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

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

MATTER OF U-S-R-A-

DATE: OCT. 6, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a nonprofit research organization, seeks to classify the Beneficiary as an outstanding researcher. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B). The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before us on appeal. The appeal will be dismissed.

The Petitioner seeks to employ the Beneficiary in the United States as an X-ray Optics Research Scientist. The Petitioner states: “[The Beneficiary] participates in National Aeronautics and Space Administration (NASA) funded research in collaboration with the [redacted], the [redacted], and the [redacted] at the [Petitioner’s] [redacted].” The Director determined that the Beneficiary had satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(i)(3)(i), which requires evidence that meets at least two of the six regulatory criteria, but that she had not attained the outstanding level of achievement required for classification as an outstanding researcher. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner asserts that the Beneficiary meets three out of the six criteria at 8 C.F.R. § 204.5(i)(3)(i) and that she qualifies for the classification sought.

We agree with the Petitioner that the standard of proof in this matter is “preponderance of the evidence.” The “preponderance of the evidence” standard, however, does not relieve the Petitioner from satisfying the basic evidentiary requirements required by the statute and regulations. Therefore, if the statute and regulations require specific evidence, the Petitioner is required to submit that evidence. In most administrative immigration proceedings, a petitioner must prove by a preponderance of the evidence eligibility for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). The truth is to be determined not by the quantity of evidence alone but by its quality. *Id.* at 376. In the present matter, the documentation submitted does not demonstrate by a preponderance of the evidence that the Beneficiary is recognized internationally as outstanding in her academic area.

For the reasons discussed below, we uphold the Director’s determination that the Petitioner has not established the Beneficiary’s eligibility for the classification sought. Specifically, the Director “counted” the evidence submitted and found that the Petitioner provided qualifying evidence for the Beneficiary under two of the regulatory criteria as required, judging the work of others and scholarly

articles pursuant to 8 C.F.R. § 204.5(i)(3)(i)(D) and (F). As explained in our final merits determination, however, the evidence that technically qualifies under these criteria reflects accomplishments in the field that do not, as of the date of filing, set the Beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria.¹ *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

I. LAW

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

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

.....

(B) Outstanding professors and researchers. -- An alien is described in this subparagraph if --

(i) the alien is recognized internationally as outstanding in a specific academic area,

(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

(iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

¹ The legal authority for this separate analysis of the burden of production and the burden of persuasion will be discussed below.

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(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching and/or research experience shall be in the form of letter(s) from current or former employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

The Immigrant Petition for Alien Worker (Form I-140) was filed on November 26, 2013. The Beneficiary earned a Ph.D. in Optical Science and Engineering from the [REDACTED] in [REDACTED] in 2010. The Petitioner seeks to classify the Beneficiary as an outstanding researcher in the field of X-ray optics. Therefore, the Petitioner must establish that the Beneficiary had at least three years of research experience in the field as of the petition's filing date, and that the Beneficiary's work has been recognized internationally within the academic field as outstanding.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by "[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition." The regulation lists the following six criteria, of which the beneficiary must submit evidence qualifying under at least two:

- (A) Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field;
- (B) Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members;
- (C) Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation;
- (D) Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field;
- (E) Evidence of the alien's original scientific or scholarly research contributions to the academic field; or
- (F) Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

The submission of evidence relating to at least two criteria does not, in and of itself, establish eligibility for this classification. See *Matter of Chawathe*, 25 I&N Dec. at 376 (holding that the

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“truth is to be determined not by the quantity of evidence alone but by its quality” and that U.S. Citizenship and Immigration Services (USCIS) examines “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.”); *see also Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination).² *See generally Dir., Office of Workers’ Comp. Programs, Dep’t of Labor v. Greenwich Collieries*, 512 U.S. 267, 272-80 (1994) (explaining that the term “burden of proof” includes a burden of persuasion).

II. ANALYSIS

A. Evidentiary Criteria

Evidence of the alien’s participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.

The Director determined that the Petitioner had established the Beneficiary’s eligibility for this regulatory criterion. The record supports that finding. The Petitioner submitted documentary evidence reflecting that the Beneficiary peer reviewed an article entitled [REDACTED] for [REDACTED]. This instance of peer review meets the plain language requirements of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(D). Accordingly, the Petitioner has established that the Beneficiary meets this regulatory criterion.

