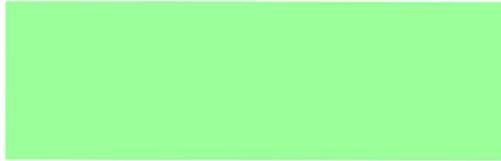


(b)(6)

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



DATE: **APR 18 2014** OFFICE: NEBRASKA 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, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the AAO on appeal. The AAO will dismiss the appeal.

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. The petitioner seeks employment as a civil engineer. At the time he filed the petition, the petitioner was a postdoctoral fellow at the [REDACTED] where he earned a doctorate in 2010. The petitioner now works at [REDACTED] Sacramento, California. 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 statement from counsel, a witness letter, and updated evidence of citation of his published work.

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, P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 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.

In re New York State Dep’t 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 assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term “prospective” is included 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 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 or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on November 29, 2012. In an accompanying statement, counsel stated:

[The petitioner] is a civil engineer with a focus in earthquake research. . . .

His work has been repeatedly published in leading, peer-reviewed scientific journals, as well as used by government agencies. . . .

[The petitioner's] achievements are considered uniquely innovative and influential by experts in this field. His work clearly stands out from that performed by other engineers. . . .

[The petitioner's] publication record serves as further evidence that his work is considered especially important. While all researchers routinely publish their findings in scholarly journals, only research that is deemed particularly important is published in the leading, peer-reviewed scientific journals. [The petitioner] has repeatedly had his research findings published in highly-selective journals. . . . These articles have garnered attention from experts in the field, having been cited by a handful of other researchers.

The petitioner submitted several witness letters with the petition. Professor [REDACTED] the petitioner's supervisor, stated:

[The petitioner] and I have been collaborators and colleagues at the [REDACTED] [REDACTED] for the past six years. . . . That collaboration has resulted thus far in 13 papers and reports of new findings in the field that have appeared or been accepted for publication in prestigious journals in the field . . . and proceedings of several conferences around the world. . . . All these publications address critical issues in seismic resilience of highway bridges such as rapid repair of earthquake-damaged bridges and development of modern and cost-effective computer modeling techniques.

[The petitioner] worked with me in one of my research projects funded by the California Department of Transportation (Caltrans) during his PhD studies. As part of this project, he helped develop [sic] seismic damage states for bridge columns, which has been adopted by Caltrans as lexicon for defining damages [sic] states in all bridge elements. The effective damage repair methods that were developed in the course of that project set the stage and served as a model for repair of other bridge elements with additional research funding. As a post-doctoral fellow he is assisting me in directing several other research projects and advising several doctoral students.

Professor [REDACTED] stated:

Much of [the petitioner's] current research has been centered on improving the seismic behavior of reinforced concrete bridges. In particular his specialty is the rapid repair of bridges that have been damaged by strong earthquakes to enable immediate access, faster response and quicker recovery in the affected region. . . .

[The petitioner] has also made significant contributions to the body of knowledge that underpins a new methodology for the seismic design of bridges in the United States. This approach is called performance-based design and is considered to be a more rational and cost effective way of designing bridges for earthquakes than traditional methods. But to be adopted in general practice, the methodology needs to be calibrated against actual bridge performance in earthquakes and [the petitioner] has played a key role in this effort. By taking performance data from large-scale experiments conducted here at [REDACTED] he has distilled the information necessary to give confidence in this new approach and has thus made another vital contribution to the design of safe but affordable bridges in the U.S.

. . . His papers and presentations have greatly impacted the field because they contain unique data and findings from first-of-a-kind experiments on near full-scale structures in one of the largest earthquake simulation facilities in the world.

Dr. [REDACTED] now a transportation engineer manager with the [REDACTED] Department of Transportation and owner of [REDACTED] was previously one of the petitioner's professors at [REDACTED]. Dr. [REDACTED] stated:

Most of [the] existing bridges in the United States were designed based on old specification[s] and need to be strengthened in the future. Even modern bridges are expected to undergo significant damage with "no-collapse" under strong ground motions. Consequently, they are not serviceable after such earthquakes. [The petitioner] developed a method using advanced composite materials to repair damaged bridges and restore their serviceability quickly after strong earthquakes to minimize the impact to the community.

