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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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

B5

[REDACTED]

DATE: **AUG 08 2011**

OFFICE: [REDACTED]

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the arts. The petitioner seeks employment as a singer and chorus conductor. 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 an alien of exceptional ability in the arts, 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.

On appeal, the petitioner submits a brief from counsel and background documentation.

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 for the classification sought. 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 (Act. Assoc. Comm'r 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.

The AAO also notes 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 December 9, 2008. In an introductory letter, counsel stated:

[The petitioner] is an opera singer, musical director, writer, choral director, and cross-cultural music educator. . . . Recognition of [the petitioner's] formidable talents are evidenced by the many prestigious honors and awards and media coverage he has received, including the performance on the **PBS broadcast** of the [redacted] Distinguished Americans Awards . . . and his performances of world renowned operas and oratorios . . . and **first of its kind Taiwanese musicals** have most notably been

covered in the world renowned The Washington Post, World Journal and the Washington Chinese News. With his juxtaposition of classical Western music technique and traditional Taiwanese/Chinese songs, [the petitioner] has uniquely and effectively introduced a distinctive musical and cultural perspective to the world. Melding the Asian artistic experience with that of the West, [the petitioner] is helping to bridge the cultural chasm separating the United States from the East. . . .

At the forefront of his field, [the petitioner] is one of a handful of opera singers who are considered experts on both Western classical music and East Asian folk songs. [The petitioner] plays a vital role in nationally important efforts of cultural exchange, music education, and appreciation and is deemed critical to their success. He has earned an international reputation as a singer of unparalleled ability that has significantly benefited the arts and who will serve the national interest to a substantially greater extent than would similarly qualified American singers with classical training. . . .

[The petitioner's] innovative contributions prove his ability to continue to make unprecedented, unparalleled, and vital contributions to the national interest in his field. He has a proven record of exceptional success in the performing arts and has made significant contributions that are internationally recognized. [The petitioner] has opened new areas of music specialties for other musicians and singers worldwide.

(Counsel's emphasis.) Numerous witness letters accompanied the petitioner's initial submission. Professor [REDACTED] of the University of Maryland, College Park (UMCP), who has "known and taught [the petitioner] for the past eight years," stated:

[The petitioner] has not only crisscrossed continents and traveled throughout the east coast performing his American Art Songs and his Taiwanese Folksong literature, but he has been extremely productive as a composer of his own operas, presenting those to multi-cultural communities here in the United States. . . . More and more, he is asked to write and perform this music for American audiences. . . .

[The petitioner] continues to be sort [*sic*] after both nationally and internationally with his singing and teaching prowess.

[REDACTED] an associate professor at UMCP stated that the petitioner "is one of very few artists involved in finding and performing traditional Taiwanese folksongs . . . thereby adding invaluable cultural treasure to our great melting pot of diversity."

[REDACTED] concertmaster for the Mobile (Alabama) Symphony and a faculty member of the University of South Alabama and the University of Mobile, met the petitioner at UMCP during "the National Symphony Orchestra summer program . . . in 2006." Ms. [REDACTED] stated that the petitioner "has already built the recognition as an exceptional classical singer/choral conductor, a cultural worker and a highly creative artist around the nation." Ms. [REDACTED] described various performances by the

petitioner, and stated that the petitioner produced two musical plays, with “[m]ore than 550 audience members” in attendance at the premiere of the second musical. Ms. [REDACTED] praised the petitioner’s “positive cultural impact” but offered little information in this vein. Her letter is mainly a catalog of the petitioner’s projects, with general statements about the importance of the arts.

[REDACTED] vice president of Cultural Affairs for the Organization of Chinese American Women and producer and director of its subsidiary organization, Opera International, stated:

[The petitioner] has portrayed Taiwanese folksongs with great sensitivity and artistry. His ability to communicate with the audience through his music is phenomenal. . . .

[The petitioner] has established himself as a well-known Taiwanese folksong interpreter along the east coast. Through his academic training and his artistic creativity he has made the Taiwanese folksong equal to the standard of the art song, therefore bringing this repertoire to a new higher level of interpretation. Recently he has put his creativities into broader dimensions by becoming the playwright and director [of] his own Taiwanese musicals, thus promoting the Taiwanese folksong more effectively. All this work has brought the art and culture of Taiwan to making a greater impact and influence into this very diverse culture of the United States of America.

