(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 27 2015 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: PETITIONER:
BENEFICIARY:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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 employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner seeks classification as an "alien of extraordinary ability" as a news anchor and director, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to petitioners who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The director determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner asserts that he meets the criteria under the regulation at 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv) and (v). On January 26, 2015, we issued a notice of intent to dismiss (NOID) based on inconsistencies pertaining to the petitioner's identity, translation accuracy and completeness, and lack of evidence relating to the petitioner's intent to continue his work in the United States. In his NOID response, the petitioner submitted additional evidence, including his statement, an employment offer, retranslations of some foreign language documents in the record, and documents relating to the petitioner's involvement in the drafting of automotive legislation. The petitioner's NOID response resolved the issue of his identity by submitting his registration card with both names, and his intent to continue his work in the United States, through the submission of a job offer in radio production. Nevertheless, his response did not include translations that meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3) for all foreign language documents in the record. For the reasons discussed below, we agree with the director that the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), or evidence that satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that he is one of the small percentage who is at the very top in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). Accordingly, we will dismiss the petitioner's appeal.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's sustained acclaim and the recognition of the beneficiary's achievements in the field through evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination); *see also Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011) (affirming USCIS' proper application of *Kazarian*), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that USCIS examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true").

II. ANALYSIS

A. Evidentiary Criteria[1]

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner, as initial evidence, may present evidence of a one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through his evidence that he is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. As such, as initial evidence, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the petitioner asserts that he meets this criterion because he has been awarded the 1998-1999 First Class and the 2002 Second Prize Award of The petitioner has not shown he meets this criterion.

First, the petitioner has not shown that he is the recipient of the 1998-1999 First Class The record includes a certificate of award issued by the stating that the ' won [the] 1998-1999 First Class The certificate does not identify the petitioner as the recipient of the award. Moreover, the petitioner has submitted evidence showing that the award was given to news outlets, rather than to individuals. Specifically, according to a February 14, 2014 statement from, according to the translation, the ' all the award recipients in 2000 were news outlets, not individuals.

In response to the director's request for evidence (RFE), the petitioner submitted an undated statement from ' who the translator identifies as the spokesperson for the

[1] We have reviewed all of the evidence the petitioner has submitted and will address those criteria the petitioner claims to meet or for which the petitioner has submitted relevant and probative evidence.

[2] The petitioner also submitted an English translation entitled ' ' identifying the spokesperson as , not The record also includes a July 16, 2013 document entitled ' for which the translator identified the author as In response to our NOID, the petitioner submitted a document entitled ' indicating that is the "Deputy Inspector and Spokesperson of the General Office of the ' The translation for this same document that the petitioner submitted in response to the RFE identifies the spokesperson as

The undated statement indicates that the petitioner is "the 1999 recipient of first class " while the petitioner asserts that he is the recipient of the "1998-1999 First Class " (Emphases added.) The foreign language document the petitioner submits as the award certificate is an incomplete copy of the certificate that does not include the numbers that follow the "19" notation.

Furthermore, the petitioner has not submitted independent evidence corroborating the conclusory statements in documents that, according to the translations, originate from the stating that the ' is prestigious. According to a July 16, 2013 statement from entitled ' ' the " is the nationally highest award honored by the The record lacks evidence that substantiates the conclusory statement. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Notably, the February 14, 2014 statement from the lists 38 first prize awardees, 13 second prize awardees and 15 third prize winners in 2000. The petitioner has not submitted any information relating to the competitiveness of the award, i.e., information on how many individuals were considered for the award or explaining the significance of placing as one of 38 first prize winning news organizations.

In addition, the evidence submitted to show the recognition of the award is from the entity that, according to the translations, issued the award. Such self-promotional evidence has limited evidentiary value. *See Braga v. Poulos*, No. CV 06-5105 SJO 10, 2007 WL 9229758, at *1, 6-7 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (concluding that we did not have to rely on the promotional assertions on the cover of a magazine as to the magazine's status as major media). The petitioner has not supported the self-promotional evidence with more independent evidence, such as, but not limited to, independent journalistic coverage of the 1999 or 1998-1999 award in nationally or internationally circulated publications. Although the July 16, 2013 statement indicates that "Each year, all media including TV, Radio, Newspapers, Magazines, websites etc. have widely reported various meeting, activities, programs, news, which are hosted or related to as well as culture itself," the petitioner has not submitted evidence showing media coverage of the Award or his receipt of the award. The petitioner has not shown that the award enjoys recognition beyond the issuing entity.