Dr. [REDACTED] assistant professor at the [REDACTED] stated:

I first learned of [the petitioner's] research work through his publications. Currently I am collaborating with him on a research project funded by the California Department of Transportation (Caltrans) that involves repair of severely damaged reinforced concrete columns with fractured reinforcing bars. Some of his research findings are being utilized in our current study, and I am greatly impressed by his level of expertise in the areas of seismic design, evaluation, and repair, as demonstrated by his extensive research achievements in these fields.

. . . I can confirm that [the petitioner] has continually made outstanding research contributions that have advanced the state of the scientific community's understanding of infrastructure engineering. Specifically, his recent publications on emergency repair of reinforced concrete bridges has generated considerable interest in the US and Japan where it can now be said that he revolutionized the field. I believe

that the method he established to repair earthquake damaged columns using [REDACTED] materials is a significant contribution to [the] engineering community. . . .

Because of his pioneering work in repair of infrastructure . . . , [the petitioner] has gained visibility and recognition in the academic and practicing community of Civil Engineering, both in the US and abroad. In terms of his knowledge of the field, he is one of the top researchers in this area.

Dr. [REDACTED] seismic research program manager at [REDACTED] who has worked with the petitioner “[f]or the past five years,” stated:

[The petitioner] recently completed an important research project titled “[REDACTED]” [REDACTED]. The objective of the study was to develop a rapid and effective repair method using [REDACTED] materials for earthquake-damaged bridge columns. . . . The significant outcome of this study was a series of charts indicating the number of required [REDACTED] layers inside and outside the plastic hinge zones based on the observed damage state, column dimensions, and the longitudinal steel ratio. These charts along with the proposed repair procedure enable rapid repair of earthquake-damaged columns and quick opening of bridges to traffic. His excellent work led, for the first time, to design guidelines for damage state identification and standardized emergency repair techniques. His research outcomes will be soon incorporated into the design codes used by bridge engineers to design/repair earthquake damaged bridges.

Dr. [REDACTED] associate professor at the [REDACTED] stated:

Currently I am the chairman of the [REDACTED] [REDACTED] which . . . is currently developing a seismic performance-based design method for bridge columns. Utilizing this method, bridge engineers can predict the performance of bridges after earthquakes of varying intensities. Of [the petitioner’s] work, [two of his] publications have been of extreme value in developing the document that the subcommittee is putting together.

Other witnesses, who claimed not to have worked with the petitioner, stated that the petitioner has devised ways to evaluate and repair bridge damage caused by earthquakes. For example, Professor [REDACTED] of [REDACTED] stated:

[The petitioner] developed a simple method to evaluate bridge damage after an earthquake using visual inspection. This method was developed by establishing a correlation between observed damage and several important seismic response

parameters using shake table test data. . . . Another application of developed correlation between apparent damage states and important seismic response parameters by [the petitioner] is to develop performance-based seismic design of bridge columns. This design method enables bridge engineers to design bridges so that they sustain a pre-defined damage state under an earthquake with specified intensity, while the current design specifications require only collapse prevention under strong ground motions. [The petitioner's] findings have been incorporated in a scientific report on seismic performance-based design method for bridge columns. This report was prepared by [redacted] of [redacted] and I was one of the key authors of the report.

Professor [redacted] of [redacted] stated that the petitioner "developed guidelines for reliable and efficient repair procedure of earthquake-damaged reinforced concrete bridge columns using [redacted] materials."

Professor [redacted] of [redacted] described the petitioner's research into the use of [redacted] materials to repair bridges, and stated: "We have been conducting similar work at [redacted] and have found [the petitioner's] work to be a useful and important reference in our studies."

