



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: DEC 16 2013

Office: TEXAS SERVICE CENTER FILE:

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification under 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. According to Part 6 of the Form I-140, Immigrant Petition for Alien Worker, the petitioner seeks employment as an epidemiologist and biomedical researcher. At the time of filing, the petitioner was working as a [REDACTED] for the [REDACTED]

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.

On appeal, the petitioner submits a personal statement in support of his eligibility for the national interest waiver, his updated curriculum vitae, an article that he coauthored in [REDACTED] entitled [REDACTED] and an article that he coauthored in [REDACTED] entitled [REDACTED]

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 record reflects 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).

A supplementary notice regarding the regulations implementing the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990) (IMMACT90), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states, in pertinent part:

The Service 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.

In re New York State Dept of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (NYSDOT), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* 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. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien’s past record justifies projections of future benefit to the national interest. *Id.* at 219. 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. *Id.*

The petitioner has established that his work is in an area of intrinsic merit and that the proposed benefits of his work would be national in scope. It remains, then, to determine whether the petitioner will benefit the national interest to a greater extent than an available U.S. worker with the same minimum qualifications.

Eligibility for the waiver must rest with the alien’s own qualifications rather than with the position sought. Assertions regarding the overall importance of an alien’s area of expertise cannot suffice to establish eligibility for a national interest waiver. *Id.* at 220. Moreover, it cannot suffice to state that the alien possesses useful skills, or a “unique background.” Special or unusual knowledge or

training does not inherently meet the national interest threshold. The issue of whether similarly-trained workers are available in the United States is an issue under the jurisdiction of the Department of Labor. *Id.* at 221.

At issue is whether this petitioner's contributions in the field are of such significance that he merits the special benefit of a national interest waiver, a benefit separate and distinct from the visa classification he seeks. A petitioner must demonstrate a past history of achievement with some degree of influence on the field as a whole. *Id.* at 219, n. 6. In evaluating the petitioner's achievements, original innovation, such as demonstrated by a patent, is insufficient by itself to establish eligibility for the national interest waiver. Whether the specific innovation serves the national interest must be decided on a case-by-case basis. *Id.* at 221, n. 7.

The petitioner filed the Form I-140 petition on July 13, 2012. In support of his petition, the petitioner submitted academic records, professional certifications, and employment records. Academic records, occupational experience, and professional certifications are elements that can contribute toward a finding of exceptional ability. *See* 8 C.F.R. § 204.5(k)(3)(ii)(A), (B), and (C), respectively. Exceptional ability, in turn, is not self-evident grounds for the waiver. *See* section 203(b)(2)(A) of the Act. The USCIS 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 field of expertise.

Along with copies of his published and presented work, the petitioner submitted letters of support discussing his activities in the field. As some of the letters contain similar claims addressed in other letters, not every letter will be quoted. Instead, only selected examples will be discussed to illustrate the nature of the references' claims.

Dr. [REDACTED] Senior Research Scientist, [REDACTED]

[The petitioner's] immense instincts and skills in monitoring and evaluation and surveillance of national disease control program with support from the United States is significant given his multi-country experience and institutional memory. This will be brought to bear in U.S. government efforts at controlling HIV [Human Immunodeficiency Virus], TB [Tuberculosis] and Malaria. He possesses both an M.D. with relevant public health background (as opposed to a strictly clinical background), several years working in underserved populations with technical background in disease surveillance and epidemiology. These qualifications set him well above available U.S. workers with comparable minimum academic qualification. He has worked and has a robust understanding of working in both [REDACTED] [], and other complex environments.

Dr. [REDACTED] comments on the petitioner's skills, knowledge, experience, and educational background, but as previously discussed, assuming the petitioner's qualifications are unique, the classification sought was not designed merely to alleviate skill shortages in a given field. *See NYSDOT* at 221.

Dr. [REDACTED] Senior Strategic Information Advisor, [REDACTED], stated:

I have known [the petitioner] and worked with him as far back as 1994 as proficient professional in public health, monitoring and evaluation and Strategic information. He has facilitated the design and implementation harmonized Monitoring and Evaluation Frameworks and systems in [REDACTED] and contributed to innovative and cost effective strategies for health management information systems, which are beneficial to developing and developed countries. He has also been key to capacity building efforts for health workers including district level officers and managers in building the technical know-how in these countries with strategic public health importance, as evidenced by high HIV prevalence and transmission dynamics and high disease burden