[REDACTED] adjunct faculty member of the Mason Gross School of the Arts at Rutgers State University, described the petitioner’s academic and performing career and stated that the petitioner’s “accomplishments already have and will continue to bring essential impact to our diverse culture.”

[REDACTED] a mezzo-soprano based in Baltimore, Maryland, described the petitioner’s involvement in Taiwanese cultural events, such as “welcoming banquets for the Former Taiwanese president [REDACTED]. . . . [H]e was designated judge for the Taiwanese American Friendship Ambassador Pageant. . . . He is also a frequent guest musician in the Taipei Representative Office in Washington, DC. He firmly believes in the crucial importance of introducing the Taiwanese-Chinese culture to people in this country of diversity.”

Violinist [REDACTED] “was struck by [the petitioner’s] incredible voice and mesmerizing stage presence” “at the Taiwan Night Concert April 2005 sponsored by Taiwan Cultural Center. . . . In my professional opinion, [the petitioner] certainly ranks among the top vocal artists of his generation.”

[REDACTED] director of the Asian Arts and Culture Center at Towson (Maryland) University, stated:

[The petitioner] first received national attention in Taiwan [when] he became the third prize winner in the National Music Competition (Taiwan Provincial Music

Competition) in 1993. This is the only national music competition in Taiwan with participants from all the cities and counties of Taiwan. . . .

[H]e performed the title role [REDACTED] with the Maryland Opera studio's annual production "Le Nozze di Figaro" at Clarice Smith Performing Arts Center in 2001. Meanwhile, his reputation as a Taiwanese folksong interpreter has been carried through reviews of the press such as World Journal [and] Washington Chinese News and has grown rapidly around the nation. Soon after, he became one of the most pursued Taiwanese Folksongs interpreters in the United States. . . .

Thanks to [the petitioner's] devotion to this category, Taiwanese culture has become a part of this diverse nation. . . . His genuine and signature Taiwanese folksongs had made him the most frequent requested vocalist by the former representative of Taipei Economic and Cultural Representative Office [REDACTED] and [REDACTED]. And most recently, he performed the American national Anthem at the U.S. Department of Justice in Washington DC.

Dr. [REDACTED] who claims to be "one of the leading coloratura sopranos in Taiwan," recalled a concert performance by the petitioner in Taiwan in 2005. Dr. [REDACTED] stated that the petitioner's "singing seems to awaken the long forgotten memories of the past and truly conveyed the distinguish[ed] character of the Taiwanese folksong." Dr. [REDACTED] graduate studies at UMCP overlapped with those of the petitioner.

Dr. [REDACTED] of the piano faculty at Frederick (Maryland) Community College stated that the petitioner "was one of my colleagues who have formed a close friendship with me through the years at University of Maryland, College Park." Dr. [REDACTED] described the petitioner's academic and performing credentials, and stated that the petitioner is "an outstanding performer" with "exceptional talent. Through his effort, Taiwanese folksong has been integrated into the diverse culture in the Washington DC Metropolitan area."

Numerous witnesses, most of whom are Taiwanese or Chinese themselves (with the exception of two members of the petitioner's dissertation committee at UMCP), have indicated that the petitioner has received prizes from Taiwanese-American cultural organizations, performed at Taiwanese or Asian cultural festivals, and performed for dignitaries such as diplomats from Taiwan. Most of the petitioner's documented press coverage has been in Chinese-language media (including the *Washington Chinese News* and the *World Journal*). These facts suggest that the petitioner's audience consists, to a large extent, of Taiwanese-Americans. A (translated) review in the *World Journal* indicated that the petitioner's musical *Eternal Hope* "attracted . . . immediate attention in the Taiwanese/Chinese society." If the petitioner's reputation is concentrated largely within his own ethnic community, then it is not clear how his work broadens artistic diversity.

Counsel and some witnesses had mentioned a review that appeared in the *Washington Post*. That review, from December 5, 2001 (when the petitioner was a first-year doctoral student), described a

production of *Le Nozze di Figaro* which marked “the operatic debut of the Clarice Smith Performing Arts Center’s Kay Theatre [at] the University of Maryland.” The reviewer mentioned the petitioner once, stating that the petitioner [REDACTED] and a co-star “gave good accounts of their roles.” The AAO acknowledges the national reputation of the *Washington Post*, but also notes that College Park is a Washington suburb. As such, it appears that the newspaper reviewed the show in its “Style” section as a function of its local coverage rather than as a matter of national artistic significance.

