



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF SASI-

DATE: MAR. 26, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a software development company, seeks to classify the Beneficiary as an outstanding researcher in the field of analytical modeling. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B). This first preference classification makes immigrant visas available to foreign nationals who are internationally recognized as outstanding in their academic field.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary is internationally recognized as outstanding in his field.

On appeal, the Petitioner asserts that the Director incorrectly applied the established analysis when reviewing the totality of the evidence, and that the Beneficiary is recognized as an outstanding researcher at the international level.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The statute requires that beneficiaries under this immigrant visa classification should stand apart in their academic area based on international recognition. To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence and demonstrates the beneficiary is recognized internationally within the academic field as outstanding.

Specifically, section 203(b)(1)(B)(i) of the Act provides that a foreign national is an outstanding professor or researcher if:

- (i) the alien is recognized internationally as outstanding in a specific academic area,
- (ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

- (iii) the alien seeks to enter the United States [for a qualifying position with a university, institution of higher education, or certain private employers].

To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence set forth at 8 C.F.R. § 204.5(i)(3)(A)-(F). This, however, is only the first step, and the successful submission of evidence meeting at least two criteria does not, in and of itself, establish eligibility for this classification.¹ When a petitioner submits sufficient evidence at the first step, we will then conduct a final merits determination to decide whether the evidence in its totality shows that the beneficiary is recognized as outstanding in his or her academic field. 8 C.F.R. § 204.5(i)(3)(i).

Finally, the regulation at 8 C.F.R. § 204.5(i)(3)(ii) provides that a petition for an outstanding professor or researcher must be accompanied evidence that the foreign national has at least three years of experience in teaching and/or research in the academic field.

II. ANALYSIS

The Beneficiary is employed with the Petitioner as a Senior Staff Scientist, and is engaged in the research and development of advanced analytical models used to mitigate fraud in financial transactions. In his decision, the Director found that the Beneficiary met three of the six evidentiary criteria, those relating to service as a judge of the work of others, authorship of scholarly articles, and original contributions to his academic field. He then determined, however, that the balance of the evidence does not establish that the Beneficiary is internationally recognized as outstanding in his academic field.

The Petitioner first points out on appeal that in his decision, the Director granted the criterion at 8 C.F.R. § 204.5(i)(3)(i)(E) relating to original research contributions to the academic field, but then uses language in his final merits analysis which indicates that the requirements for that criterion have not been met. In addition, it asserts that in conducting the final merits analysis, the Director appeared to consider several pieces of evidence individually instead of within the context of the entire record. We note that USCIS policy guidance clearly states that once the petitioner has established that the requisite two evidentiary criteria have been met, the analysis then turns to whether the totality of the evidence establishes that the foreign national possesses the required high level of expertise and recognition for this immigrant classification.² As we agree with the Director that the Petitioner has submitted evidence which meets at least the requisite two evidentiary criteria, we will therefore turn to the final merits determination and consider whether the entirety of the record establishes that the Beneficiary is internationally recognized in his field as an outstanding researcher.

In asserting that the Beneficiary's work in analytical modelling as applied to financial fraud detection is considered to be outstanding, the Petitioner refers to two letters from its own employees who have

¹ USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding professors and researchers. USCIS Policy Memorandum, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14*, PM-602-0005.1 (Dec. 22, 2010).

² *Id.* at 4.

worked with or supervised him. [REDACTED] Senior Director of Analytics, explains that the Beneficiary developed an approach used for credit card transactions which compares the point of sale with the cardholder's location, and indicates that this model is now in place at three large banks. [REDACTED] Senior Manager of Analytics, states that the Beneficiary's models analyze over 19 million financial transactions per day, and have allowed two of the client financial institutions where they are used to cut losses due to financial fraud by more than 50%. He concludes that the Beneficiary's research "has proved valuable to the financial sector."

