



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

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

MATTER OF M-C-V-P-

DATE: DEC. 14, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a researcher in regional economic development, seeks classification as a member of the professions holding an advanced degree, and 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. *See* Section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. LAW**

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 found 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.

(b)(6)

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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).

*Matter of New York State Department of Transportation*, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (*NYSDOT*), set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must demonstrate that he or she seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must show that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that he or she 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, a petitioner must demonstrate a past record justifies projections of future benefit to the national interest. *Id.* at 219. A petitioner’s assurance that he or she 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 petitioner, rather than to facilitate the entry of a foreign national with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

## II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on April 7, 2014. The record reflects that he earned a Master’s degree in Economics from the [REDACTED] in 2005 and a Ph.D. in Urban Planning and Public Policy from the [REDACTED] in 2012, and that he was working as an institutional research associate at the [REDACTED] at the time of filing. In an introductory letter, the Petitioner stated that his field of expertise is local and regional economic development, with a focus on the development of economically distressed regions in the United States.

Documentation supporting the Form I-140 included evidence that the Petitioner published one journal article, presented his work at conferences, and served as a peer-reviewer for publications in his field. He submitted copies of newsletters and reports he authored while working for the [REDACTED] during his doctoral studies. The Petitioner also documented scholarships he was awarded and two articles about his work that appeared in [REDACTED] publications. In addition, he provided letters from former supervisors, colleagues and independent professionals in his field attesting to his expertise and the importance of his work.<sup>1</sup>

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<sup>1</sup> While we discuss only a sampling of these letters, we have reviewed and considered each one.

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Several of the submitted letters discussed the Petitioner's doctoral research, in which he examined the effects of monetary policy on standard of living by focusing on the [REDACTED] and its eight member nations. His supervisor at [REDACTED] indicated in a September 6, 2013, letter that the Petitioner's research "enhanc[ed] the understanding of various aspects of the economy," and "offered new and innovative approaches to policy formation." In an August 6, 2013, letter, [REDACTED] deputy governor of the [REDACTED] stated that the Petitioner demonstrated how the bank "can formulate policy to address the problems affecting local regions," and that his approach "is directly applicable to the U.S.A." In addition, [REDACTED] who collaborated on the Petitioner's research, stated that the findings "offer possible additions to the pool of strategies utilized at the local level in the U.S."

The Petitioner's introductory letter also discussed his employment as an economic development assistant for the [REDACTED] for one year during his doctoral studies. He indicated that his work involved responding to inquiries from business officials, writing reader-friendly publications about economic conditions in the city, and being part of a task force focused on improving economic conditions in distressed portions of the city. The Petitioner submitted an October 11, 2013, letter from [REDACTED] research and information manager at the [REDACTED] confirming his employment as an intern. [REDACTED] indicated that the Petitioner's duties on the task force included facilitating meetings, keeping minutes, and contributing to the dialogue, and stated that his work "helped to lead to the successful implementation of several neighborhood projects."

The Petitioner indicated that he achieved his "most notable accomplishments" while working for the [REDACTED] from 2009 to 2012, where he was involved in research projects for various municipalities in Texas. Specifically, he described his work as part of a team that created a comprehensive land use analysis for the [REDACTED] in order to satisfy the planning requirements for instituting a zoning ordinance and to address the impact of future growth. He discussed the factors and processes involved in the analysis, and stated that the final report was unanimously adopted by the [REDACTED] council as "the official document informing the formation of the zoning ordinance." [REDACTED] attested that the Petitioner's work at the Institute of [REDACTED] helped "numerous cities improve their economic performance." In addition, [REDACTED] assistant professor at [REDACTED] indicated in an August 18, 2013, letter that the Petitioner "assisted rural and other suburban cities that do not have the capacity to undertake the in-depth research that will strengthen their comprehensive economic development plan."

[REDACTED] further stated that the Petitioner "continues to assist cities" by applying for local and technical assistance grants for localities that do not have sufficient resources to fund the research. The Petitioner indicated that his "post-doctoral research involves collaborating with cities that are economically distressed and coming up with creative ways to improve the conditions for residents." He submitted a February 25, 2013, letter from the city manager of [REDACTED] Texas, expressing support for the Petitioner's grant application to fund an "Industry Targeting Analysis" for the city.

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The Director issued a request for evidence (RFE) on September 2, 2014, requesting additional documentation to establish that the Petitioner's eligibility under the analysis set forth in *NYSDOT*. He was asked, in part, to confirm that his work "will impart national-level benefits," and to show that he has a past record of specific prior achievement with some degree of influence on the field as a whole.

In response, the Petitioner described the ways in which improving economic conditions in distressed regions of the U.S. benefits the economy at a national level, and he discussed examples of federal programs and grants aimed at assisting such regions. Regarding his record of achievement, he asserted that the submitted letters, including four additional letters provided in response to the RFE, establish that he has "impacted economic development in the U.S."

