

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

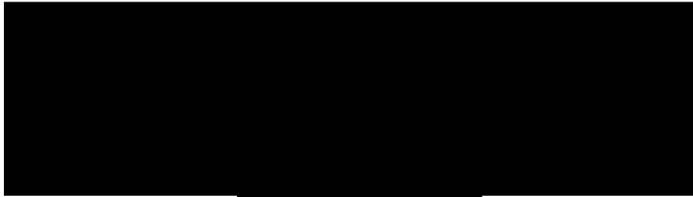
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, D.C. 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B5



FILE:

LIN 06 258 51185

Office: NEBRASKA SERVICE CENTER

Date: JAN 06 2009

IN RE:

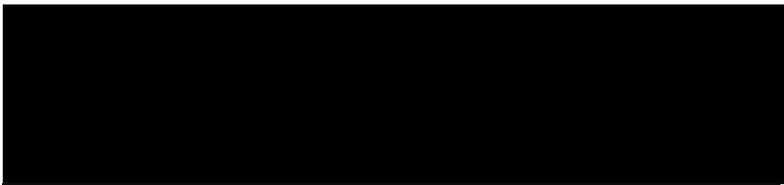
Petitioner:

Beneficiary:



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

ON BEHALF OF PETITIONER:



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 appeal will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. 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:

(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 (USCIS)] 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 (Commr. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

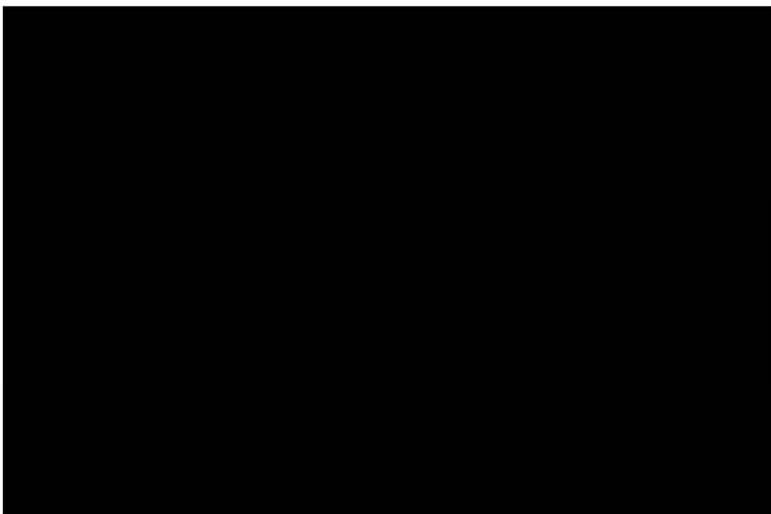
It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien’s past record justifies projections of future benefit to the national interest. The petitioner’s subjective assurance that the alien will, in the future, serve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

We also note that the regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on August 18, 2006. On Form I-140, under “Basic information about the proposed employment,” the petitioner listed her “Job Title” as “Counselor of the Bolivian Embassy in the United States” and indicated that this was not a permanent position.

In a personal statement dated July 29, 2006, the petitioner identified herself as “until recently Economic Counselor at the Embassy of Bolivia in Washington DC.” On her *curriculum vitae*, the petitioner indicated that she left her embassy position in May 2006. Nevertheless, on Form ETA-750B, Statement of Qualifications of Alien, signed by the petitioner and dated August 16, 2006, the petitioner stated that she worked at the Bolivian Embassy from November 2004 to “Present.”

