



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

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

In Re: 6961257

Date: APR. 29, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Outstanding Professors/Researchers)

The Petitioner, a crane and hoist manufacturer, seeks to classify the Beneficiary as an outstanding professor or researcher in the field of structural engineering. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B).

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary is internationally recognized as outstanding in his academic field.

On appeal, the Petitioner submits a brief asserting that the Director overlooked or did not properly evaluate evidence in the record, and that this evidence establishes that the Beneficiary qualifies under the high standards of this immigrant visa classification.

In these 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. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

The statute requires that beneficiaries under this immigrant visa classification should stand apart in their academic area based on international recognition. To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence and demonstrates the beneficiary is recognized internationally within the academic field as outstanding.

Specifically, section 203(b)(1)(B)(i) of the Act provides that a foreign national is an outstanding professor or researcher 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 [for a qualifying position with a university, institution of higher education, or certain private employers].

To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence set forth at 8 C.F.R. § 204.5(i)(3)(i)(A)-(F). This, however, is only the first step, and the successful submission of evidence meeting at least two criteria does not, in and of itself, establish eligibility for this classification.<sup>1</sup> When a petitioner submits sufficient evidence at the first step, we will then conduct a final merits determination to decide whether the evidence in its totality shows that the beneficiary is recognized as outstanding in his or her academic field. 8 C.F.R. § 204.5(i)(3)(i).

Finally, the regulation at 8 C.F.R. § 204.5(i)(3)(ii) provides that a petition for an outstanding professor or researcher must be accompanied evidence that the foreign national has at least three years of experience in teaching and/or research in the academic field.

## II. ANALYSIS

The Beneficiary received a Bachelor of Engineering degree (1999) from University of [redacted] and a Master of Engineering degree (2001) from [redacted] University. In addition, he holds a Ph.D. (2011) in mechanical engineering from University of [redacted]. The Beneficiary is currently a "Supervisor, Structural Engineering" for the Petitioner.

In his decision, the Director found that the Beneficiary met four of the evidentiary criteria, thus satisfying the initial evidence requirement, but that the totality of the record did not establish the requisite international recognition in the structural engineering field. Upon review, we agree with the Director that the evidence demonstrates the Beneficiary's service as a judge of the work of others and his authorship of scholarly articles. As he therefore meets the initial evidence requirements, we will consider all the evidence of record when conducting the final merits determination.

In a final merits determination, we analyze a researcher or professor's accomplishments and weigh the totality of the evidence to evaluate whether a petitioner has demonstrated, by a preponderance of the evidence<sup>2</sup>, that the beneficiary's achievements are sufficient to demonstrate that he has been internationally recognized as outstanding in the field of endeavor. See section 203(b)(1)(B)(i) of the Act; 8 C.F.R. § 204.5(i)(3)(i). In this matter, we agree with the Director that the Petitioner has not shown the Beneficiary's eligibility.

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<sup>1</sup> USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding professors and researchers. See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 20 (Dec. 22, 2010), <https://www.uscis.gov/legal-resources/policy-memoranda>.

<sup>2</sup> A petitioner must establish that the beneficiary meets the eligibility requirements of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met its burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

On appeal, the Petitioner argues that the Director’s decision did not consider “evidence related to international recognition of [the Beneficiary] in the area of structural analysis.” It contends that the Beneficiary “has received international acclaim for his achievements and contributions in crane safety [redacted]” In the final merits analysis, the Director’s decision discussed the evidence relating to the Beneficiary’s peer review activities, research contributions, published work, and citation history, and explained why that evidence, as part of the entirety of the record, was insufficient to demonstrate the Beneficiary’s recognition as outstanding at the international level.

It is important to note that the controlling purpose of the regulation at 8 C.F.R. § 204.5(i)(3)(i) is to establish a beneficiary’s international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)). Therefore, to the extent that the Director first determined that the evidence satisfied the plain language requirements of specific evidentiary criteria, and then evaluated whether that evidence, as part of the entirety of the record, was sufficient to demonstrate the Beneficiary’s recognition as outstanding at the international level, his analysis was in keeping with the statute, regulations, and policy pertaining to the requested immigrant visa classification.