The only other English-language media coverage of the petitioner’s work in the record is a December 14, 2006 article from the (Frederick, Maryland) *Gazette*, announcing the upcoming “12th annual ‘Messiah’ Sing-Along . . . at the Weinberg Center for the Arts.” The article identified the petitioner as one of several participating soloists, but otherwise did not mention him. (Most of the participants were high school students.) Neither this nor the earlier *Post* article mentioned Taiwanese folk songs.

Media coverage is not a requirement for the national interest waiver, but when the petitioner places emphasis on such coverage, it is entirely appropriate to examine the evidence in that respect.

On December 3, 2009, the director requested evidence to show “that the benefits of [the petitioner’s] proposed employment will be national in scope,” and that the petitioner has “a past record of specific prior achievement that justifies projections of future benefit to the national interest.” The director stated that the evidence must show the petitioner’s influence on his field.

In response, counsel condemned the “superficiality” of most measures of success in the music industry, which “is lacking in depth and appreciation of cultural differences constantly visible in our daily lives. As a Taiwanese-American musician, [the petitioner] has overcome difficult obstacles in an industry where youth, beauty, gender and your cultural identity matter the most for a ‘successful career.’” The petitioner need not be a nationally famous performer to qualify for a national interest waiver, but he must establish his impact and influence as well as distinguish himself from others in his field.

Counsel attempted to present the petitioner’s achievements in the most favorable possible light, but in doing so succumbs to exaggeration bordering on distortion. For instance, counsel stated: “The Washington Post . . . reviewed [the petitioner’s] performance [in] the leading role as [REDACTED] in *Marriage of Figaro* by Mozart . . . as ‘excellent throughout’ and having ‘met high professional standards.’” With this statement, counsel falsely indicated that the quotations from the review referred specifically to the petitioner’s performance. The relevant portions of the review follow:

With a cast, chorus and orchestra made up of graduate students – some beginners, some quite advanced – this “Figaro” met high professional standards. . . .

The acting, under the imaginative direction of [REDACTED], was excellent throughout.

... [The petitioner] as [REDACTED] and [REDACTED] as Susanna gave good accounts of their roles. [REDACTED] was an exemplary count, and [REDACTED] was an appealing Countess.

But much of this performance's special flavor came from the comic singing and acting of the singers in the character roles. . . .

Read in context, the single specific mention of the petitioner is positive but lukewarm compared to the praise for some of the other performers. Counsel's repeated attempts to portray this cursory mention as breakthrough national media coverage are not persuasive, and serve only to cast doubt on counsel's claims regarding the significance of other materials in the record.

Counsel stated that the petitioner "has had over 100 performances" in at least seven states, mostly on the East Coast but also California (counsel's emphasis). This demonstrates the national scope of the petitioner's occupation, as his performances are not restricted to a particular geographic location and his work, at least in principle, can reach a national audience. Counsel emphasized the assertion that the petitioner has performed over 100 times in the United States, but does not explain how this is of particular note given that the petitioner began studying at UMCP in 1998, a decade before he filed the petition. Therefore, even if the sheer number of performances were a strong argument in favor of granting the waiver (which it is not), counsel did not explain how an average of ten or so performances per year demonstrates the petitioner's influence in his field.

Counsel repeatedly stressed that the petitioner has performed in roles created by legendary composers such as Mozart and Puccini. There is no restriction on who may perform these compositions, and therefore it is not clear why this is a point of such emphasis by counsel. Even then, the petitioner's performance of these works appears to have been related to his student work. After he completed his doctorate in 2006, the record places the petitioner mainly at Taiwanese cultural events, covered by Chinese-language newspapers.