The petitioner’s *curriculum vitae* also lists the following positions, among others:



May 2004 – Oct. 2004

May 2003 – May 2004

Sept. 2002 – March 2003

2000 – 2002

1990 – 1998

In her accompanying statement, the petitioner described the duties of her various positions and stated that Bolivia's newly-elected government was reinstating discredited policies that "are eroding the democratic process and the rule of law while promoting racial odium and corruption. Bolivia's current administration neglects the important role of academic research as [a] source of policy proposals if its outcome contradicts the governmental discourse." While she did not state as much directly, the petitioner seemed to imply that she is unable to work effectively under the Bolivian government's new policies and that therefore she must seek other employment if she is to continue to have an impact. The petitioner stated:

I am convinced that my professional background could help in designing poverty alleviation programs and effective cooperation projects. Setting up productive projects for small and medium entrepreneurs in poor and rural areas, will diminish the influence of threatening left oriented ideologies, and above all, will pull the Bolivian society away from the illegal circuit of drugs, corruption and armed conflict.

The petitioner did not explain why the work described above is best accomplished in the United States rather than in Bolivia.

In an introductory statement, counsel stated:

[The petitioner] is among the most gifted, industrious and earnest scholars in the area of foreign affairs, specializing in the area of poverty reduction and bilateral relations between Bolivia and the United States. . . .

[The petitioner's] high level background – her Bolivian ancestry, her education and career in Mexico and the United States, together puts her in a unique position where she has been able to directly contribute to the United States interest in significant ways, politically and economically. She has been intensively involved in the field of

economics, poverty reduction and foreign relations. This is clear from her achievements in the diplomatic ranks in Bolivia to her most recent appointment in 2004 as Counselor to the Bolivian Embassy to the United States, one of the highest diplomatic assignments for the country. Her abilities and professional skills as an economic policy analyst and in charge of the relations with the United States Congress are highly in demand at the time being. The results of her work have already helped in the strengthening of ties between the United States and South America. [The petitioner] has already established relations with different think tanks and academic centers, she participated . . . in numerous conferences [and] international meetings, and has served as the official government representative on numerous occasions. . . .

Having a knowledgeable diplomat and economist, like [the petitioner], is going to help maintain solid ties between Bolivia and the United States.

Counsel devoted considerable space to a discussion of the petitioner's past activities in jobs she no longer holds, but counsel did not specify what, exactly, the petitioner intends to do in the United States. Counsel stated: "There is no higher calling that to attempt to help the bilateral relations . . . and reduce poverty," but did not explain how the petitioner intends to reach these goals. Expertise in economics and international relations does not, by itself, serve the national interest; an alien does not merit a waiver simply by possessing such a trait. Rather, it is how such expertise is applied that determines the benefit to the United States. The petition must show that she has realistic opportunities to reduce poverty, improve international relations, and otherwise serve the national interest of the United States.

Several witness letters accompanied the petition. All of the initial witnesses have known the petitioner for several years, and attest to her impact in positions she no longer holds. [REDACTED], now Director of the U.S. Agency for International Development (USAID) in Bogotá, Colombia, formerly held the same position in Bolivia. Ms. [REDACTED] stated:

I have known [the petitioner] since her academic assignment with the prestigious Masters Program of the Bolivian Catholic University in 2000 in La Paz, Bolivia. Thanks to the collaboration we received from [the petitioner], USAID was able to demonstrate the impact of the USAID-supported training programs to Bolivia's private and public sectors. Her diligence and professionalism were invaluable for this important partnership between USAID and a high level private university.

Later, when she worked with the Unit for Economic Policy Analysis (UDAPE), a well-recognized and high powered think tank under the auspices of the Ministry of Finance in Bolivia, [the petitioner] was charged with relations with donor countries and foreign cooperation agencies. During this period, her relationship with USAID was tremendously helpful in our development assistance work in Bolivia. Her extraordinary political sensitivity and managerial skills were key in strengthening this bilateral relationship. . . .

[The petitioner] is a person of the highest character and strong intelligence. Her recent assignment as Economic Counselor at the Bolivian Embassy in Washington helped poise Bolivia as candidate-country for the Millennium Challenge Account; the Presidential Initiative. The role she played in this on-going technical and diplomatic exchange was critical in solidifying the bilateral relationship.

[The petitioner's] unique knowledge of the economic and political situation of Bolivia, which is very important for the democratic stability in the region, makes her a valuable resource to the scores of public officials working in that area.

