U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41238086

Date: FEB. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a global vehicle manufacturer that seeks to classify the Beneficiary as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Beneficiary had a major, internationally recognized award, nor did it demonstrate that the Beneficiary met at least three of the ten regulatory criteria. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that

meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then move to the second step to consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (discussing a two-step review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

The Beneficiary will serve as the Petitioner's global vice president overseeing physical product engineering responsible for the design and execution of both internal combustion and electric vehicles. His field of endeavor is in the area of automotive engineering and technical management and he occupies a chief executive position within that field.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must demonstrate he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). Before SCOPS, the Petitioner claimed the Beneficiary met six of the regulatory criteria: prizes or awards, membership, published material, original contributions, leading or critical role, and high salary or remuneration. SCOPS decided that the Petitioner did not satisfy any of those criterion's requirements.

On appeal, the Petitioner maintains that the Beneficiary meets the same evidentiary criteria it previously claimed except for published material. The Petitioner's published material claims have been abandoned on appeal. Issues not challenged on appeal are deemed to be waived. *Matter of S-M-H-*, 29 I&N Dec. 412, 414 (BIA 2026) (citing *Matter of P-B-B-*, 28 I&N Dec. 43, 44 n.1 (BIA 2020)). After reviewing all the evidence in the record, we conclude that the petition should remain denied.

1. "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).

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the alien is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor.

The Petitioner provided two awards that SCOPS determined fell short of meeting the above requirements. On appeal, the Petitioner restates much of the same claims that SCOPS found inadequate.

Even though the Petitioner as an organization might have a global presence, they have not demonstrated that the recognition of the award permeates outside the company within the field itself at a national or international level. National and international recognition results, not from the entity that issued the prize or the award, but through the awareness of the accolade in the eyes of the field nationally or internationally. This recognition should be evident through specific means; for example but not limited to, national or international-level media coverage. A national or international level competition may issue lesser awards that merely receive local or regional recognition, which do not meet the plain language requirements of this criterion. Additionally, unsupported conclusory letters from those in the Petitioner's field are not sufficient evidence that a particular prize or award is nationally or internationally recognized. Sufficiently probative evidence that an award is nationally or internationally recognized is generally material from sources besides the issuing entity. *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021).

The Petitioner asserts that a single mention of the award on a website (theautochannel.com) or in a publication (Modern Machine Shop) that also has a presence on the internet is adequate media attention at a national level to demonstrate the Beneficiary's award received the requisite level of field acknowledgment.

The Petitioner, however, provides no evidence to establish the popularity of the website such that event coverage on these sites is indicative of the national or international recognition. The record lacks evidence that these sources are online versions of media with a national reach. "The presence of something on the internet, a medium accessible to nearly anyone with a computer or smart device, does not establish that it is actually read or respected." *Krasniqi*, 558 F. Supp. 3d at 185. The Petitioner has not presented any evidence to establish that the content from these sources can be considered to receive national or international recognition. The Petitioner bears the burden to establish eligibility, and in this instance it failed to provide any evidence regarding the reputation of the websites.

National or international accessibility by itself is not a realistic indicator of a given website's reputation. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the Petitioner's awards be nationally or internationally recognized in the field of endeavor and it is the Petitioner's burden to establish that the evidence meets every element of this criterion. In this instance, there is no documentary evidence demonstrating that this award is recognized beyond the presenting organization and these websites and is therefore commensurate with a nationally or internationally recognized prize or award for excellence in the field.

Ultimately, a combination of the regulation, agency policy, and SCOPS' notices informed the Petitioner of the type of material necessary to demonstrate eligibility here. But it was apparently unable to produce the requisite material, and the end result is a failure to demonstrate eligibility under this requirement.

2. "Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii).

This criterion contains several evidentiary elements the Petitioner must satisfy. First, the Petitioner must demonstrate that the Beneficiary is a member of an association in his field. Second, the Petitioner must demonstrate both of the following: (1) the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) the associations use this outstanding determination as a condition of eligibility for prospective membership. The Petitioner must satisfy all of these elements to meet the plain language requirements of this criterion. *Tapia v. Jaddou*, No. 8:23-CV-813-CEH-AAS, 2025 WL 2780815, at *3–4 (M.D. Fla. Sept. 30, 2025).

The Petitioner claimed the Beneficiary was a qualifying member of two entities before SCOPS who decided neither was sufficient to meet this criterion's plain language requirements. On appeal, the Petitioner only advances the Beneficiary's membership under the Institution of Mechanical Engineers and has therefore abandoned its claims relating to the Engineering Council. *Matter of S-M-H-*, 29 I&N Dec. at 414.