* * *

[The petitioner's] work included the analysis and reporting of complex health service utilization data, survey and surveillance data and quality assessment data in [REDACTED] with a coverage population of 150 Million people. These reports have had significant implications at both country and global levels on global health initiative through providing strategic information and evidence to development partners and stakeholders including the USG [United States Government] efforts through [REDACTED] USAID [United States Agency of International Development] and CDC [Centers for Disease Control]. His outstanding performance in the field of biomedical research, program monitoring and evaluation has been of immense public health benefit to the United States as well as boosting both bilateral and multi-lateral and global friendships. He has a thorough understanding of the technical demands and requirements of donor agencies and funding arrangements particularly of the [REDACTED] and experience working in various partnerships platforms with WHO [World Health Organization], UNAIDS, [REDACTED], CDC and USAID teams. He has a proven track record in organizing and conducting grant negotiations and managing grants in [REDACTED] . . . including reprogramming and costing of work plans.

Dr. [REDACTED] describes the petitioner's involvement with public health initiatives in [REDACTED] but he fails to provide specific examples of how the petitioner's work has influenced the field as a whole. In addition, Dr. [REDACTED] asserts above that the petitioner's "performance in the field of biomedical research, program monitoring and evaluation has been of immense public health benefit to the United States," but he does not point to documentary evidence

in the record to support the assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Dr. [REDACTED], stated:

I first met [the petitioner] when, as team leader, I and [the petitioner] collaborated in the assessment reviews and proposal development leading to the successful receipt of the [REDACTED] [REDACTED] which, had significant public health importance. Between 2009 and 2011 [the petitioner] worked at the [REDACTED] [REDACTED] the management of five [REDACTED] grants. His strong performance and drive for results led me to recommend his inclusion into the private sector proposal team in 2010 to provide epidemiological support for [REDACTED]. We both worked collaboratively as [REDACTED] for the [REDACTED] [REDACTED] in 2009.

An integral part of [the petitioner's] work programme also included developing tools and methodologies for data collection and reporting as well as conducting trainings for national and state ministry health officers on monitoring and evaluation of [REDACTED] funded projects. A significant part of his work involved collaborating directly with government officials at both central and provincial levels as well as with [REDACTED], CDC and USAID programme managers. He was part of the pioneer team that developed and rolled out the modules on monitoring and evaluation for Master in Public Health students of the [REDACTED] and was actively involved as a guest lecturer.

Dr. [REDACTED] discusses the petitioner work's experience in performing assessment reviews, developing grant proposals, serving as a [REDACTED] developing tools and methodologies for data collection, conducting training, collaborating with government officials and program managers, participating on a team that prepared training modules for Master in Public Health students of the [REDACTED] and serving as a guest lecturer at the university. However, any objective qualifications which are necessary for the performance of the occupation can be articulated in an application for alien labor certification. *NYS DOT* at 220-221. Dr. [REDACTED]'s comments do not point to specific evidence showing the measurable impact or influence the petitioner has had in the areas of public health or biomedical research.

[REDACTED], stated:

[The petitioner] has published several reports related to his public health work. His publications on [REDACTED] and the findings of this research has the potential to further contributing to the field of immunomodulation. He has also co-authored articles on [REDACTED] and the [REDACTED] which were presented at the [REDACTED] [REDACTED] respectively. He co-authored several HIV surveillance reports, generated quarterly and annual program reports and also participated both in a lead and supportive role in several consultancy missions for the [REDACTED] and [REDACTED] and [REDACTED], with the generation of cutting edge technical reports.

Ms. [REDACTED] comments on the petitioner's published and presented work, but there is no presumption that every published article, report, or conference presentation demonstrates influence on the field as a whole. Rather, the petitioner must document the actual impact of his published or presented work. See *NYSDOT* at 219, n. 6. In that regard, the petitioner submitted copies of two articles citing to his Master of Science thesis from the [REDACTED]. Both of the articles citing to the master's thesis were authored by the petitioner's former superior and coauthor at the [REDACTED]. The petitioner has not established that two articles cited to by his former superior at the [REDACTED] are indicative of his influence on the field as whole. The petitioner also submitted a self-compiled list of additional citations to his publications. However, the petitioner did not submit any documentary evidence supporting his self-compiled list. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 158. Regardless, the number of independent citations per article in the petitioner's self-compiled list is not indicative of his influence over the field as a whole.

While the petitioner's biomedical research and public health reports have value, such studies must be original and likely to present some benefit if they are to receive funding and attention from governments or the medical community. In order for a university, publisher, or grantor to accept any research for graduation, publication, presentation or funding, the research must offer new and useful information to the pool of knowledge. Not every epidemiologist or biomedical researcher who performs original investigations or studies that add to the general pool of knowledge inherently serves the national interest to an extent that justifies a waiver of the job offer requirement.