The record indicates that the Beneficiary received a “Certificate of Recognition” for “presenting the Best Technical Paper in the discipline of [redacted]” at the “[redacted] 2008 User Conference.” Regarding this award, the Petitioner provided an email from [redacted] Lead Technology Specialist with [redacted], listing the number of attendees, presenters, and award recipients at the 2010 and 2013 [redacted] conferences.<sup>3</sup> [redacted]’s email, however, did not provide specific information relating to the 2008 [redacted] conference. Nor has the Petitioner offered evidence showing the Beneficiary’s Best Technical Paper award’s stature in the structural engineering field or its international significance. In addition, the Petitioner presented an email indicating that the Beneficiary and two others won its “Google Glass Challenge.”<sup>4</sup> This award reflects internal recognition from the Beneficiary’s employer and not international recognition in the academic field. The Petitioner has not demonstrated that the Beneficiary’s “Best Technical Paper” and “Google Glass Challenge” awards rise to the level of “major prizes or awards for outstanding achievement in the academic field.” See 8 C.F.R. § 204.5(i)(3)(i)(A). Nor has the Petitioner shown that these awards demonstrate the Beneficiary’s recognition as outstanding at the international level in his field.

The Petitioner presented a May 2018 letter from the American Society for Mechanical Engineers (ASME) advising the Beneficiary of his “appointment to serve as a member of the [redacted] [redacted] Engineering Support Subcommittee for a term effective May 2018 and expiring June 2022.” In addition, the record includes an April 2019 letter from [redacted] Vice Chair of the ASME [redacted] Committee, asserting that “outstanding achievements” are “a necessary prerequisite to

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[redacted] stated that his company’s marketing team was only able to obtain details about the 2010 and 2013 conferences, and not the 2008 conference in which the Beneficiary participated.

<sup>4</sup> Regarding this internal company challenge, information from the Petitioner’s website stated: “This challenge is about how to integrate Google Glass in the crane industry. . . . We want ideas and concepts regarding the use of augmented reality in [the Petitioner’s] business. . . . Each member of the winning team will be rewarded with pair of own Google glasses once they become available.”

become a ASME [redacted] subcommittee member” and that its members “have obtained recognition in the industry for their expertise in the analysis and design of critical load handling equipment [redacted] [redacted], [redacted] did not offer detailed information elaborating on the subcommittee’s specific membership requirements or what constitutes “outstanding achievements.” Nor has the Petitioner provided the ASME or [redacted] Engineering Support Subcommittee’s constitution or bylaws, or other documentation showing its official membership requirements. The Petitioner therefore has not offered sufficient evidence that the Beneficiary’s term membership with the [redacted] Engineering Support Subcommittee required “outstanding achievements.” See 8 C.F.R § 204.5(i)(3)(i)(B). Furthermore, the evidence is insufficient to show that serving on this subcommittee renders the Beneficiary as internationally recognized as outstanding in the field of structural engineering.

As it pertains to published material in professional publications written by others about the Beneficiary’s work in the academic field, the Petitioner submitted a [redacted] 2012 article in *Industrial Lift and Hoist* and a [redacted] 2015 article in *Fluid Power World*. The first article is about the Petitioner’s work at the [redacted] facility to modernize a crane with a replacement of the trolley and the hoisting machinery, and the second article discusses the Petitioner’s transport system [redacted]. These articles are about the Petitioner and its projects and not the Beneficiary’s specific work. See 8 C.F.R § 204.5(i)(3)(i)(C). The Beneficiary’s code compliance work is only mentioned in passing and he is not identified in the articles. Accordingly, the Petitioner has not established that these articles show that the Beneficiary is recognized internationally as outstanding for his work in the field.

With respect to participating as the judge of the work of others, the Petitioner asserts that the evidence of the Beneficiary’s involvement as a judge for a “Student Research Poster Competition” at [redacted] his response to email inquiries from a supervisor and a coworker, and his peer review service demonstrate that he is recognized internationally as outstanding. The record includes a May 2018 email thanking the Beneficiary for participating as a judge for the [redacted] College of Engineering and Applied Science Student Research Poster Competition” in [redacted] 2018.<sup>5</sup> This documentation does not indicate whose work the Beneficiary judged, their stature in the field, or the specific research projects he evaluated. Nor has the Petitioner offered documentary evidence of the prestige associated with [redacted]’s Student Research Poster Competition.

In addition, the Petitioner presented multiple emails from the Beneficiary’s supervisor [redacted] [redacted] and a coworker [redacted] asking the Beneficiary for input relating to below the hook (BTH) lifting devices and [redacted] operational guidelines [redacted].<sup>6</sup> The majority of these emails involved questions first directed to [redacted], who then assigned these inquiries to the Beneficiary.<sup>7</sup> The Petitioner maintains that as a member of the ASME “[redacted] Engineering Support Subcommittee, [the Beneficiary] is frequently called upon to give his expert opinion on industry standards.” The record includes a June 2018 letter from [redacted] stating:

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<sup>5</sup> As previously discussed, the Beneficiary received his Ph.D. from [redacted]

<sup>6</sup> [redacted] has provided a letter of support identifying himself as Chair of ASME BTH-1 Standards Committee.