██████████ Director of Political Science at the Latin American and Caribbean Center at Florida Atlantic University, **formerly** served on the faculty of the Bolivian Catholic University alongside the petitioner. Prof. ██████████ stated:

Some of her academic research on poverty and governance has provided fresh challenges to other colleagues. Her work has been quoted several times in important academic publications. Her study [of] citizen perceptions is one of the first of its kind and has been a basic step for other investigations related to economic public policy in Bolivia. . . .

Based on the quality of her work, I invited [the petitioner] to join a group of outstanding Bolivian intellectuals and to write a chapter on the labor market in a book about the challenges in Bolivia. [The petitioner's] paper was excellent for her logical inferences and innovative policy recommendations in particular. . . .

[The petitioner's] knowledge of the complex economic context in the current political situation in Bolivia and the entire Andean region could help delineate a better comprehensive strategy to deal with the region.

██████████ President of the Bolivian-American Chamber of Commerce, Inc., stated: “we benefited from her presentations on important and timely issues. . . . I can venture to say that her training in international economics and foreign affairs could greatly help to improve U.S. trade with Bolivia and other training partners in South America.”

The letters discussed above concern the petitioner's work in capacities that she no longer performs, and say little about her intended future work other than to express confidence that the petitioner's expertise equips her well for work relating to Bolivian-U.S. relations. Other letters express interest in retaining the petitioner's services as a consultant with the World Bank Institute; as a columnist with *Los Tiempos USA*, “a Spanish newspaper serving the Hispanic community in the Washington DC metropolitan area”; and in an unspecified capacity with the law firm of Winston & Strawn LLP. The petitioner did not specify which of these very diverse offers, if any, she would be inclined to explore.

The petitioner submitted documentation of what counsel called “nationally or internationally recognized awards.” Of the six documents so characterized, the first two are certificates attesting to her appointment to government positions; the third is a certificate expressing “deep appreciation for [her] valued services to the World Bank”; the next two documents relate to academic scholarships that helped to fund her graduate studies; and the last document is a “certificate of completion” for the petitioner’s “participation in the 1999-2000 Women’s International Leadership Program.” None of these documents appears to be an “award” at all, let alone “nationally or internationally recognized” as such. In a similar vein, counsel makes much of the petitioner’s membership in the Stoddert Elementary Parent-Teacher Association. The AAO does not share counsel’s perception of what satisfies the evidentiary threshold for eligibility for the national interest waiver.

The petitioner submitted what appears to be a printout from a search engine, listing citations of the petitioner’s published work, news articles and reports mentioning the petitioner’s name. The petitioner provided no objective context for the significance of this list. Many of the sites quoted in the printout are in Spanish, with no translation as required by 8 C.F.R. § 103.2(b)(3), and therefore we cannot even tell the context of those references to the petitioner. Of the English-language references, one appears to be a list of embassy personnel, and others appear to report alumni gatherings.

The petitioner submits copies of her published work (university reports and newspaper columns) as well as book chapters, reports, and other documents, in English and other languages, containing references to the petitioner’s work. These materials establish citation of the petitioner’s work, but they do not establish a frame of reference to show that the petitioner’s work is cited more frequently than that of others in her field. Most of the citations derive from a 2002 article, of which the petitioner was the third of three named authors.

Much of the remaining evidence in the initial submission establishes that the petitioner held the posts that she claimed to have held. The petitioner’s professional résumé, while impressive, is not presumptive evidence of eligibility for the waiver.

On October 29, 2007, the director issued a request for evidence (RFE). In the RFE, the director noted that the petitioner had left the Bolivian embassy in May 2006, and stated that the petitioner had not provided sufficient evidence or information about her intended activities in the United States. The director also requested evidence that the petitioner has “had a degree of influence on [her] field that distinguishes [her] from other economists with comparable academic/professional qualifications.” The director also informed the petitioner that “[f]oreign language documents which have not been translated will not be considered as evidence.”