Dr. [REDACTED] stated:

I worked with [the petitioner] in [REDACTED] . . . where he served as [REDACTED]
[REDACTED] We worked together in several technical working groups and significantly made joint impact on the quality of proposals submitted to the [REDACTED] particularly [REDACTED] which was successful. He displayed excellent statistical and research skills with outstanding data

syntheses and report writing skills and provided commendable support to [REDACTED] in ensuring the development and maintenance of a functioning monitoring, evaluation and reporting system for [REDACTED] as [REDACTED]. He also directed the data auditing and verification to assure internal consistency and validity of programme activity monitoring.

* * *

[The petitioner] is a highly qualified health professional with immense skills in monitoring and evaluation of health related programmes including bio-medical research. His various trainings have provided him with the rare opportunity of having a hybrid of research and programme implementation skills and competencies. He remains an astute professional with the ability to conduct independent research and analysis, identify issues and recommend solutions as well as the ability to work systematically, accurately and under pressure. . . . He has co-authored articles on [REDACTED]. He has presented papers to international conferences and prepared several reports for the [REDACTED]

[The petitioner] has truly demonstrated huge potential to make significant impact towards global public health including U.S. investments in public health particularly through his relentless efforts in monitoring and evaluation and research to support multi-country efforts for national responses through several principal recipients in both [REDACTED] and [REDACTED].

Dr. [REDACTED] describes the petitioner as “an astute professional” and points to the petitioner’s skills in statistics, independent research, report writing, and monitoring and evaluating health programs, but once again, it cannot suffice to state that the alien possesses useful skills, or a “unique background.” Regardless of the alien’s particular experience or skills, even assuming they are unique, the benefit the alien’s skills or background will provide to the United States must also considerably outweigh the inherent national interest in protecting U.S. workers through the labor certification process. *NYS DOT* at 221. Dr. [REDACTED] also comments on the petitioner’s published and presented work, but there is no evidence showing that the petitioner’s articles and conference papers are frequently cited by independent researchers or that his findings have otherwise influenced the field as a whole.

In addition, Dr. [REDACTED] comments that the petitioner’s work has the “potential of affecting positively research efforts in the fields of immunomodulation” and the “potential to make significant impact towards global public health.” Dr. [REDACTED], however, does not provide specific examples of how the petitioner’s specific work has already influenced the field as a whole as of the petition’s filing date. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (2); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm’r 1998). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that USCIS cannot “consider facts that come into being only subsequent to the filing of a petition.” *Id.* at 176.

Dr. [REDACTED], stated:

As [REDACTED] [the petitioner] has worked collaboratively in [REDACTED] with the [REDACTED], a portfolio of U.S. 15 billion which is a U.S. Government initiative to help save lives of those suffering from HIV/AIDS in the U.S. and around the world. He facilitated HIV related surveys, [REDACTED] and workshops on HIV surveillance in [REDACTED] including the development of study protocols, as well as serving as [REDACTED] in 2009 for the [REDACTED] and currently provides programmatic and M&E [Monitoring and Evaluation] expertise to the [REDACTED] the [REDACTED], a portfolio of USD600 million in the current phase II implementation. He served as co-investigator to the [REDACTED] and USAID funded [REDACTED] in close collaboration with the World Health organization (WHO). He served as National Supervisor and co-investigator to the [REDACTED] and USAID funded [REDACTED] and provided inputs into the protocol design, survey implementation and data analysis.

Dr. [REDACTED] comments on the petitioner's work experience, but does not provide specific examples of how the petitioner's work has influenced the field as a whole. The petitioner's experience with health surveys, development of study protocols, and monitoring of public health grants is not sufficient to demonstrate his eligibility for the national interest waiver.

Dr. [REDACTED] Professor, Department of Community Health, College of Medicine, [REDACTED], stated:

[The petitioner] has co-authored pristine quality articles in peer reviewed journals particularly on [REDACTED]. This has impacted positively the field of immunomodulation. He has also presented articles on [REDACTED] which were presented at the [REDACTED] (2009) and [REDACTED] (2004) respectively.

Dr. [REDACTED] points to the petitioner's co-authorship of journal articles on [REDACTED] but there is no documentary evidence showing that the petitioner's work is frequently cited by independent researchers or that his findings have otherwise influenced the field as a whole. In addition, Dr. [REDACTED] states that the petitioner presented articles at the [REDACTED] in 2009 and the [REDACTED] in 2004. Many professional fields regularly hold meetings and conferences to present new work, discuss new findings, and to network with other professionals. These meetings and conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. While presentation of the petitioner's work demonstrates that his findings were shared

with others and may be acknowledged as original based on their selection to be presented, there is no documentary evidence showing that his presented work has had a significant national impact on public health or has otherwise specifically influenced the epidemiology field. The citation evidence and other documentation submitted by the petitioner are not sufficient to demonstrate that his work has influenced the field as a whole.