On appeal, the Petitioner alleges SCOPS mistook the terminology of being an *elected* member of the Institution of Mechanical Engineers as an indication that this was not a qualifying membership in an association. Even if we presume the Beneficiary was a member of this association, the Petitioner must show the remaining requirements have been satisfied. It appears from the evidence the Petitioner provided that the Institution of Mechanical Engineers is an entity with varying levels of membership, each with their own requirements: (1) associate, (2) affiliate, (3) professional comprising three categories of chartered engineer, incorporated engineer, and engineering technician, (4) fellow, and (5) the highly prestigious honorary fellow.

Agency policy discusses differing levels of membership within an association and provides:

> Associations may have multiple levels of membership. The level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought.
>
> As a possible example, general membership in an international organization for engineering and technology professionals may not meet the requirements of the criterion. However, if that same organization at the fellow level requires, in part, that a nominee have accomplishments that have, for example, contributed importantly to the advancement or application of engineering, science, and technology, and that a council of experts and a committee of current fellows judges the nominations for fellows, that higher, fellow level may be qualifying.

See generally 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Different membership levels that have distinct requirements to become a member at that level must meet all of

this criterion's requirements. *Tapia v. Jaddou*, No. 8:23-CV-813-CEH-AAS, 2025 WL 2780815, at *3–4.

First, the Petitioner provided a certificate only reflecting the Beneficiary's membership in this association was as a chartered mechanical engineer appearing to place him within the professional level of membership. For the broader professional level, the association's website provides: "Professional registration is the definitive measure of a successful career in engineering, and is global recognition of your knowledge and experience." Under the chartered engineer category, the website provides: "Chartered Engineers develop solutions to complex engineering problems using new or existing technologies, and through innovation, creativity and technical analysis. Their academic knowledge is at master's level or equivalent." It does not appear that this organization requires outstanding achievements for the level of membership the Beneficiary possesses.

Compare those requirements to that of a fellow: "Fellowship is a mark of exceptional commitment, knowledge and experience in mechanical engineering, and is the senior class of membership for professionally registered engineers. It also recognises engineers' contributions to the profession and the Institution." Although the provided evidence for the fellow level of membership lacks sufficiently detailed information to show that it qualifies for this criterion's plain language requirements, its requirements are closer to the type of membership this criterion requires than the level the Beneficiary has attained. And even though the appeal brief mentions that the Beneficiary's membership meets standards of other governing entities, it remains that the Petitioner has not shown that the evidence meets all of this criterion's requirements.

3. "Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix).

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires the Petitioner to submit evidence of a "high salary or other significantly high remuneration for services, in relation to others in the field." The Petitioner must present evidence of objective earnings data showing that the Beneficiary has earned a "high salary" or "significantly high remuneration" in comparison with those performing similar work during the same time period. *See Matter of Price*, 20 I&N Dec. 953, 955 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. DHS*, 420 F. App'x 712, 713–14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a proper comparison to others in the field); *Tapia v. Jaddou*, No. 8:23-CV-813-CEH-AAS, 2025 WL 2780815, at *6 (upholding USCIS determination that a petitioner's comparative evidence must relate to their specific field and not a general characterization of an overly broad field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444–45 (N.D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). USCIS policy instructs its officers to pay particular attention to a petitioner's field to make an appropriate comparison when it states:

> Broad descriptions that include multiple occupations or multiple industries may not provide an accurate comparison to others in the field. For example, "directors and producers" might be listed as a single category across industries, but evidence that a film director receives high remuneration based on a broad range of occupational data

> that include disparate occupations such as film director and radio show producer, may not be sufficiently probative.

Average or median salary information for those performing work in a related but distinct occupation with different responsibilities is not a proper basis for comparison. *Kapoor v. USCIS*, 763 F. Supp. 3d 247, 258 (E.D.N.Y. 2025) (stating USCIS reasonably concluded that a petitioner's evidence comparing average and median salaries was insufficient to establish they commanded a high salary in relation to others in the field); *see also Kinuthia v. Biden*, 702 F. Supp. 3d 5, 9 (D. Mass. 2023); *Mussarova v. Garland*, 562 F. Supp. 3d 837, 853 (C.D. Cal. 2022).

Accompanying the initial filing, the Petitioner provided material it issued to the Beneficiary dated March 10, 2025, reflecting his annual base salary and other forms of remuneration, the U.S. Department of Labor's *Occupational Outlook Handbook* profile for Top Executives, and the Occupational Information Network wages for Chief Executives. SCOPS found that material inadequate to support its claims under this criterion and it issued a request for evidence (RFE). In response, the Petitioner submitted evidence of the Beneficiary's pay for previous years with itself as well as another vehicle manufacturer. This reflected both the Beneficiary's salary as well as his other forms of remuneration that he has commanded. In the RFE response the Petitioner also offered salary surveys from ZipRecruiter, and Salary.com, and other sources that the Petitioner has abandoned on appeal as it does not argue those topics. *Matter of S-M-H-*, 29 I&N Dec. at 414. SCOPS determined that the Petitioner did not meet the requirements of this criterion.