Counsel stated: "The majority of [the petitioner's] peers do not have a Ph.D. relevant to his field of study nor have they performed in over 100 performances or played leading roles in classical Western operas or composed original Taiwanese-American musicals, highly revered by not just the Asian community but the general music industry as a whole." This sentence is somewhat emblematic of the various problems with counsel's arguments. It may be that the petitioner is an above-average performer, but exceptional ability in the arts does not guarantee eligibility for the national interest waiver. As already explained, the statute plainly states that an alien of exceptional ability in the arts is generally subject to the job offer requirement. The beneficiary's doctorate is one aspect of a claim of exceptional ability, under the USCIS regulation at 8 C.F.R. § 204.5(k)(3)(ii)(A). Other claims by counsel are simply unsubstantiated, such as the claim that "the majority of [the petitioner's] peers . . . have [not] performed in over 100 performances." Counsel offers no explanation as to how counsel knows that most working singers perform less than 100 times.

More significantly, the record contains no credible, objective evidence that the petitioner's two original musicals are "highly revered . . . by the general music industry as a whole." The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

If a musical is "highly revered . . . by the general music industry," then there ought to be ample evidence to that effect. A highly successful musical will sell large numbers of tickets (and perhaps an accompanying soundtrack album). A musical that is a critical rather than commercial success will boast positive reviews. Other performance groups will perform the musical (or at least seek permission to do so). None of this is in the record. The assertion that 550 people attended the premiere of one of the musicals is insufficient in this regard. Coverage in Chinese-language media does nothing to support counsel's claim that acclaim for the petitioner's work is "not just [limited to] the Asian community." Witness letters do not escape USCIS's notice, but relying on a few witnesses hand-picked by the petitioner himself, all with demonstrable connections to the petitioner, cannot establish a greater consensus within "the general music industry as a whole." This pervasive pattern of hyperbole and exaggeration, without relevant evidence to back it up, undermines not only counsel's own credibility, but that of the underlying petition.

The petitioner's response to the notice included two new witness letters. [REDACTED] an opera singer whom the petitioner's spouse has sometimes accompanied on piano, repeats numerous claims from prior witnesses, such as the assertion that the petitioner has performed for the former president of Taiwan. [REDACTED] also described a May 2009 performance by the petitioner and [REDACTED] "which attracted more than 500 people to attend," as well as an award that the petitioner received in 2009. Events that occurred after the December 2008 filing date cannot retroactively establish eligibility. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. 8 C.F.R. § 103.2(b)(1). Therefore, subsequent events cannot cause a previously ineligible alien to become eligible after the filing date. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Even then, the petitioner has not established that a joint performance with his former voice instructor represents an unusually influential cultural event. The AAO duly notes that, according to [REDACTED] the petitioner performed a George Gershwin song and Prof. [REDACTED] performed Taiwanese folk songs (under the petitioner's instruction), but this mixture of cultural influences is not automatically significant or influential.

Dr. [REDACTED] artist-in-residence at Jacksonville (Florida) University, performed in a supporting role in the 2001 performance of *Le Nozze di Figaro* discussed earlier. Dr. [REDACTED] asserted that the petitioner "is one of the few professional vocalists in this nation who very well comprehend both the oriental music tradition and western classical music." Dr. [REDACTED] listed some of the petitioner's performances and awards, and concluded: "In my professional opinion, [the petitioner] certainly qualifies as one of the top vocal artists of his generation in his field." This opinion would be more persuasive if it did not appear to be confined to the petitioner's close associates.

Materials submitted with the petitioner's response to the director's notice indicate that the petitioner "is currently the conductor of Greater Washington Taiwanese American Chorus and [a] member of the National Association of Teachers of Singing." Significantly, counsel did not attempt to explain how either of these activities qualified the petitioner for the national interest waiver, even though these duties would appear to occupy far more of the petitioner's working hours than the occasional one-off performances that counsel has so heavily emphasized. Counsel did state that the petitioner's "position as the musical director at the Taiwan Culture Center . . . allows him to promote cultural diversity . . . to a wide variety of audience." The record contains no demographic data to show that the Taiwan Culture Center attracts "a wide variety of audience." Here again, the almost entirely Chinese-language media coverage does not, on its face, attest to the diversity of the audience.

The director denied the petition on February 24, 2010. The director acknowledged the intrinsic merit of the petitioner's occupation, but found that the petitioner had not established its national scope. The director noted that the vast majority of the petitioner's documented performances have been in the vicinity of Washington, D.C. The director also found that the petitioner had not demonstrated a past history of achievement with some degree of influence on the field as a whole.