Second, the petitioner has not shown that the 2002 Second Prize Award at the issued by the is a nationally or internationally recognized prize or award for excellence in the field of endeavor. The September 2003 certificate of honor for which the translator identifies the as the issuing authority, indicates that "[t]he Program won the Second Prize Award at [the] 2002 (Chief contributors: [the petitioner], " The certificate does not indicate that the petitioner has received the award, as

required under the plain language of the criterion. Rather, it states that the petitioner contributed to a program that won the award.

In addition, the petitioner has not submitted evidence relating to the number of programs that, or individuals who, entered the competition, or how many other programs and/or individuals won the second prize award at the competition. The record also lacks evidence showing that the 2002 award received any media coverage in nationally or internationally circulated publications. The petitioner has submitted insufficient evidence showing that the award enjoys recognition outside the issuing entity.

Moreover, the petitioner asserts in his appellate brief that a February 20, 2014 statement from entitled establishes that his 2002 Second Prize Award at the is a qualifying award under the criterion. The award certificate indicates that the program " won the 2002 Second Prize Award at the competition. The February 2014 statement from however, states that in an unspecific year, the petitioner won "the first-class award for his program of " The February 2014 statement makes no mention of the 2002 Second Prize Award, the or the program " As such, the February 2014 statement from does not demonstrate that the 2002 Second Prize Award is qualifying under the criterion.

Furthermore, the petitioner has not shown that the "first-class" issued in 2003, is a qualifying award under the criterion. According to the award certificate, the award was given to not the petitioner. Specifically, the award certificate, dated June 2003, is addressed to and states that "your program won the 2002 1st class award, Economic Section." The award certificate makes no mention of the petitioner. The award certificate contradicts the February 2014 statement from which states that the petitioner had won the award. In addition, although states that the is a "prestigious award" and "a huge honor and great achievement," neither the petitioner nor has provided evidence or pointed to evidence in the record establishing that the award is either nationally or internationally recognized. For example, the petitioner has not submitted evidence showing that there had been media coverage of the award in nationally or internationally circulated publications or major media. As such, even if the petitioner has shown that he is the recipient of the award, he has not shown that the award is qualifying under the criterion.

Similarly, the petitioner has not shown that the 2006 is a qualifying award under the criterion. In support of his NOID response, the petitioner submitted a re-translation of an August 2007 award certificate, which states: "The special program is hereby awarded the second place award in the news category in the 2006 " The certificate names the petitioner as one of six primary creators of the program. The certificate does not indicate that the petitioner received the award, as required under the plain language of the criterion. Rather, it states

that the petitioner contributed to a program that won the award. In addition, the petitioner has not submitted evidence relating to the reputation, prestige or recognition of the award on a national or international level. As such, the petitioner has not shown that the award constitutes a nationally or internationally recognized prize or award for excellence in the field, as required under the plain language of the criterion.

Although the record includes evidence that the petitioner has received other accolades, including the Editorial Award at the 2004 a 1998 Outstanding Individual Honor, and a Second Prize Award at the 1997 on appeal, the petitioner has not specifically asserted that these accolades constitute evidence of his receipt of nationally or internationally recognized prizes or awards for excellence in the field. Accordingly, the petitioner has abandoned these issues, as he has not timely raised them on appeal. *Sepulveda v. United States Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, 9 (E.D.N.Y. Sept. 30, 2011) (the United States District Court found the plaintiff's claims to be abandoned as he failed to raise them on appeal).

Accordingly, the petitioner has not presented documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The petitioner has not met this criterion. 8 C.F.R. § 204.5(h)(3)(i).

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

On appeal, the petitioner asserts that he meets this criterion because he has submitted a article entitled and a June 19, 2012

First, the petitioner has not shown that the material meets this criterion. The record includes the translation of a July 12, 2013 question and answer document that reflects " at the top. In this document, the petitioner answered questions reporter posed about the automotive laws that he assisted in drafting. As we noted in our NOID, the petitioner submitted an English translation of the material that does not meet the regulatory requirements. Specifically, the petitioner submitted a translation certification that does not affirm that the translation is "complete." *See* 8 C.F.R. § 103.2(b)(3). In his NOID response, the petitioner did not submit a retranslation of the material or a translation certificate that meets the regulatory requirements. As such, the material does not have any evidentiary weight. Even if we are to consider the material, the material does not discuss the petitioner's work as a news anchor or director, which is the field in which he asserts extraordinary ability in the petition. The petitioner has not shown how his involvement in automotive safety regulations relates to the field in which he asserts extraordinary ability.