Evidence of the alien’s authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

The Director determined that the Petitioner had established the Beneficiary’s eligibility for this regulatory criterion. The Petitioner submitted documentation of the Beneficiary’s authorship of four journal articles that had been published at the time of filing.³ Accordingly, the record supports the Director’s finding that the Beneficiary meets this regulatory criterion.

Summary

In light of the above, the Petitioner has submitted evidence for the Beneficiary that meets two of the criteria that must be satisfied to establish the minimum eligibility requirements for this classification.

² The immigrant visa classification at issue in *Kazarian*, section 203(b)(1)(A) of the Act, requires qualifying evidence under three criteria whereas the classification at issue in this matter, section 203(b)(1)(B) of the Act, requires qualifying evidence under only two criteria.

³ The Petitioner also submitted documentation relating to the Beneficiary’s ten conference papers, but the plain language of the regulatory criterion at 8 C.F.R. § 204.5(i)(3)(i)(F) requires authorship of scholarly articles “in scholarly journals with international circulation.” A scientific conference is not a scholarly journal.

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Specifically, the Petitioner submitted evidence demonstrating that the Beneficiary meets the criteria set forth at 8 C.F.R. § 204.5(i)(3)(i)(D) and (F).

B. Final Merits Determination

The next step is a final merits determination that considers whether the evidence is consistent with the statutory standard in this matter, being recognized internationally as outstanding in the academic area. Section 203(b)(1)(B)(i) of the Act. In addition, the controlling purpose of the regulation at 8 C.F.R. § 204.5(i)(3)(i) is to establish that the researcher is recognized internationally as outstanding in the academic field, and any evidence that meets the preceding categories of evidence must therefore be commensurate with international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. 56 Fed. Reg. at 30705.

In regard to the category of evidence at 8 C.F.R. § 204.5(i)(3)(i)(A), the Petitioner submitted a June 2010 letter from [REDACTED], Director, [REDACTED] [REDACTED] congratulating the Beneficiary on her selection for a twelve-month postdoctoral appointment at the [REDACTED]. The Beneficiary's selection for the [REDACTED] reflects an advanced research training opportunity for recent Ph.D. graduates at the early stage of their career, and not a major award for outstanding achievement in the academic field. For example, experienced researchers and professors who have long since completed their doctoral studies do not seek or compete for such postdoctoral fellowships. In addition, the Petitioner submitted evidence showing that the Beneficiary received a NASA [REDACTED]. This award, however, reflects internal recognition from the Beneficiary's coworkers rather than a major award for outstanding achievement in the academic field. On appeal, the Petitioner does not contest the Director's findings for this criterion or offer additional arguments. When an appellant fails to offer argument on an issue, that issue is abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 2011) (plaintiff's claims abandoned when not raised on appeal). In this instance, the Petitioner has not submitted documentary evidence showing that the Beneficiary's awards are indicative of her being recognized internationally as outstanding in the academic field.

Regarding the category of evidence at 8 C.F.R. § 204.5(i)(3)(i)(D), as previously discussed, the Petitioner submitted documentation showing that the Beneficiary peer reviewed one article for [REDACTED]. The Petitioner has not established that the Beneficiary's level of participation in the peer review process is commensurate with being internationally recognized as outstanding in the academic field. Scientific and engineering journals are peer-reviewed and rely on many scientists to review submitted articles. It is common for a publication to ask multiple reviewers to review a manuscript and to offer comments. The publication's editorial staff may accept or reject any reviewer's comments in determining whether to publish or reject submitted papers. Thus, peer review is routine in the field and not every peer reviewer enjoys international recognition. Without evidence that sets the Beneficiary apart from others in her field as of the petition's filing date, such as evidence that she completed numerous manuscript reviews for a substantial number of

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distinguished journals or served in an editorial position for a distinguished journal as a judge of the work of others, the Petitioner has not established that the Beneficiary's judging experience is indicative of or consistent with being internationally recognized as outstanding.⁴

With respect to the category of evidence at 8 C.F.R. § 204.5(i)(3)(i)(E), the Petitioner submitted various letters of support, and referenced the Beneficiary's publications, presentations, and citation information for her published work as evidence of her scientific contributions to the academic field. In regard to the Beneficiary's published and presented work, there is no presumption that every published article or conference presentation is a contribution to the academic field; rather, the petitioner must document the actual impact of the beneficiary's article or presentation. Numerous favorable independent citations for an article authored by a beneficiary may indicate that other researchers are familiar with her work and have been influenced by it. A less extensive citation record, on the other hand, is generally not probative of a beneficiary's impact in the field as being internationally recognized as outstanding.