In a December 18, 2014, letter, [REDACTED] professor at [REDACTED], stated that the Petitioner's peer-reviewed research about inflation in the Caribbean advanced the field of economics and helped other researchers by "transforming an economic model that was previously applied in the United States, making it applicable to neighboring countries with whom we trade." He also discussed the effects of Petitioner's "non-peer reviewed research" for individual municipalities, stating for example that his land use plan allowed the [REDACTED] to improve its policies to revitalize business activities. He asserted that "[t]he cumulative effects of both forms of research . . . yield positive benefits to the national economy."

[REDACTED] executive director of the [REDACTED] confirmed in a November 20, 2014, letter that the Petitioner presented a paper at [REDACTED] annual meeting in 2010. She stated that slots for such presentations are "highly prized," and that his paper "not only offered insights into the Caribbean economy, but also a new approach to analyzing the U.S. economy."

In a November 16, 2014, letter, [REDACTED] director of the [REDACTED] at [REDACTED] attested to the Petitioner's "unique skill set" and his competency to address "a wide range of economic issues." He stated that the Petitioner's intervention helped the [REDACTED] to recover after being hit by two hurricanes, and that "the type of research [he] is performing for cities in the U.S. have national effects that are well documented."

The RFE response also included a November 13, 2014, letter from [REDACTED] campus dean of [REDACTED] who stated that the Petitioner has worked as an adjunct professor for that organization. She indicated that he is an effective educator who is "able to impact students all over the nation" and "prepare them to make meaningful contributions in the workplace."

In addition, the Petitioner stated that his influence on the field is demonstrated by his service as a reviewer for "highly respected" journals, his involvement in economic development projects for U.S. cities through his work for the [REDACTED] and the [REDACTED] and his receipt of awards related to research and teaching. He submitted letters regarding the competitiveness of the

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scholarships he was awarded from [REDACTED] and evidence that he has received certificates of appreciation from [REDACTED] for his work as a faculty member.

On February 26, 2015, the Director denied the Form I-140, finding in part that the Petitioner did not show that the proposed benefits of his work are national in scope. The decision stated that the record did not indicate that he had published peer-reviewed research, and that his past work for communities in Texas had a local rather than national impact. The Director also found that the Petitioner had not established sufficient influence on his field to meet the third prong of the *NYS DOT* national interest analysis.

On appeal, the Petitioner again asserts that research into regional economic development offers national benefits. He maintains that national economic development policies are achieved through a “network” of efforts at the regional level, and submits evidence regarding federal grant funding for the creation of regional economic development plans. With regard to the third prong of the *NYS DOT* analysis, the Petitioner states that the national interest would be adversely affected if a labor certification were required because, in addition to his qualifications, he has a “history of work that is well respected and has borne fruits to communities.” He indicates that his work “has helped stabilize the economic base” of the cities and surrounding regions that he has served, making them more competitive and enabling productivity to increase.

### III. ANALYSIS

Unlike the third prong of *NYS DOT*, which focuses on the individual and his or her past achievements, the second prong relates to the intended occupation and its proposed benefits. *Id.* at 217. In this instance, the Petitioner has indicated his intent to conduct research on the economic development of distressed regions in the U.S., and we find the prospective benefits of such work to be national in scope. In *NYS DOT*, we found the prospective benefit of a bridge engineer’s work to be national in scope even though his employment “may be limited to a particular geographic area,” because it affects other regions and the national transportation system. Similarly, as articulated by the Petitioner, the development of economically distressed regions serves a broader national interest and impacts the economy at large. Accordingly, we withdraw the director’s finding on this issue.

The analysis set forth in the third prong of *NYS DOT* requires a petitioner to demonstrate that he or she will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. To do this, a petitioner must establish “a past history of demonstrable achievement with some degree of influence on the field as a whole.” *Id.* at 219, n. 6. The Petitioner provided evidence that he has performed economic development research on behalf of various cities in Texas, and he asserts that this work has had a significant impact on the area. While several of the submitted letters state that his work was beneficial to the cities he served, they do not indicate that it resulted in economic improvement at a regional level. Further, the record includes no documentary evidence to support statements regarding the positive impact of the Petitioner’s work. Statements made without supporting documentary evidence are of limited probative value and are 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)).

With regard to the Petitioner's research on economic policy in the Caribbean, the record reflects that he disseminated the results of this work through publication of a journal article and presentation at conferences. He submitted letters stating that his research advanced current knowledge on the topic and provided new analytical approaches and policy formation strategies that can be used in other contexts. However, the letters do not state, and the record does not indicate, that his research has widely influenced policy decisions or the work of other researchers in the field. For these reasons, we find the record insufficient to demonstrate that the Petitioner has had some degree of influence on the field as a whole.

#### IV. CONCLUSION

A plain reading of the statute indicates that it was not the intent of Congress that every advanced degree professional or individual of exceptional ability should be exempt from the requirement of a job offer based on national interest. The Petitioner has not shown 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 he seeks. While a petitioner need not demonstrate notoriety on the scale of national acclaim, the national interest waiver contemplates that his influence be national in scope. *NYS DOT*, 22 I&N Dec. at 217, n.3. More specifically, a petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the individual must have "a past history of demonstrable achievement with some degree of influence on the field as a whole"). Considering the evidence submitted, the Petitioner has not established by a preponderance of the evidence 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.

Cite as *Matter of M-C-V-P-*, ID# 14785 (AAO Dec. 14, 2015)