Dr. [REDACTED], Auditor, [REDACTED] stated that she previously worked as a [REDACTED] for 22 years is [REDACTED]. Dr. [REDACTED] asserts: “[The petitioner] has continually demonstrated significant potential to make remarkable impact in the U.S. public health research and evaluation field which are of great national interest.” Dr. [REDACTED] comments on the petitioner’s “potential” rather than providing specific examples of how his past work has already significantly impacted the epidemiology and biomedical research fields. A petitioner cannot file a petition under this classification based solely on the expectation of future eligibility. *Matter of Katigbak*, 14 I&N Dec. at 49. While the record includes various attestations regarding the potential impact of the petitioner’s work, none of the petitioner’s references provide specific examples of how the petitioner’s work has influenced the field as whole at the time of filing.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is “self-serving.” *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: “We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available.” *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of the petitioner’s references are not without weight and have been considered 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 of support from the petitioner’s personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien’s eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to “fact”). Thus, the content of the experts’ statements and how they became aware of the petitioner’s reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence that one would expect of an epidemiologist or a biomedical researcher who has influenced the field as a whole.

The petitioner also submitted a “Justification Statement” in support of his national interest waiver claim that describes his work experience as a researcher, as a monitoring and evaluation specialist, and as a trainer and capacity builder. In addition, the petitioner commented on his “unique skills and competencies.” The petitioner’s statement, however, did not specifically mention the *NYS DOT* guidelines or explain how he meets them. Again, any objective qualifications which are necessary for

the performance of the occupation can be articulated in an application for alien labor certification. *NYSDOT* at 220-221. Further, as previously discussed, special or unusual knowledge or training does not inherently meet the national interest threshold. *Id.* at 221. The information provided in the petitioner's statement is not sufficient to demonstrate his influence on the fields of epidemiology or biomedical research.

The director denied the petition on March 25, 2013, stating: "[T]he petitioner has not shown that [his] contributions in the field are of such unusual significance that he merits the special benefit of a national interest waiver." The director concluded: "[T]he record is not supported by evidence demonstrating how the [petitioner] will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications."

On appeal, counsel asserts that the petitioner has met his burden of proof and that "[t]he record shows that the benefit of retaining [the] petitioner's services in the United States outweighs the national interest that is inherent in the labor certification process."

The petitioner submits a second "Justification Statement" in which he repeats information regarding his qualifications and work experience. The petitioner also points to his multiple academic degrees, association memberships, and awards. Again, academic records, occupational experience, membership in professional associations, and recognition for achievements are all elements that relate to a finding of exceptional ability, but exceptional ability is not sufficient to warrant the national interest waiver. The plain language of section 203(b)(2)(A) of the Act indicates that aliens of exceptional ability are subject to the job offer requirement (including alien employment certification). Particularly significant awards may serve as evidence of the petitioner's impact on his field, but the petitioner has failed to demonstrate that the awards he received are indicative of his influence on the field at the national level.

In addition, the petitioner asserts that he "can fulfill a critical need as a medical epidemiologist and surveillance expert in the United States." As the alien employment certification process was designed to address the issue of worker shortages, a shortage of qualified workers in a given field does not establish eligibility for the national interest waiver. Again, the issue of whether similarly-trained workers are available in the U.S. is an issue under the jurisdiction of the Department of Labor. *NYSDOT* at 221.

The petitioner's statement also points to his "co-authorship of publications" and his "presentations at international and national conferences." The petitioner submits copies of two articles that he coauthored in [REDACTED]

[REDACTED] The petitioner's appellate submission, however, does not include documentary evidence showing that his published and presented work is frequently cited by independent researchers or has otherwise influenced the field as a whole. The petitioner's statement goes on to list numerous technical working groups and thematic review groups in which he participated, but there is no documentary evidence showing that his specific work for the groups has impacted the field as whole.

A plain reading of the statute indicates that it was not the intent of Congress that every advanced degree professional or alien of exceptional ability should be exempt from the requirement of a job offer based on national interest. The petitioner has not established that his past record of achievement is at a level sufficient to waive the job offer requirement which, by law, normally attaches to the visa classification sought by the petitioner. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that his influence be national in scope. *NYS DOT* at 217, n.3. More specifically, the petitioner “must clearly present a significant benefit to the field of endeavor.” *Id.* at 218. *See also id.* at 219, n.6 (the alien must have “a past history of demonstrable achievement with some degree of influence on the field as a whole”). 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.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.