The Petitioner's response to the Director's request for evidence provided an updated "citation list" for the Beneficiary's research articles. The submitted list included the Beneficiary's top four most cited articles:

1. [REDACTED] was independently cited to once (plus four self-cites by the Beneficiary and her coauthors [REDACTED])
2. [REDACTED] was independently cited to three times (plus four self-cites by the Beneficiary and her coauthors [REDACTED])
3. [REDACTED] was self-cited to four times by the Beneficiary and her coauthor [REDACTED] and [REDACTED]
4. [REDACTED] was self-cited to four times by the Beneficiary and her coauthors [REDACTED]

Self-citation is a normal, expected practice. Self-citation, however, does not show to what extent a researcher has influenced others' work. The submitted information indicates that none of the Beneficiary's articles has been independently cited to more than three times. The Petitioner has not established that the number of independent cites per article for the Beneficiary's published work is indicative of internationally recognized research contributions to the academic field. On appeal, the

⁴ The submitted evidence indicates that [REDACTED] served on the Editorial Board of [REDACTED] and [REDACTED] was the Editor of [REDACTED]. Their judging credentials are more indicative of recognition from the field as an outstanding researcher.

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Petitioner submits a November 2011 “Average Citation Rates” report from the [REDACTED] reflecting data for papers published by field from 2001 – 2011. The Petitioner asserts that the Beneficiary’s papers were cited to at a higher than average rate relative to other articles published in the field of physics. As the majority of the submitted citations to the Beneficiary’s work accrued after November 2011, the submitted report does not present an appropriate basis for comparison. Furthermore, the Petitioner selected the field of physics as the basis for comparison, but the submitted report also includes the field of “Space Science” which has higher citation rates. Regardless, even if the Petitioner had demonstrated an above-average citation rate for the Beneficiary at the time of filing the Form I-140 on November 26, 2013, which it has not, a higher than average citation rate does not necessarily demonstrate that a researcher’s work is internationally recognized as outstanding in the academic field.

The Beneficiary’s citation history is a relevant consideration as to whether the evidence is indicative of her recognition beyond her own circle of collaborators. *See Kazarian*, 596 F. 3d at 1122. While the Petitioner submitted documentation of 32 cites to the Beneficiary’s body of published and presented work, more than half of those citations were self-cites by the Beneficiary and her coauthors. As the Petitioner has not established that the Beneficiary’s work has been extensively cited internationally and the record contains no other evidence demonstrating the impact of the Beneficiary’s articles in the academic field beyond her references, the Petitioner has not demonstrated that the Beneficiary’s published and presented research findings are consistent with her being internationally recognized as outstanding in the field.

In the appeal brief, the Petitioner points to the letters of support from colleagues as further evidence that the Beneficiary has made research contributions in the field of X-ray optics.⁵ For example, [REDACTED] Deputy Director, Space Research [REDACTED] has coauthored multiple articles with the Beneficiary. [REDACTED] noted that his institution “has collaborated with NASA [REDACTED] for the fabrication of optics for the X-ray telescope instrument called [REDACTED] which will fly aboard a space mission scheduled to launch in 2015. [REDACTED] also indicated that the [REDACTED] procedures developed by [the Beneficiary] were incorporated into the flight optics fabrication process” and that “the [REDACTED] is the first telescope to be launched into . . . space that will carry high-energy electroformed-nickel replicated optics.” The Petitioner has not shown that the Beneficiary’s contribution of thin-film coating procedures is recognized internationally as outstanding in the academic field. According to the citation list provided by the Petitioner, the Beneficiary’s 2011 article entitled [REDACTED] was independently cited to only three times (plus four self-cites by the Beneficiary and her coauthors). The Petitioner has not established that the number of independent citations to her article since 2011 demonstrates a scientific research contribution to the academic field as whole, or that her work was otherwise internationally recognized as outstanding.

[REDACTED] an Astrophysicist in the X-ray Astronomy Group at [REDACTED] NASA, stated that the Beneficiary “developed a deposition technique that selectively coats inside an X-ray mirror with

⁵ Although we do not mention every letter of support, we have reviewed and considered each one.