<sup>7</sup> In response to the Director’s notice of intent to deny, the Petitioner provided three additional emails dated January, February, and March 2019 entitled “ASME C&S Connect.” This evidence, however, post-dates the filing of the petition. Eligibility must be established at the time of filing. See 8 C.F.R. § 103.2(b)(1).

I have supported [the Beneficiary's] appointment to the ASME [ ] Committee's Engineering Support Subcommittee, where his insight into complex structural analysis of material handling equipment is exactly the expertise the ASME needed to ensure the safe handling of loads [ ]. The standards he is working on apply not only to the [ ] but also to any industry requiring enhanced handling safety . . . .

While the Petitioner presented emails indicating that the Beneficiary responded to BTH and [ ] inquiries at the request of [ ] and [ ], the record does not show that his responses to these inquiries constituted "participation, either individually or on a panel, as the judge of the work of others." See 8 C.F.R. § 204.5(i)(3)(i)(D). Nor has the Petitioner demonstrated that providing such input at the request of his company's managers demonstrates that the Beneficiary is recognized internationally within the academic field as outstanding.

Furthermore, as it relates to the Beneficiary's peer review service, the record includes documentation indicating that he reviewed two manuscripts each for *IEEE Access* and *Engineering Optimization*. In addition, the Petitioner provided evidence showing that the Beneficiary reviewed three papers for the 2012 ASME International Design Engineering Technical Conferences & Computers and Information in Engineering Conference (IDETC/CIE).

Regarding the Beneficiary's service as a judge of others, an evaluation of the significance of his experience is appropriate to determine if such evidence is indicative of the outstanding achievement required for this classification.<sup>9</sup> While the record includes documentation showing that the Beneficiary has judged a Student Research Poster Competition at his alma mater and reviewed a total of seven technical papers for *IEEE Access*, *Engineering Optimization*, and IDETC/CIE, the Petitioner has not established that his level of review is indicative of or consistent with being recognized internationally as outstanding in his academic area. For example, the Petitioner has not demonstrated the stature of the IDETC/CIE or the ranking of *IEEE Access* and *Engineering Optimization* relative to other journals.<sup>10</sup> Without evidence that sets the Beneficiary apart from others in the field, such as evidence that he has received independent requests for review from a substantial number of journals or conferences relative to others in his field, served in editorial positions for distinguished journals or publications, or chaired technical committees for reputable organizations or conferences, the Petitioner has not established that his peer review or judging experience has resulted in, or is reflective of, recognition at an international level for being outstanding in the field.

With respect to the Beneficiary's research contributions, the record includes reference letters discussing the Beneficiary's structural engineering projects for the Petitioner as well as his graduate research at [ ].<sup>11</sup> For example, [ ], the Petitioner's president, noted that his company

<sup>8</sup> These emails included the Beneficiary's answers to questions involving hydraulic components, bending stress, grip ratio, pin bearing stress, shear stress, keyways, flange bending, runway tolerances, flexible endties, and upgrading bridges.

<sup>9</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 19 (stating that an individual's participation should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

<sup>10</sup> Nor has the Beneficiary distinguished himself as an ASME committee chair, for instance, in the same manner as [ ] or [ ].

<sup>11</sup> While we discuss a sampling of the reference letters, we have reviewed and considered each one.

“owns a number of patents” for its rubber tired [redacted] [redacted].<sup>12</sup> He indicated that the Beneficiary’s contributions to his company “are vital as he leads the structural team to ensure the designs satisfy the codes and makes necessary design changes if the design is not compliant with regulatory codes.” [redacted] further stated that the Beneficiary was responsible for the [redacted]’s safety and [redacted] requirements and “for the qualification of all structural and mechanical components of the rubber tired [redacted].” While the Beneficiary helps ensure that the Petitioner’s equipment meets applicable regulatory codes and industry standards, the Petitioner has not offered sufficient evidence showing that the Beneficiary’s structural engineering work has had a meaningful impact to the overall field beyond his employer and its projects.<sup>13</sup>

As it pertains to the Petitioner’s jacking tower equipment, [redacted] the company’s assistant chief engineer, asserted that the Beneficiary “established a load chart for the head assembly based on his structural calculations. He also verified the structural adequacy of the rail system, another piece of equipment within the jacking tower equipment’s system (U.S. Patent [redacted]) along with the floor anchors and the seismic loads on the tower.”<sup>14</sup> The Petitioner, however, has not shown that the Beneficiary’s structural methodologies on these projects stand apart from those developed by industry rivals and others, or that they have been recognized internationally as outstanding in the material handling industry.

