – but not all – of a claim of exceptional ability. Exceptional ability, in turn, is not automatically grounds for a waiver; by statute, aliens of exceptional ability are typically subject to the job offer requirement.

Even if we assume, for the sake of argument, that recipients of this award qualify for the waiver, the beneficiary of an immigrant visa petition must be eligible at the time of filing; subsequent developments cannot establish eligibility. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). The petitioner received this award about seven months after she filed the petition in February 2007. Counsel stated: “although these awards and recognition were conferred on dates following the submission of the petition, the recognition was primarily for work performed [prior to] the submission date of the petition.” The record contains no statement from any official of the entity that presented the award, or any alternative evidence to support counsel’s claim.

Beyond the recent coverage of [REDACTED] the petitioner submitted copies of older news articles, mostly from October 2004, describing how certain foreign diplomats stationed in the United States were exploiting immigrant workers in their homes. The articles discuss the involvement of Andolan in publicizing this issue. The petitioner worked at Andolan at the time, but the articles do not mention her. While worker exploitation is an important issue, we cannot find that everyone who worked for Andolan in late 2004 qualifies for a waiver based on that work, and the record does not indicate that the petitioner played a particularly significant role when the issue surfaced.

New letters accompanied the petitioner’s response to the RFE. [REDACTED] a member of [REDACTED]’s Board of Directors, stated:

[I]n less than three years, [REDACTED] **has grown many folds and has served thousands of individuals** from Nepal, Bhutan, Tibet, India, and other South Asian countries. . . . An organization that started with **\$500 in 2005**, [REDACTED] now has a budget of nearly a **quarter million dollars**, and has provided paid work and internship opportunities, as well as training through volunteer opportunities. . . .

It would not be an exaggeration to say that [the petitioner] has single-handedly put the issues of Nepali-speaking communities on the map. For the first time, voices of Nepalis in the U.S. have been covered by mainstream media [on] a regular basis. [REDACTED] **work was featured in the front page of *The New York Times City Section*, in addition to a number of city-wide newspapers, online publications, and local news media.** . . .

Adhikaar has become known as a bridge between the Nepali community and other organizations in the U.S.

(Emphasis in original.) The record lacks objective evidence to support the assertions in the letter quoted above. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

Executive Director of South Asian Americans Leading Together (SAALT), Takoma Park, Maryland, stated:

I have known [the petitioner] since 2004, and have followed her work in the community since that time. Specifically, SAALT has worked in partnership with [REDACTED] . . . Under [the petitioner's] leadership, [REDACTED] has emerged as a valuable and important resource for [the] Nepali community as well as for the broader South Asian community.

SAALT's work with [REDACTED] and with [the petitioner], in particular, have been significant in nature. For example, recently, SAALT chose [REDACTED] to be part of a group of five organizations around the country to receive skills building and trainings. The reason that [REDACTED] was selected for this project is in large part due to [the petitioner's] leadership ability and potential. In addition, [the petitioner] has served on the Advisory Committee for a national coalition of South Asian organization that SAALT coordinates.

Deepa Iyer did not specify how recently the events described above took place. As noted previously, new developments after the petition's filing date cannot establish that the petitioner was already eligible as of the filing date, nor can they retroactively cause her to become eligible if she was not already eligible on the filing date.

The director, in the RFE, requested documentary evidence to support the claims that [REDACTED] had made in his earlier letter, regarding the petitioner's role in securing the continued existence of New Voices. The petitioner's response did not include the evidence requested. Instead, the petitioner submitted a new letter from [REDACTED] who asserted that the petitioner "played an important role in our fundraising efforts," but that "the Ford Foundation officials we were working with at that time . . . may not have been aware of the extent of [the petitioner's] involvement in the renewal process."

On July 15, 2008, the director denied the petition. The director acknowledged the intrinsic merit and national scope of non-profit advocacy work, but found that the petitioner had not sufficiently distinguished herself from others in her field. The director noted that much of the petitioner's evidence related to events that were non-qualifying because they occurred after the petition's filing date.

On appeal, the petitioner states:

Adhikaar and I myself had received many media coverage [*sic*] prior to the filing date. The biggest media coverage on the front page of the City Section of the New York Times came in April 2007, and covered [REDACTED] work done prior to the filing date. Additionally, the Leadership Award from the New York Women's Foundation was presented in September 2007, but the award decision was made earlier in the year and was mostly based on my work prior to the filing date.

. . . By starting [REDACTED] for Human Rights and Social Justice, I had not only served the needs of thousands of community members but also provided paid work opportunities. As of the date of filing, [REDACTED] had hired and trained 3 (three) part-time outreach workers and 1 (one) full-time summer intern, in addition to many other volunteers and

board members. [REDACTED] had also trained 10 (ten) bilingual Nepalis in interpretation skills, providing a job skill with potential for high remuneration. At the time of the petition, I had already raised over \$40,000.

The petitioner provides no documentary support for her claims on appeal. The only specific Adhikaar project mentioned in the *New York Times* article is “a survey of the estimated 30,000 Nepalese who live in the city”; the article indicated that Adhikaar “has just begun” that survey. Even then, the *Times* article did not focus on the petitioner or Adhikaar. Rather, the article, entitled “For a People Overlooked, A Lens at Last,” was about the relative obscurity of New York’s Nepalese population. The article mentioned the petitioner and Adhikaar primarily in the context of Adhikaar’s efforts to document that population. The article stated that the petitioner “and three other immigrants founded [REDACTED] . . . as an advocacy group in 2005,” but there was no mention of any of [REDACTED]’s achievements or projects except for the new survey.

Furthermore, the impact the petitioner cites on appeal is limited and local in nature. While an alien might warrant a national interest waiver by creating new employment opportunities, we must consider the scale of those opportunities. Not every alien who hires workers is, for that reason, eligible for the waiver. The impact of creating three part-time jobs and one short-term full-time internship is negligible on a national scale.

In a supplemental submission, the petitioner lists other asserted achievements, some of them previously documented in the record, such as the [REDACTED] Award and the scholarship that paid for her graduate studies at WWS. These accomplishments are noted, but the petitioner has not demonstrated that she stands out from other leaders of non-profit organizations to an extent that would justify a national interest waiver. The petitioner has offered no objective basis for comparison between herself and others in similar positions. The petitioner has simply listed her own accomplishments and asserted that those achievements qualify her for the waiver.

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.