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a goal to minimize its surface figure deviations” and that the Beneficiary’s innovation “dramatically improves the imaging quality of optics.” In addition, [REDACTED] asserted that the “proposed international collaborative X-ray space missions such as [REDACTED] will use the differential deposition technique developed by [the Beneficiary] to improve the telescope’s angular resolution from 15 arc seconds to less than 10 arc seconds.” While [REDACTED] stated that “proposed” missions such as [REDACTED] “will use” the Beneficiary’s technique, there is no indication that the Beneficiary’s work has already impacted the academic field in a demonstrable way, or that her work was otherwise commensurate with being internationally recognized as outstanding. [REDACTED] also mentioned that “the Iridium coating procedures developed by [the Beneficiary] were utilized in the X-ray telescope optics developed for the solar imaging rocket project – [REDACTED]” With regard to the [REDACTED] and [REDACTED] space missions, [REDACTED] did not explain how implementation of the Beneficiary’s techniques on the missions is indicative of scientific or scholarly research contributions that are recognized internationally as outstanding.

Although the Beneficiary’s research was important to the aforementioned space projects involving the [REDACTED] any research must be original and likely to present some benefit if it is to receive funding and attention from the scientific or academic community. In order for a university, publisher or grantor to accept any research for graduation, publication or funding, the research must offer new and useful information to the pool of knowledge. Not every scientist who performs original research that adds to the general pool of knowledge in the field knowledge has inherently made an original contribution to the academic field. The Petitioner has not established that the Beneficiary’s work has affected her field in a substantial way, or that her contributions to the field were otherwise commensurate with being internationally recognized as outstanding.

Regarding the Beneficiary’s development of differential deposition techniques to correct surface errors in thin-substrate X-ray mirrors, [REDACTED] President of [REDACTED] stated:

This novel technique has the potential to dramatically improve the angular resolution of these mirrors, which are used in the construction of X-ray telescopes for NASA astronomy missions. The improvement in angular resolution that will likely result from the new differential deposition techniques that [the Beneficiary] is developing will almost certainly lead to breakthroughs in X-ray imaging

While [REDACTED] mentioned the “potential” improvements “that will likely result from” the Beneficiary’s work, there is no documentary evidence showing that her techniques have already substantially influenced the academic field. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971). [REDACTED] expectation regarding the possible future impact of the Beneficiary’s work is not evidence of her eligibility at the time of filing. In addition, [REDACTED] asserted that his company is “currently developing a new thin-film deposition capability that will implement the differential deposition techniques pioneered by [the Beneficiary],” but there is no evidence showing that the Beneficiary’s techniques have impacted the academic field at a level commensurate with being internationally recognized as outstanding.

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██████████ Staff Scientist, ██████████
██████████ stated that the Beneficiary's "efforts on the development of 'differential development' technique to correct the figure of X-ray optics has been of interest to the international X-ray optics community."⁶ In addition, ██████████ asserted that the Beneficiary's work "can result in the development of sub-arc sec resolution optics which is an important contribution to the X-ray science research community" and that such a development "could have significant impact not only for astronomy but also for other fields." While ██████████ commented on the promise of the Beneficiary's work, he did not provide specific examples of how the Beneficiary's technique has the affected field at a level indicative of scientific or scholarly research contributions that are internationally recognized as outstanding.

██████████ Physicist and Instrument Scientist, ██████████
██████████ explained that his "knowledge of [the Beneficiary] derives from a collaborative relationship developed with NASA over the past two years."⁷ ██████████ whose work is focused on building a neutron microscope, stated: "[The Beneficiary's] differential deposition technique is able to correct the figure errors that result from the production process and thereby substantially increasing the resolution of the neutron microscope." While ██████████ credits the Beneficiary's technique with having the ability to correct figure errors that result from the production process and thereby increasing the resolution of the neutron microscope he is building, there is no documentary evidence showing that the Beneficiary's work has been extensively cited by independent researchers or has otherwise contributed to the academic field in a significant way. In addition, ██████████ asserts that "further development of high resolution neutron microscopes will be directly attributable to [the Beneficiary's] expertise and her work on differential deposition," that her differential deposition technique "will have a significant impact on [his] work," and that her technique offers "a new and broad range of potential." ██████████ has not indicated that the Beneficiary's work has advanced his own research or that of others in the field. Rather, he asserts that her technique will possibly have a future impact on his work. A petitioner cannot establish the beneficiary's eligibility based solely on the expectation of future eligibility. *See Matter of Katigbak*, 14 I&N Dec. at 49.