In addition, [redacted] the Petitioner’s vice president and chief engineer, indicated that the Beneficiary’s research “addresses the issues related to time involved in . . . design and optimization processes and proposes improved methods to drastically reduce the time involved in design.” [redacted] further noted that the Beneficiary’s findings have helped his employer “solve numerous problems in [redacted], which are very time sensitive as the down time of the plant would result in loss of millions of dollars,” but his statements are insufficient to demonstrate that the Beneficiary’s findings have affected the [redacted] industry in a substantial way that signifies international recognition or outstanding achievement in his field.

Regarding the Beneficiary’s research involving “reliability based structural optimization,” [redacted] [redacted] associate professor at [redacted] University, stated that the Beneficiary’s findings “demonstrated how the reliability constraints if incorporated in early design stages can result in topologies that are quite different from the topologies obtained through a typical deterministic optimization.” [redacted] further indicated that the Beneficiary’s “work has resulted in improving the efficiency of the process to an extent that the reliability based topology optimization in some cases is as efficient as deterministic topology optimization.”<sup>15</sup> Additionally, with respect to the Beneficiary’s research relating to reliability based structural design optimization using surrogate models [redacted] asserted that the Beneficiary’s approach “was based on a reliability estimation model called

<sup>12</sup> While [redacted]’s letter lists multiple U.S. patents owned by his company, he does not identify the Beneficiary as an inventor for any of them. He notes that as a structural engineer, the Beneficiary “does not participate in the patent application process and leaves them to the design engineers.”

<sup>13</sup> The language of the regulatory criterion at 8 C.F.R § 204.5(i)(3)(i)(E) requires “original scientific or scholarly research contributions to the academic field” rather than projects mainly affecting his employer and its customers.

<sup>14</sup> [redacted] and [redacted] were the inventors for this patent.

<sup>15</sup> The record includes a [redacted] 2018 Google Scholar citation report indicating that the Beneficiary’s article in *Engineering Optimization* reporting these findings has received five citations since its publication 2016.

progressive sensitivity surrogate model that improves progressively by updating the sensitivity of most probable point of failure.”<sup>16</sup> While [ ] noted that the Beneficiary published these findings in *Engineering Optimization*, he did not offer specific examples of how this work has been widely utilized or has otherwise influenced the field at a level commensurate with being internationally recognized as outstanding.

We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every engineering innovation or finding that broadens knowledge in a particular field renders an individual’s work as outstanding or internationally recognized. The letters of support offered by the Petitioner do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Beneficiary’s work is viewed by the overall academic field, rather than by a solicited few, as substantially influential or otherwise indicative of international recognition.

With regard to the Beneficiary’s authorship of two journal articles in *Engineering Optimization* and several ASME conference papers, the citation history or other evidence of the influence of his work can be an indicator to determine the impact and recognition that his work has had on the field and whether his articles demonstrate that he is internationally recognized as outstanding in the academic field.<sup>17</sup> See section 203(b)(1)(B)(i) of the Act. For example, numerous independent citations for an article authored by the Beneficiary may provide solid evidence that his work has been recognized and that others have been influenced by his work.

Here, the Petitioner provided information from Google Scholar reflecting that the Beneficiary’s two articles in *Engineering Optimization* have received an aggregate of eight citations and that his ASME conference papers have received a total of three citations. While the Beneficiary’s citations, both individually and collectively, show that the field has taken some notice of his work, the Petitioner has not established that these citations are sufficient to demonstrate a level of attention commensurate with outstanding achievement and international recognition in his field. For instance, the Petitioner has not compared the number of the Beneficiary’s authored works and their citation rate to other researchers or professors in his field to differentiate his work as outstanding.

After consideration of the totality of the evidence of the Beneficiary’s work in the field of structural engineering, including evidence of his published and presented research work, citations to that work by other researchers, his projects for his employer, his service as a judge for a student competition at his alma mater and as a reviewer of papers for two journals and a technical conference, his awards and ASME [ ] subcommittee membership, the two articles about his employer, and the opinions of experts in the field, we conclude that this documentation does not sufficiently establish that he has been internationally recognized as an outstanding professor or researcher.

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<sup>16</sup> The aforementioned Google Scholar citation report reflects that the article in *Engineering Optimization* reporting these findings has been cited three times since its publication in 2014.

<sup>17</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 20 (stating that an individual’s authorship of articles should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

### III. CONCLUSION

The evidence in the record demonstrates that the Beneficiary meets at least two of the evidentiary criteria, and thus the initial evidence requirements for this classification. A review of the totality of the evidence, however, does not establish that he is internationally recognized as an outstanding professor or researcher in his academic field. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.