In response, the petitioner submitted several new exhibits, along with an explanatory letter from counsel. Nowhere in this seven-page letter did counsel directly address the fairly basic question of what, exactly, the petitioner intends to do in the United States. Counsel argued repeatedly that the petitioner is an expert in various diplomatic and economic areas, but being an expert is not an occupation in and of itself. The question remains as to how the petitioner intends to apply that expertise.

The closest the petitioner and counsel came to addressing the question of the petitioner's intended future work was to submit a copy of a November 16, 2007 letter from [REDACTED] Director of the Americas Program at the Carter Center in Atlanta, Georgia. The complete text of that letter reads as follows:

I want to thank you for your interest in the Associate Director position with the Americas Program of The Carter Center in Atlanta. During your interview, the search committee was impressed with your credentials and diplomatic experience, as well as your knowledge of both Latin American and U.S. political processes and cultures. These are important qualifications for the work of The Carter Center.

We have a strong group of finalists for the position and hope to have a decision soon. I will keep you informed.

The above letter does not shed further light on the petitioner's intended activities in the United States. Instead, it further muddies the waters surrounding this issue. Asked to explain her submission of three widely divergent job offers, the petitioner submitted evidence showing that, after the petition's filing date, she pursued a fourth potential job in a different occupation than the previous three offers. This evidence shows that, some six months after leaving her embassy position, the petitioner had yet to decide upon a specific occupation, let alone secure employment in that occupation. Furthermore, we note that the letter does not indicate that the Carter Center sought out or recruited the petitioner based on her claimed reputation. Rather, the text of the letter indicates that the petitioner approached the Carter Center and expressed "interest in the Associate Director position." The tone of the letter is complimentary but noncommittal, and the record does not show that the Carter Center actually selected the petitioner for the position.

Another letter from the Carter Center, this one dated January 10, 2007 and signed by [REDACTED] Associate Executive Director of the Americas Program, thanked the petitioner for her "work as an election observer in Nicaragua." The record does not establish the qualifications necessary to work for the Carter Center as an election observer, or the procedure by which the Carter Center selects those observers. Devoid of context, the letter simply establishes that the petitioner was one of an unspecified number of election observers deployed by the Carter Center *circa* late 2006.

In a November 13, 2007 letter, [REDACTED] a member of the Professional Staff of the U.S. House of Representatives Committee on Foreign Affairs, thanked the petitioner "for the information [she] provided during our recent conversation about democratic security in Central American countries." While [REDACTED] stated "I look forward to continuing our dialogue," the record does not establish the extent or significance of the petitioner's input with regard to the committee's activities. Mr. [REDACTED] mentioned "criminal gangs from Central America," an issue that received little if any emphasis in the petitioner's initial submission. The letter, written after the RFE's issuance, does not indicate when the "recent conversation" took place.

Another activity that the petitioner undertook after filing the petition was two appearances on *Foro Americano*, a weekly Spanish-language program on Voice of America (VOA) Television. Two letters from Producer [REDACTED], essentially identical except for specific dates, state: "Every week, a panel of three renowned Latin American journalists join our guests to discuss topics of importance to the region." The letters indicate that the petitioner was scheduled to appear in 20-minute segments on September 1 and December 29, 2006. More recently, a mid-July 2007 electronic mail message from [REDACTED] of InterMedia indicated that the petitioner had "been identified as an excellent potential 'control listener'" for "our upcoming VOA Bolivian radio programming evaluation," a task in which the petitioner would "be providing evaluations of four hours of VOA Spanish to Latin American radio programming in Bolivia from 24-27 July 2007." A July 23, 2007 "Consultant Agreement" indicated that "INTERMEDIA desires to engage the Consultant to render certain professional services in which the consultant purports to have expertise," but the generic wording of the agreement did not further discuss this "expertise."

The evidence described above indicates that VOA has taken some interest in the petitioner, but only for short-term endeavors such as interviews and a one-week listening project, described so vaguely that it is not even clear whether the petitioner received compensation for that work. (The petitioner provided only the first page of the "Consultant Agreement.")