██████████ Research Scientist, ██████████
██████████ coauthored ██████████ with the Beneficiary. ██████████
██████████ described his collaboration with NASA and NIST and their shared goal of creating a neutron microscope. In addition, ██████████ asserted that the Beneficiary's differential deposition technique "will improve the angular resolution of the optics by an order of magnitude, from about 15 to 1 arc-sec, leading to very high resolution of mirror based SANS [small-angle neutron scattering] instruments at large characteristic lengths." Furthermore, ██████████ stated that "these future instruments would allow much faster measurements" and that "it could be possible

⁶ ██████████ coauthored conference papers with the Beneficiary entitled ██████████
██████████ (2011) and ██████████ (2012).

⁷ For example, ██████████ coauthored ██████████
██████████ in ██████████ the Beneficiary's research supervisor.

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to build smaller, and thus less expensive SANS instruments.” There is no documentary evidence showing, however, that the Beneficiary’s work has already had this effect in the academic field or was otherwise commensurate with being internationally recognized as outstanding. As mentioned previously, eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49.

██████████ Associate Professor, Astronomical Institute, ██████████
asserted:

[The Beneficiary’s] research primary accomplishment, specifically the development of differential deposition, has a significant impact for X-ray astronomy, and opened doors to higher resolution in X-ray optics. . . . [The Beneficiary’s] innovative approach of differential deposition can correct the surface figure deviations and therefore can dramatically improve the optics-resolution to better than 5 arc seconds.

██████████ stated that the Beneficiary’s approach “can correct the surface figure deviations and therefore can dramatically improve the optics-resolution,” but did not provide specific examples of how the Beneficiary’s innovation has already been utilized as a production technique or otherwise constitutes an internationally recognized research contribution to the field. In addition, ██████████ noted that the Beneficiary’s work was mentioned in a NASA ██████████ ██████████ dated August 2012. On Page 51, the report lists ██████████ as one of four technologies that “may be able to achieve” the goal of producing lightweight mirrors with high imaging performance at a manageable cost. In addition, page 52 of the report describes ‘██████████’ as ██████████ and then states that preliminary experiments with the technology ██████████

While the report indicates the Beneficiary’s differential deposition technique shows promise in partially correcting slope errors, there is no evidence showing that her work has already transformed x-ray optics’ manufacturing processes, has been extensively cited by independent researchers in the field, or otherwise equates to research contributions that are internationally recognized as outstanding in the academic field. Demonstrating that the Beneficiary’s work was “original” in that it did not merely duplicate prior research is not useful in setting her apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. at 30705. Research work that is unoriginal would be unlikely to secure the Beneficiary a master’s degree, let alone classification as an outstanding researcher. To argue that all original research that adds to the scientific pool of knowledge is, by definition, “outstanding” is to weaken that adjective beyond any useful meaning, and to presume that most research is “unoriginal.”

██████████ also mentioned that he invited the Beneficiary to present her research at the ‘██████████’ ██████████ that he organized in ██████████. With regard to the Beneficiary’s participation in the workshop, we note that many professional fields regularly hold meetings and conferences to present new work, discuss new findings, and to network with other

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professionals. Professional associations, educational institutions, employers, and government agencies promote and sponsor these meetings and conferences. Participation in such events, however, does not necessarily equate to original contributions to the academic field. There is no documentary evidence showing that once disseminated at various conferences, the Beneficiary's presented work has been extensively cited, has impacted the field as a whole, or has otherwise risen to the level of a contribution that is internationally recognized as outstanding.

In the appeal brief, the Petitioner asserts that the importance of the Beneficiary's work is demonstrated by the funding that her work has received from NASA.⁸ The Petitioner submits a March 2014 letter from [REDACTED] the astrophysicist in charge of experimental work in the [REDACTED] at [REDACTED] NASA, stating:

A proposal titled "[REDACTED]" was submitted to NASA Headquarters for consideration for funding under the Astrophysics and Analysis program in March 2011. The proposal was reviewed by an outside panel and was competitively selected for funding. The program had a three-year duration and ran through fiscal years 2012, 2013 and 2014. The total value of the program, funded by NASA, was approximately \$1M.