The petitioner submitted partial copies of his scholarly writings. One of his papers appeared in [redacted] which appears to be a printout of an electronic publication; the title page shows "Search" and "Help" buttons, which would not appear on a printed publication. Of the remaining five journal articles, the petitioner submitted three in draft form; it is not evident how many of the articles had already been published as of the petitioner's filing date.

The petitioner submitted printouts from the Google Scholar and ISI Web of Science databases, showing three independent citations to the petitioner's work. The Google Scholar printout identified two articles independently citing a paper that the petitioner presented at the Sixth National Seismic Conference on Bridges and Highways in [redacted]. One citation appeared in 2008, the other in 2011. The ISI Web of Science printout (showing the results of a search by author, without identifying the cited work(s)) identified two citing articles, one of them a self-citation by Prof. [redacted].

The petitioner submitted materials about some of the journals that have published his work, including their impact factors (average citation rates over time). The petitioner did not submit this information for *Structure and Infrastructure Engineering*, which carried the petitioner's only claimed independently cited journal article, or for the proceedings of the conference identified above. The petitioner also submitted correspondence indicating that the *Journal of Bridge Engineering* accepts "only 47% of submitted articles," and "[f]or the last several years, about one-third of submitted manuscripts have been accepted for publication" in the *ACI Structural Journal*. These statistics lack information to put them in context, such as how these acceptance rates compare

with other journals in the field; what proportion of articles rejected by a given journal eventually appear elsewhere; and the acceptance rate of papers that the petitioner has written.

The petitioner submitted copies of correspondence showing that he peer-reviewed four manuscripts submitted for publication by the [REDACTED] between 2010 and 2012. The petitioner's name also appears in a list of "technical reviewers of papers offered for publication in [REDACTED] periodicals" in 2011. The petitioner did not submit the complete list, but he submitted page 274 (showing 38 names and a banner at the top of the page) and 296 (showing 40 names). Given the number of pages and the number of names per page, the complete list of reviewers appears to consist of approximately 1,000 names. The petitioner did not submit any materials from the [REDACTED] to establish how it selects technical reviewers. Therefore, the evidence submitted regarding peer review does not serve to establish the petitioner's influence on his field.

The director issued a request for evidence on February 26, 2013. The director instructed the petitioner to establish the extent of his past influence on the field. In response, counsel stated:

The evidence includes an updated citation count, from Google Scholar, showing that [the petitioner's] work has been cited sixteen times. In addition, his work has been cited in several recent articles, technical documents and dissertations that do not appear in the Google Scholar count – we are enclosing copies of these items with this letter.

The new Google Scholar printout shows a total of 16 citations of the petitioner's work. Nine of those citations appeared in 2013, after the petition's filing date. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). Evidence submitted in response to a request for evidence must establish eligibility as of the filing date. *See* 8 C.F.R. § 103.2(b)(12). 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). The remaining seven citations appeared between 2008 and 2012. Four of the petitioner's articles earned one citation each; two earned two each; and two earned four each. The petitioner did not submit a list of the individual citations represented on the list, and therefore the petitioner did not show how many of the 16 citations are independent citations reflecting his influence on the field, as opposed to self-citations.

The petitioner submitted four papers that include citations to the petitioner's work. Counsel had indicated that these citations were in addition to those enumerated in the Google Scholar printout, but because that printout did not identify the cited articles, the record does not confirm that all three citing papers represent additional citations. One of the citing papers is a 2011 report co-authored by Prof. [REDACTED] including a self-citation to his work with the petitioner. Two other papers are articles published in 2013, after the petition's filing date, by Dr. [REDACTED] research group. Dr. [REDACTED] had previously identified himself as one of the petitioner's collaborators. The remaining paper is an undated manuscript by Prof. [REDACTED] research group.

Counsel stated that the “additional evidence” submitted in response to the request for evidence included “an advisory opinion from . . . Dr. [REDACTED]. The submitted letter is a copy of the letter previously submitted with the initial filing, and therefore it does not constitute additional evidence beyond that first submission. The petitioner submitted this letter as evidence that Caltrans intends to implement the petitioner’s work relating to emergency bridge repair.