[REDACTED], Chairman and Chief Executive Officer of Tremisis Energy Acquisition Corporation, New York, New York, stated:

I first became aware of [the petitioner] and her work as an international journalist and economic analyst in Bolivia while I was CEO of Bolivian Power. . . . [The petitioner's] economic analyses in local newspapers and international TV network were closely watch and greatly appreciated among the broad circle of American investors and entrepreneurs considering and working in Bolivia.

Years later, I frequently encountered and worked with [the petitioner] when she headed the economic section of the Bolivian Embassy to the US in Washington. [The petitioner] was instrumental in facilitating private sector investment and business operation in Bolivia. . . .

In addition to [the petitioner's] knowledge of the Andean region economy, she possesses an extraordinary political knowledge and sensitivity regarding South America in general, making her a valuable resource for American investors, international agencies and governments with financial and commercial interests in the Western Hemisphere. She is an outstanding consultant regarding security, political and economic issues for new and prospective investments in Latin American countries.

(*Sic.*) [REDACTED]'s letter, like the other newly submitted exhibits, sheds no light on the nature of the petitioner's intended occupation in the United States. The vague implication is that, given the petitioner's expertise on economics and policy, she is sure to benefit the United States in some capacity,

even if the exact nature of that capacity is not yet known. This claim does not establish the petitioner's eligibility for the national interest waiver. We acknowledge that the petitioner seeks a waiver from the job offer requirement, but this does not excuse the petitioner from having to explain, at a minimum, what sort of work the petitioner intends to do in the United States. The petitioner may well be an expert in certain areas, but expertise is a qualification, not an occupation.

The director denied the petition on March 10, 2008, stating: "the petitioner still does not clearly address what she will be doing in the United States." The director observed that many of the prospective activities discussed in the petitioner's evidence would take place outside the United States. We agree with counsel that activities outside the United States can be of national importance to the United States. It is clearly in the national interest to maintain good relations with other nations, and to promote prosperity and stability in regions that may otherwise pose a threat to our national security. This, of course, does not support a blanket finding that experience in international diplomacy is presumptive evidence of eligibility for the waiver.

On appeal, the petitioner submits background evidence relating to Latin America in general and Bolivia in particular. This evidence addresses the intrinsic merit and national scope of diplomacy but does not establish that the petitioner stands out in her field to a degree that would warrant the waiver. The petitioner also submits additional information about VOA. The AAO does not dispute the importance of VOA's overall mission, but it does not follow that an individual who was interviewed on VOA for forty minutes has had, or will have, an impact proportional to that of VOA as a whole. To hold otherwise would imply that virtually any alien who has appeared on VOA television or radio merits a waiver.

Counsel states that the petitioner's "background and training are extremely important in order to help clear the complex moment that the foreign relations are going through right now," and that her "knowledge and expertise on the political and economic situation in Bolivia is of particular importance." Once again, these are generalities that fail to explain what the petitioner intends to do in the United States (and whether realistic opportunities exist for her to engage in such work).

Counsel states that the petitioner, owing to "her standing in the field," has attracted "the interest of various organizations and institutions." Counsel claims that, given this general interest, "[i]t is not necessary for her *at this time* to be specifically employed in a qualifying position" (counsel's emphasis). There is, however, a difference between the petitioner not being employed at one particular moment in time, and the petitioner's being unable to explain how she intends to be employed in the future. It is simply not enough to assert that, given the petitioner's background, she is sure to find, eventually, a position that will, in some way yet to be determined, serve the national interest.

Counsel states: "We feel that the Service is unnecessarily focusing on a narrow aspect of this case. . . . The bigger picture of [the petition] is the extent to which her past and ongoing work has impacted the field." If the petitioner's impact came through positions she once held, but holds no longer, then it is not trivial or picayune to expect a clear and persuasive explanation of how exactly the petitioner expects to have an impact in the future.