[REDACTED] further states that he served as the Program Principal Investigator for the project and that the Beneficiary was the project's Science Principal Investigator.⁹ With regard to the Beneficiary's research project's acquisition of funding, a substantial amount of scientific programs are funded by grants from a variety of public and private sources. The past achievements of the principal investigator are a factor in grant proposals because the funding institution has to be assured that the investigator is capable of performing the proposed research. Nevertheless, the ability to secure funding for a research project does not necessarily demonstrate an investigator's scientific contributions to the academic field. The plain language of the regulation requires "research contributions to the academic field" rather than just acquiring funding for a research institution or employer's ongoing scientific projects.

The Petitioner submitted letters of varying probative value. We have addressed the specific assertions above. Generalized conclusory assertions that do not identify specific contributions or their impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In addition, uncorroborated assertions are insufficient. *See Visinscaia v. Beers*, 4 F.Supp.3d 126, 134-35 (D.D.C. 2013) (upholding USCIS' decision to give limited weight to uncorroborated assertions from practitioners in the field); *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that an agency "may, in its discretion, use as advisory opinions

⁸ According to counsel's November 2013 letter accompanying the Form I-140, "[m]ost of [the Petitioner's] activities are funded by grants and contracts from NASA."

⁹ [REDACTED] also served as the Beneficiary's research advisor and they coauthored [REDACTED]

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statements . . . submitted in evidence as expert testimony,” but is ultimately responsible for making the final determination regarding a beneficiary’s eligibility for the benefit sought and “is not required to accept or may give less weight” to evidence that is “in any way questionable”). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the beneficiary’s eligibility. *Id.* See also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to “fact”). Considering the letters and other evidence in the aggregate, the record does not establish that the Beneficiary’s research, while original, can be considered internationally recognized as outstanding in the academic field.

With respect to the category of evidence at 8 C.F.R. § 204.5(i)(3)(i)(F), as previously mentioned, the Petitioner submitted evidence of the Beneficiary’s co-authorship of four journal articles that meet the plain language requirements of the criterion. In regard to publishing work in the academic field, the U.S. Department of Labor’s *Occupational Outlook Handbook (OOH)*, 2014-15 Edition provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See <http://www.bls.gov/ooh/education-training-and-library/postsecondary-teachers.htm#tab-3>, accessed on September 25, 2015, copy incorporated into the record of proceeding. The *OOH* states that faculty members are pressured to perform research and to publish their findings and that the professor’s research record is a consideration for tenure. In addition, doctoral programs require graduate students to prepare “a doctoral dissertation, which is a paper presenting original research in the student’s field of study.” See <http://www.bls.gov/ooh/education-training-and-library/postsecondary-teachers.htm#tab-4>, accessed on September 25, 2015, copy incorporated into the record of proceeding. This information reveals that original published research, whether arising from research at a university (such as the [REDACTED] or a private employer such as the Petitioner, does not set the researcher apart from faculty in that researcher’s field. The Petitioner has not established that the Beneficiary’s publication record is commensurate with being internationally recognized as outstanding.

In light of the above, our final merits determination reveals that the Beneficiary’s professed awards and contributions to the academic field are not indicative of, or consistent with, her being internationally recognized as outstanding in the field. Furthermore, the Beneficiary’s single instance of peer review for [REDACTED] and authorship of four journal articles that have not garnered extensive international citations or other substantial impact in the academic field do not set the Beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria. 56 Fed. Reg. at 30705. Again, the truth is to be determined not by the quantity of evidence alone but by its quality. See *Matter of Chawathe*, 25 I&N Dec. at 369.

III. CONCLUSION

The Petitioner has shown that the Beneficiary is a talented research scientist, who has won the respect of her colleagues and supervisors, while securing a degree of international exposure for her work. The record, however, stops short of elevating the Beneficiary to the level of an individual who is

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internationally recognized as an outstanding researcher or professor. For the aforementioned reasons, the Petitioner has not established that the Beneficiary is qualified for the benefit sought.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. We conduct appellate review on a *de novo* basis. See *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002, n. 9 (2d Cir. 1989).

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of U-S-R-A-*, ID# 13337 (AAO Oct. 6, 2015)