The petitioner submitted a copy of an August 2010 *Research Notes* newsletter from Caltrans, reporting on the Caltrans-funded efforts of Prof. [REDACTED] research group. This newsletter predated the filing of the petition by more than two years, and did not show the extent to which Caltrans had begun using the results of the petitioner’s research at the time of filing.

Counsel stated: “In 2008, one of [the petitioner’s] papers was recognized with an award from the [REDACTED] a global association for alumni of [REDACTED]. A photograph of the award plaque identified the award as the “2008 Graduate Student Paper Award,” presented May 5, 2009. The petitioner did not establish the significance of this award outside of the named university. Evidence of recognition for achievements and contributions can form part of a claim of exceptional ability under the USCIS regulation at 8 C.F.R. § 204.5(k)(3)(ii)(F). Section 203(b)(2)(A) of the Act states that aliens of exceptional ability are subject to the job offer requirement, and therefore evidence consistent with exceptional ability cannot suffice to establish eligibility for the waiver.

The petitioner submitted copies of additional invitations, all from the [REDACTED] to review manuscripts. Counsel claimed: “To be invited to serve as a reviewer is recognition of particular expertise.” The petitioner has not supported this claim. 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).

The petitioner submitted a copy of a May 1, 2013 letter from Dr. [REDACTED] associate vice president of [REDACTED] stating:

The petitioner is employed full time, working 40 hours per week, and is a part of our transportation line of business in Sacramento, California. He started with [REDACTED] in February 2013 and works under my supervision. In this role, he contributes in the design of new bridges and other transportation infrastructures and evaluation, retrofit, and repair of existing infrastructures.

Currently, [the petitioner] is working on a “Product Development Project” for the California Department of Transportation (Caltrans). The project involves reviewing a variety of Caltrans standard details and upgrading them to meet the latest design criteria. [The petitioner’s] education and experience have proven to be particularly suited to this project and is expected to help in its successful completion.

Again, the petitioner must show that he was eligible for the waiver when he filed the petition in November 2012, and that he continues to be eligible in his new employment at [REDACTED] 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 49.

The petitioner's initial waiver claim primarily focused on the petitioner's work on a specific project for Caltrans, involving repair of earthquake-damaged bridges using [REDACTED] materials. The contract to perform that project was with [REDACTED] rather than with the petitioner as an individual, so when he left [REDACTED] two months after filing the petition, he left the project. Dr. [REDACTED]'s general description of the petitioner's new job at [REDACTED] is the only discussion of the petitioner's efforts after leaving [REDACTED].

The director denied the petition on June 18, 2013. The director acknowledged the intrinsic merit and national scope of the petitioner's occupation, but concluded that the petitioner had not established the impact and influence of his work. The director stated that the petitioner's articles "have not been notably cited" and that his conference presentations "do not appear to have garnered much attention," sufficient "to distinguish him from her [*sic*] peers." The director acknowledged the petitioner's peer review work, but found "no evidence to suggest the beneficiary's peer review work has separated him from the general field." With respect to the witness letters, the director stated that the letters show that the petitioner's "work has promising possibilities, [but] they do not indicate that the beneficiary's contributions have enjoyed widespread implementation in the field."

On appeal, the petitioner submits a new Google Scholar printout, which, counsel states, shows that the petitioner "has accumulated four more citations (a 25% increase since May 2013)." The new printout, dated July 10, 2013, shows 20 citations to the petitioner's work since 2008. All but seven of these citations appeared in 2013; there was no existing pattern of significant citation of the petitioner's work as of the November 2012 filing date. Also, the new printout, like the one submitted previously, does not distinguish between self-citations and independent citations. Self-citations do not demonstrate that the petitioner's work has influenced others.