Two additional letters accompany the appeal. Initial witness [REDACTED] prepared a second letter on December 6, 2007, for submission in response to the RFE, but the letter was not submitted at that time. In this new letter, [REDACTED] identifies himself as “the Managing Partner of Newlink Research, a private research firm that conducts surveys throughout Latin America and the Caribbean.” Most of this letter is virtually identical to Prof. Gamarra’s earlier letter, dated July 10, 2006. The new portion of the letter consists of three paragraphs, reading in part:

[The petitioner’s] training and background has become even more relevant and useful to US national interests given the profound crisis in Bolivia and the near breakdown of US-Venezuelan relations. At this stage, Bolivia is literally on the brink of disaster and US policymakers are in desperate need of sound professional advice on how to deal with both countries. . . .

On the basis of her experience, training, education and overall background, Newlink Research hired her to assist with a variety of projects. She is currently assigned to a project our firm has with the Mexican government. Over the course of the past two years, [the petitioner] has worked on the implementation of the Democratic Security Plan in the Democratic Security. This plan was conceived by Newlink and has been credited with significantly reducing the crime rate in that country. Newlink was fortunate to count on the experience of [the petitioner] during the design phase of the project and throughout the several phases of the implementation.

When considering [REDACTED]’s new claims regarding the petitioner’s work with Newlink, it is significant to note that the petitioner did not mention Newlink on her *curriculum vitae* or in her introductory statement in which she detailed her work experience. The petitioner also omitted any mention of Newlink on Form ETA-750B, which instructed her to “List all jobs held during the last three (3) years.” [REDACTED] likewise did not mention Newlink in his first letter on the petitioner’s behalf, even though that letter was written July 10, 2006, during “the past two years” that preceded the new December 2007 letter. Also, [REDACTED]’s description of Newlink appears to be incomplete; it is not clear how “a private research firm that conducts surveys” would be responsible for introducing and implementing national security initiatives.

The other new letter submitted on appeal reads, in part:

My name is [REDACTED] of Bolivia to the United States between 2002-2005. Currently I am member of the Inter-American Juridical Committee of the Organization of the American States and Senior Associate of the Consulting firm Newlink Group leading its office in Washington DC for projects related with Democracy and bilateral relations of our clients with the United States.

I know [the petitioner] since her years as international correspondent in Bolivia while I was a Vice-Chancellor at the Ministry of Foreign Affairs in Bolivia. Years after, I had

the privilege of counting her within my diplomatic staff at the Embassy of Bolivia in Washington and during this last year as a colleague with Newlink Group.

. . . I am convinced that [the petitioner's] understanding of the work and processes of US government agencies and international financial institutions are a highly valuable asset for the coming relations of the United States with the Andean Region. . . .

In the first half of the year 2007, [the petitioner's] work with Newlink Group was mainly focused [on] democracy in Bolivia and democratic security for Central American Countries. Since July of that year she has been working on a Mexico project.

Like [redacted] does not specify the nature of the petitioner's "work with Newlink Group." Amb. Aparicio Otero implies that this work began in 2007, which would explain its total omission from the initial filing in 2006. Nevertheless, it is significant that the director, in the October 2007 RFE, specifically noted the lack of "information regarding [the petitioner's] actual proposed employment." The petitioner's December 2007 response to the RFE contained no mention of Newlink whatsoever, although it is now claimed that she had been working at Newlink for most of 2007. Counsel does not explain why the petitioner withheld the information about Newlink even after the director specifically asked about the petitioner's employment after she left the Bolivian Embassy in 2006.

The petitioner's latest submission on appeal does not resolve the concerns raised by the director. The assertion that the petitioner is an experienced and well-connected expert in Bolivian-U.S. relations cannot compensate for the absence of coherent evidence to show what, exactly, the petitioner intends to do in the United States, let alone that it is in the national interest for the petitioner do so instead of a qualified United States worker.

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, because eligibility for the underlying classification requires prospective benefit to the United States, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of an alien's past accomplishments, when that alien is unable to clearly or consistently articulate the nature of his or her intended work in the United States. 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.