In addition, the petitioner has not shown that is a professional or major trade publication or other major media. In response to the director's RFE, the petitioner submitted a February 20, 2014 statement from indicating that it "is published Monday through Friday, expect [sic] Saturday and Sunday with daily nationwide circulation of 300,000.00 issues" and that it has "some 30 local report centers throughout China, which makes [it] most influential news agency." This English translation does not meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3), because the translation certificate does not affirm that the translation is "complete." Moreover, the evidence does not establish that is a professional or major trade publication. The record also lacks comparable circulation levels for other major Chinese publications such that he has established that may be considered major media. Furthermore, the evidence submitted to show status as a major media is from . Such self-promotional evidence has minimal evidentiary value. *See Braga*, 2007 WL 9229758 at *6-7 (concluding that we did not have to rely on the promotional assertions on the cover of a magazine as to the magazine's status as major media).

Second, the petitioner has not shown that the June 19, 2012 article constitutes published material about the petitioner in a professional or major trade publication or other major media, relating to the petitioner's work in the field for which classification is sought. The petitioner has submitted two English translations for the foreign language material. As we found in our NOID, the first English translation does not meet the regulatory requirements because it lacks a translation certification affirming that the translation is complete. *See* 8 C.F.R. § 103.2(b)(3). In his NOID response, the petitioner submitted a retranslation of the material, which includes more content than the initially submitted translation. The accompanying translator certification, however, does not affirm that the translation is complete. As such, the retranslation, similar to the initial translation, does not meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3).

Even if we are to consider the retranslation, entitled '[3] it does not show that the petitioner meets this criterion. Specifically, the retranslation shows that the material is published online in . The petitioner has not established that constitutes a professional or major trade publication or other major media. On appeal, the petitioner points to a February 2, 2014 certificate the translator indicates is from Department, Director of Broadcasting, as supporting evidence that the magazine constitutes a professional or major trade publication or other major media. The certificate, however, does not support the petitioner's assertion. Specifically, the certificate makes no mention of a publication called . as the magazine is referenced in the retranslation, or , as the publication is referenced in the initial translation and filing. The February 2, 2014 certificate also discusses the views of opinions and remarks on the website but does not mention the June 19, 2012 published material entitled ' is Added to " As such, the February 2, 2014 certificate does not establish that is a

[3] The words ' appear on the documents as reflected in this paragraph.

professional or major trade publication or other major media. In addition, the record lacks information on the author of the June 19, 2012 material, as required under the plain language of the criterion.

As noted above, the February 2, 2014 certificate from does state that the petitioner's "expertise and opinions" and program posted on were broadcasted throughout China. The petitioner has not shown, however, that his opinions or remarks, even if broadcasted, constitute material about him, as required under the plain language of the criterion. Rather, they are materials originating from him that do not meet this criterion.

On appeal, the petitioner submits a foreign language document that appears to be an article. The petitioner, however, has not submitted an English translation for the foreign language material. As such, this foreign language document does not establish that the petitioner meets this criterion.[4] Moreover, the record includes a May 3, 2012 document entitled " The English translation of the material does not meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3), as the translation certification does not affirm that the English translation is complete. The material also does not include information on the author of the material. Nor has the petitioner submitted evidence showing that the material has been published in a professional or major trade publication or other major media. Finally, the record includes other materials that have been posted online. On appeal, the petitioner has not specifically asserted that these materials establish that he meets this criterion. As such, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at *9.

Accordingly, the petitioner has not presented published material about him in professional or major trade publications or other major media, relating to his work in the field for which classification is sought. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(iii).

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

The director concluded that the petitioner met this criterion. We disagree. We may deny an application or petition that does not comply with the technical requirements of the law even if the director does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. Dep't of Justice*, 381 F.3d 143, 145-46 (3d Cir. 2004) (noting that we conduct appellate review on a *de novo* basis).

[4] The foreign language article bears no indicia that it is the article for which the petitioner previously submitted only a translation, and not the foreign language original.

Specifically, the petitioner relies on foreign language documents to show that he has established this criterion. As discussed, the petitioner has not submitted English translations that meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3). In response to our NOID, the petitioner did not submit retranslations of foreign language documents relevant to this criterion or a new translation certification affirming that the English translations are complete. As such, the English translations relevant to this criterion do not have any evidentiary value. In the alternative, the petitioner's English translations contain inconsistent information relating to this criterion. According to a February 14, 2014 statement purportedly from the the petitioner served on the evaluation committee in 2000 and selected awardees. According to a July 16, 2013 statement that the translator identifies as from the , the petitioner "was invited in August 2011 to serve as [a] member of [the] committee for [the] 2000 The petitioner has not explained how he could have been invited in 2011 to serve on a committee in 2000. While the petitioner also submitted an August 13, 2001 "Certificate" that the translator indicates bears the seal of the inviting the petitioner to serve as a member of the Award Evaluation Committee for the 2000 the petitioner did not submit a copy of the foreign language original.