Counsel states that the director's decision contained "both minor and major errors in assessing the evidence." The decision sometimes refers to the petitioner with feminine pronouns, and twice misidentifies the petitioner's occupation, once calling him a "social scientist" and once "an engineer in the field of electrical engineering." The decision also correctly refers to several evidentiary exhibits, however, and therefore it appears that the director copied passages from other decisions without modifying the language to fit the present record. Counsel acknowledges that the errors listed above are minor ones. They do not appear to have affected the outcome of the decision.

Counsel states: "The more significant error comes from the fact that the adjudicator failed to give sufficient weight to the key evidence," including "detailed accounts from various experts" describing "how [the petitioner's] work was influential upon their work." Counsel disputes the director's conclusion that the letters "do not indicate that the beneficiary's contributions have enjoyed widespread implementation in the field." Counsel states:

[T]hat is exactly what the letters do show. . . .

[W]e submitted evidence that for the first time, [the petitioner] developed design guidelines for rapid repair of earthquake-damaged bridges and introduced an innovative approach for post-earthquake evaluation of bridges which are effectively adopted and being utilized by the California Department of Transportation. Furthermore, his work was being incorporated by the American Concrete Institute into national guidelines for seismic performance-based design of bridges. Other researchers working in the same field also found [the petitioner's] work very useful and incorporated his findings in their on-going projects.

Counsel quotes Dr. [redacted] assertion that the petitioner's "excellent work led, for the first time, to design guidelines for damage state identification and standardized emergency repair techniques. His research outcomes will be soon incorporated into the design codes used by bridge engineers to design/repair earthquake damaged bridges."

Counsel notes Prof. [redacted] assertion that the petitioner's "findings have been incorporated in a scientific report . . . prepared by [redacted] The record does not contain a copy of the unidentified report, and therefore the record does not establish the extent to which the petitioner's work shaped the report. Counsel also quotes the previous letter from Dr. [redacted] chair of [redacted] who stated that two of the petitioner's "publications have been of extreme value in developing the document that the subcommittee is putting together," and Prof. [redacted] assertion that the petitioner's "work [has been] a useful and important reference."

In a new letter, [redacted] senior bridge engineer at [redacted] states:

Currently I am the technical manager of a research project on an innovative method for seismic design of highway bridges. This method is called [redacted] and provides a means for engineers to predict the damage caused to bridges subjected to various earthquakes.

. . .

[The petitioner's] work has been extensively used in developing this novel seismic design method since 2011. He introduced innovative probabilistic approach in post-earthquake evaluation of bridges and his work has been effectively adopted in [redacted]

Mr. [redacted] also asserted that influence on [redacted] can extend beyond California:

The pioneering work of Caltrans in earthquake engineering of bridges is being used across the country and the worldwide [*sic*]. For example, Caltrans has developed Seismic Design Criteria for bridges and updates the document frequently. The

majority of this document has been adopted nationally by the American Association of State Highway and Transportation Officials.

The petition predominately rests on witness letters. The record contains other evidence showing that the petitioner has conducted research and has presented his findings to others in the field, but the evidence does not corroborate many key claims in the witness letters.

The opinions of experts in the field are not without weight and have received consideration 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 above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact").

In this proceeding, counsel acknowledges that the petitioner has relied primarily on witness letters to establish not only the opinions of witnesses, but also issues of fact. 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)).

The petitioner and witnesses have asserted that the petitioner's work has resulted in the adoption of new repair protocols, but the record contains no documentation to support this claim, or to establish how widely other jurisdictions have adopted the repair methods. The record does not show that the petitioner's method has actually been used in bridge repair, or that the results of such use have confirmed the high expectations of the witnesses who have praised the petitioner's work on the project.

Furthermore, witness commentary has focused narrowly on a specific project that the petitioner undertook at [REDACTED] there is no indication of a consistent history of influential contributions by the petitioner. The petitioner has since left [REDACTED] and the record does not show that the petitioner, in his new employment, has continued to make contributions at the level of impact claimed for his bridge repair project that he conducted as a postdoctoral trainee at [REDACTED].

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. 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. *NYSDOT*, 22 I&N Dec. 217. 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.").

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 AAO will dismiss the appeal for the above stated reasons. 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.