This evidence establishes that the Beneficiary has contributed to the Petitioner's software products by developing features that are currently in use in the banking industry, but it does not demonstrate that his analytical models are considered to be outstanding in comparison to models used in competing fraud detection software, or that his work has been recognized at the international level. The Petitioner asserts that implementation of these models by three large banks is in itself evidence that this work is recognized as outstanding, but the record lacks more probative evidence from industry sources which might establish that the Beneficiary's models stand apart from those of competitors in terms of implementation, performance or other factors. In addition, we note that the evidence of the Beneficiary's authorship of scholarly articles, and of other researchers' use and citation of that work, does not lend support to the outstanding nature of this aspect of his work, as that evidence relates to analytical modelling as applied to nondestructive testing (NDT) of composite materials.

The Petitioner next focuses on the Beneficiary's research while a graduate and doctoral student, during which he published and presented several papers regarding NDT for composite materials, and in particular as applied to wind turbine blades. The record includes two letters from the Beneficiary's advisor during his studies at the [REDACTED] [REDACTED] describes how the Beneficiary used analytical modelling to develop an improved technique using infrared thermography to detect previously hidden defects in wind turbine blades. He notes that the Beneficiary's work was essential to his team's receipt of a \$300,000 grant from the [REDACTED] in 2014. The evidence indicates that [REDACTED] reviewers weigh the intellectual merit and broader impacts of every research proposal received, and also that the review process is deliberately biased towards "high risk science" and that successful proposals are not necessarily ones which received "excellent" ratings. While the [REDACTED] grant demonstrates that [REDACTED] proposal, based in part upon the Beneficiary's work, had sufficient potential to advance science in the area of NDT, it does not constitute international recognition that the Beneficiary's work is considered outstanding.

[REDACTED] also notes that the Beneficiary received a \$45,000 [REDACTED] sponsored by the [REDACTED]. Additional evidence shows that the Beneficiary received this fellowship as a part of one of three teams awarded through the [REDACTED]. This evidence indicates that competition for this fellowship was limited to graduate student researchers in the southern California area, and does not include the criteria used to determine the fellowship recipients. As such, it does not support a finding that the Beneficiary's work was judged to be outstanding, or that the receipt of the fellowship constituted recognition at the international level.

The record also includes several reference letters from other researchers in the Beneficiary's field, including [REDACTED]

[REDACTED] provides a similar technical description of the Beneficiary's graduate and doctoral work as [REDACTED] and indicates that "this research project was successful" as it resulted in several papers. He notes that two groups have cited the Beneficiary's publications in their own published work, and concludes that the Beneficiary's papers "have greatly aided further scientific inquiry in the field of analytical modelling."

Similarly, [REDACTED]) also describes the Beneficiary's method of defect detection, and notes that another research group cited his work in two papers, verifying that his "virtual heat source models correlated strongly with their own experimental data." [REDACTED] indicates that the number of citations to the Beneficiary's published work, based upon a Google Scholar report, represent "a remarkable figure," but the record does not include comparative data or other evidence to support this conclusion.

Another reference letter, from [REDACTED] at the [REDACTED] focuses on a different aspect of the Beneficiary's NDT work, "the piezoelectric rosette technique," and states that he improved this technique. [REDACTED] notes that he cited the Beneficiary's work in his own published research, and that his citation as well as that of other researchers in the field of analytical modelling "highlight the impact of [the Beneficiary's] work..."

In support of these letters, the Petitioner submitted copies of several of the journal articles which cite to the Beneficiary's work, and on appeal it stresses that the Director did not consider how other researchers used his research. We note that while USCIS officers generally do not possess expertise in the highly technical fields in which the beneficiaries of petitions under this classification may engage, evidence of the impact of a researcher's work can be gleaned to some extent by reviewing the manner in which citations appear in the body of a scientific paper, and by any comments related to that citation. However, the record does not include the complete text of all of the articles which cite to the Beneficiary's work; most have not been submitted at all, and several others only include the title or first page of the citing article. Other articles include only the pages on which the citations to the Beneficiary's work appear. We note that in several cases, the Beneficiary's work is cited as one amongst an undifferentiated group. For example, an article published in *Polymer Testing* cites the Beneficiary's paper as one of fourteen in referring to "several non-destructive testing techniques." Another article published in *Structural Health Monitoring* cites the Beneficiary's paper as one of three in which lead zirconate titanate ceramics are used to generate and sense ultrasonic waves. These examples do not establish that the Beneficiary is recognized as standing apart from his peers in the field of analytical modelling.