Accordingly, the petitioner has not submitted sufficient evidence of his participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. The petitioner has not met this criterion. 8 C.F.R. § 204.5(h)(3)(iv).

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

On appeal, the petitioner asserts that he meets this criterion because his "endeavor has resulted in substantial contributions to business/economy." He states that "his service as [a] news anchor/program director helps facilitate the communication between consumers and car makers." He also states that his "vigorous participation at and efforts to the drafting of relevant Chinese laws and regulation governing the quality of cars and Bill of Rights for consumers have significantly protected the rights of consumers and enhanced the quality of China-made and foreign cars in Chinese market and therefore benefited the business and economy as a whole." (Bold and underline in original omitted.)

To meet this criterion, the petitioner must demonstrate that his contributions are both original and of major significance in the field that he identifies as his area of extraordinary ability. 8 C.F.R. § 204.5(h)(3)(v). The term "original" and the phrase "major significance" are not superfluous and, thus, they have some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3d Cir. 1995) (quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003)). Contributions of major significance connotes that the petitioner's work has already significantly impacted the field. *See Visinscaia*, 4 F. Supp. 3d at 134-36.

In his initial filing, the petitioner asserted that he qualifies for the exclusive classification because he "is a national award-winning news anchor/director from China who has risen to the top of his field of endeavor."[5] To meet this criterion, the petitioner therefore must establish original contributions of major significance in the field of news broadcasting and production. Evidence relating to the petitioner's work in automotive safety, a field unrelated to news broadcasting and production, does not establish that the petitioner meets this criterion. In response to our NOID, the petitioner submitted retranslations of documents the translator identifies as from the [redacted] According to these documents, the petitioner participated in the [redacted] and [redacted] (Emphases omitted.) Other than stating that the petitioner participated in the [redacted] the documents do not discuss what impact, if any, the petitioner had in the field of news broadcasting and production, the field in which he seeks classification as an alien of extraordinary ability. *Cf. Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002) (holding that an individual seeking to coach may not rely on his achievements as a competitive athlete to qualify for the classification at issue in this proceeding).

Similarly, documents from [redacted] do not establish that the petitioner meets this criterion. According to a February 12, 2014 statement from [redacted] the petitioner has served as a member of the [redacted] expert committee since 2013 and has organized training seminars on [redacted]" He also served as a "director/supervisor at the program of [redacted] in August 2013." According to a July 10, 2013 statement from [redacted] the petitioner has served as a panel member of the [redacted] expert committee, automobile section. Neither certificate states that the petitioner has made any original contributions of major significance in the field of news broadcasting and production. Rather, the certificates provide general information relating to the petitioner's work in radio programs and his involvement in automotive safety.

Moreover, the petitioner has not shown that his work as a news anchor or director resulted in original contributions of major significance in the field. According to a June 6, 2013 "Certificate of Employment of [the Petitioner]," filed in response to our NOID, the petitioner has been working for [redacted] which belongs to the [redacted] since 1993. He has worked as a producer, editor-in-chief, and has been in charge of live broadcasting of auto shows and a broadcasting program that "cover[s] the entire country." The certificate states that the petitioner "has made tremendous contributions to [redacted]" As discussed, the translation certificate does not indicate that the translation is complete, and thus does not meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3). In addition, neither the

[5] In his February 12, 2015 statement filed in response to our NOID, the petitioner asserts that he is "nationally recognized as an expert in automobile related issues." To the extent that the petitioner is now seeking the exclusive classification as an automobile expert, rather than as a news anchor and director, this constitutes an impermissible material change to the petition and does not establish his eligibility for the petition. Specifically, the petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998).

certificate nor other evidence in the record establishes that the petitioner has made original contributions of major significance in the field of news broadcasting and production. Regardless of the field, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

Accordingly, the petitioner has not submitted evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). The petitioner has not met this criterion.

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The director concluded that the petitioner did not meet this criterion. On appeal, the petitioner has not asserted that he meets this criterion. Accordingly, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at *9.

B. Summary

For the reasons discussed above, we agree with the Director that the petitioner has not submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the petitioner has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his or her field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor," and (2) "that [he] has sustained national or international acclaim and that his . . . achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. As the petitioner has not done so, the proper conclusion is that the petitioner has not satisfied the antecedent regulatory requirement of presenting evidence that satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3) and (4). *Kazarian*, 596 F.3d at 1122. Nevertheless, although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the evidence on which the petitioner relies on appeal in the

aggregate supports a finding that the petitioner has not demonstrated, through the submission of extensive evidence, that he has attained the level of expertise required for the classification sought.[6]

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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.

[6] We maintain *de novo* review of all questions of fact and law. *See Soltane v. United States Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, we maintain the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).