On appeal, counsel disputes the director's finding that the petitioner's work lacks national scope. Counsel acknowledges that most, but not all, of the petitioner's appearances have been near Washington, but states: "Washington, DC is the most powerful city in the world where its cultural diversity is highly regarded as influencing the advancement of our global society through the political decisions made by our nation's capital." Washington's status as a political capital does not automatically convey cultural significance in non-political matters.

The petitioner submits evidence of national circulation of some of the newspapers that have covered the petitioner's work. Counsel also claims that "Washington, DC, and the greater Washington area (MD and VA) are known for their large Taiwanese and Chinese communities. The impact these communities have on the rest of the nation is huge." Counsel contends that "renowned Asian-American organizations . . . cultivate diversity in the U.S." Counsel provides no supporting evidence for these claims, and the AAO has already cited case law holding that counsel's assertions are not evidence. Furthermore, an argument could be made that ethnic enclaves foster insularity rather than diversity. Counsel has not adequately explained how performances by a Taiwanese singer, at a Taiwanese cultural center, reported only in Taiwanese media, promote cultural diversity.

Nevertheless, the "national scope" prong of the national interest test in *Matter of New York State Dept. of Transportation* relates to the occupation, rather than to the specific alien. A musical performer *can* achieve national recognition and influence, whether or not the petitioner himself has done so. Therefore, the AAO withdraws the director's finding in this regard. The extent of the petitioner's own individual impact relates to the third prong of the national interest test, not the second prong.

Counsel asserts: "It is crucial that the Service actually witness the talent of [the petitioner] by listening to his music." To that end, the appeal includes information about several recorded

performances available online through sites such as YouTube. An adjudicator's subjective impressions of the petitioner's work, however, would not be dispositive in this proceeding. Even if the adjudicator found the performances impressive, as already explained, exceptional ability in the arts does not compel approval of the waiver. By the same token, if the adjudicator did not care for the performances, this would not be grounds to deny the waiver or dismiss the appeal. The decision must rest, as much as possible, on verifiable, objective factors in the record. USCIS and AAO adjudicators are not experts in the petitioner's field and their subjective impressions should not color their decisions. The outcome of the decision should not hang on whether a particular adjudicator enjoys Taiwanese folk music.

Counsel's appellate brief contains many more uncorroborated claims. For instance, counsel asserts that the petitioner "has exposed and modernized an old type of music of historical and cultural importance," and that his performances "have touched the communities, Taiwanese, Chinese, and American alike all across the United States." Counsel deems the petitioner "a pioneer in the field of Taiwanese folk music and opera" who "lead[s] and dominate[s]" in that specialized genre. Counsel acknowledges the relative obscurity of Taiwanese folk music, but claims that the petitioner "has made tremendous impact on exposing the genre of Taiwanese folk song and opera." The record simply does not support these claims. The record does not correlate the petitioner's activity in the United States with any detectable upswing in interest in Taiwanese folk songs among the general public. The only non-Taiwanese witnesses to offer letters on the beneficiary's behalf have all worked closely with him, and therefore their statements do not indicate wider impact.

Counsel protests that the director did not give sufficient weight to the witness letters in the record. Counsel acknowledges the witnesses' connections to the petitioner, but again notes the obscurity of the genre and states that the recognition the petitioner has received "is considered a tremendous honor and evidence of impact."

The opinions of experts in the field are not without weight and the AAO has considered them above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as the AAO has done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The letters considered above primarily contain bare assertions of widespread recognition and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions have influenced the field. The petitioner did not submit letters from independent references who were familiar with his work through his reputation.

The AAO notes that the record contains numerous assertions about the petitioner's status as a "pioneer" who has made major contributions to cultural diversity, but these assertions lack specificity at the most important point. Identifying individual events where the petitioner has performed does not establish the importance of those events, and identifying attendees at those events does not compel the conclusion that the petitioner is as important as the most prominent member of the audience. The petitioner has simply identified a string of performances and asserted that their significance ought to be obvious.

The AAO will not dispute the director's finding that the petitioner qualifies for classification as an alien of exceptional ability, but repeated appeals to that ability cannot suffice to show that he qualifies for the additional benefit of the national interest waiver. For instance, the petitioner has received awards for the quality of his performances, but this does not necessarily translate into impact or influence. The petitioner has not objectively shown that his work has led to increased awareness of Taiwanese folk songs among non-Taiwanese audiences in the United States, or that he has significantly influenced others in the same genre.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.