Further, we note that many of the reference letters from experts in the Beneficiary's field, who are able to provide information as to how the Beneficiary's findings have been used by other researchers, do not elaborate or provide context in support of his international recognition as an outstanding researcher. For example, [REDACTED] states that he cited to the Beneficiary's publication, and that he "can personally attest to the significance of [the Beneficiary's] findings," but he does not elaborate on how the Beneficiary's work impacted his own. Similarly, [REDACTED] is the coauthor of an article which was published in *NDT&E International* which cites to one of the Beneficiary's

articles as one of four in reference to binary image processing, but he does not mention this article or his reliance upon the Beneficiary's work in his letter. In addition, several of the writers of the reference letters, such as [REDACTED] as described above, write that other researchers have cited to the Beneficiary's published research, but we note that these observations are less probative than letters from those researchers who performed the research, which might describe the manner in which that work was used.

[REDACTED] of the [REDACTED] at [REDACTED] writes that he implemented the Beneficiary's technique in using infrared thermography and applied it to a different material and structure, leading him to conclude that his "defect monitoring methods are highly applicable to wide variety of structures..." Also, [REDACTED] of [REDACTED] writes that he implemented the Beneficiary's technique for defect detection in wind turbine blades in his research on composite walls used in nuclear facilities.³ These letters confirm that that at least one research group outside of the Beneficiary's collaborators has adopted and expanded upon his research. However, in reviewing the balance of the reference letters, published papers, and the quality and quantity of citations to the Beneficiary's work, we do not find that this evidence demonstrates that the Beneficiary has sufficiently impacted the field of analytical modelling to the extent that his work is recognized as outstanding.

Finally, the Petitioner submitted evidence that the Beneficiary has served as a peer reviewer of papers submitted for publication in scientific journals or presentation at scientific conferences on several occasions. Several of the reference letters also note his service as a peer reviewer. [REDACTED] writes that the Beneficiary's review of conference papers "deftly underlines the high esteem in which his judgment is held by our peers in analytical modelling research." Noting the Beneficiary's peer review service for three scientific journals, [REDACTED] states that "Esteemed journals maintain their reputations through carefully reviewing incoming manuscripts, and select only the most knowledgeable individuals in a given field as reviewers." We acknowledge that peer reviewers must possess expertise on the subject matter of the manuscripts and papers they review in order to uphold the integrity of the journals and conferences for which they perform this service. However, the record does not include sufficient evidence regarding the selection of peer reviewers for any of the journals to corroborate [REDACTED] assertion. Further, the record does not support the Petitioner's assertion that the Beneficiary's reviews for certain journals "reflects recognition beyond that of the average researcher." We note that the Petitioner has submitted Google Scholar rankings of some of these journals within various fields, including civil engineering and acoustics, but has not submitted information regarding their prestige in the Beneficiary's academic field, analytical modelling. In addition, the Petitioner acknowledges in its brief that peer review is commonly performed by scientists, and it has not submitted evidence showing that the Beneficiary stands out from others performing the same function in terms of quantity, quality or any other metric.

Accordingly, after review of the totality of the evidence of the Beneficiary's work in the field of analytical modelling, we find that it does not sufficiently demonstrate that he is recognized as an outstanding researcher at the international level.

³ We note that the paper referenced in [REDACTED] letter was published in [REDACTED] and co-authored by [REDACTED] so their letters appear to refer to the same study.

III. CONCLUSION

The Petitioner submitted evidence which establishes that the Beneficiary meets the initial requirements of at least two of the requisite evidentiary criteria. Upon review of the entirety of the record, we find that it does not establish that the Beneficiary is internationally recognized as an outstanding researcher in the field of analytical modelling.

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 Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of SASI-*, ID# 2524992 (AAO Mar. 26, 2019)