Because the Beneficiary's field—and in particular his position—play such an important role in the analysis under this criterion, we reiterate that he occupies the vice president position in the field of automotive engineering and technical management. We note that because compensation and remuneration can widely vary based on the type of work a chief executive oversees, we do not consider a proper comparison to simply be other chief executives in the automotive industry because the type of work the Beneficiary manages is highly technical relating to engineering and crash safety. So any comparative data should demonstrate his salary is high when compared to other chief executive's in the automotive engineering and technical management field.

The Petitioner has demonstrated the Beneficiary's salary and other forms of remuneration. What's left is to evaluate whether the evidence it provided in which to compare to the Beneficiary's compensation meets the standards under this criterion. We conclude that it does not.

We agree with SCOPS that the initially submitted material was not adequate as it was not related to the Beneficiary's particular field, and average or median salaries are not a valid basis for comparison to establish the Beneficiary's compensation is high. *Kapoor*, 763 F. Supp. 3d at 258. For the evidence in the RFE response, the Petitioner begins its appellate arguments identifying the material from ZipRecruiter and Salary.com stating they are:

> [I]n direct alignment with the proffered role of [the position in the petition], an executive-level position that is critical in ensuring the efficient, high-quality, and cost-effective engineering of Internal Combustion Engine (ICE) and electric vehicles (EVs). This role is directly responsible for aligning the company's global hardware engineering with the overall company vision, strategy, and business objectives.

The ZipRecruiter material listed the position as vice president automotive with a nationwide average salary of $157,532. First, there's no indication within the record that this website's "vice president automotive" occupation has responsibilities sufficiently similar to the Beneficiary's position with the Petitioner. *See, e.g.*, *Matter of Price*, 20 I&N Dec. at 955. Second, this material does not sufficiently support the Beneficiary's eligibility as it only presents average salary statistics and that is not an apt comparison to his salary. *See, e.g.*, *Kapoor*, 763 F. Supp. 3d at 258.

And finally, nationwide statistics are not a proper comparison as the Beneficiary will work in a particular location in the United States. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1) (reflecting that comparative wage or remuneration data should not only be in their field, but also in the geographic area); *see also Berardo v. USCIS*, No. 3:19-CV-01796-SB, 2020 WL 6161459, at *6 (D. Or. Oct. 20, 2020) (citing to agency policy to conclude that "geographic differences are relevant to a determination of whether a salary is high in relation to others in the field"). A position's salary in different locations in the United States could vary widely, which is the reason a petitioner's comparative salary or remuneration evidence should be in the same geographic area. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). As a result, the evidence from ZipRecruiter does not aid the Petitioner in demonstrating the Beneficiary's eligibility.

And the Salary.com printout suffers from a similar shortcoming because the salary data it contains relates to Hampstead, New Hampshire and not the area where the Beneficiary will work. SCOPS cited the USCIS Policy Manual relating to the importance that comparative evidence be in a similar geographic region in both the RFE and the denial decision, but the Petitioner did not address that issue.

Here, the Petitioner has not submitted evidence that meets this criterion's requirements.

4. "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).

The primary requirements here are that the Petitioner's contributions in their field were original and they rise to the level of major significance in the field, rather than to a project or to an organization. *See Amin*, 24 F.4th at 394 (citing *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013)). The regulatory phrase "major significance" is not superfluous and, thus, it has some meaning. *Nielsen v. Preap*, 586 U.S. 392, 415 (2019) (finding that every word and every provision in a statute is to be given effect and none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence). Further, the Petitioner's contributions must have already been realized rather than being potential, future improvements. Contributions of major significance connotes that the Petitioner's work has significantly impacted the field. The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The Petitioner provided evidence of two vehicle safety patents associated with the Beneficiary that have been adopted by several vehicle manufacturers. SCOPS determined that the Petitioner did not meet the requirements of this criterion. We do not agree with, and we withdraw, SCOPS' adverse determination under this criterion.

B. Remaining Claims and Additional Notes

We conclude that although the Petitioner's evidence satisfies the original contributions criterion, it does not meet the criteria regarding prizes or awards, membership, or a high salary. While it argues and submits evidence for one additional criterion on appeal relating to the Beneficiary performing in a leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), it is unnecessary that we make a decision on this additional ground because it cannot numerically meet the required number of criteria. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve the remaining issue. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also M-C-C-*, 29 I&N Dec. 401, 405–06 (BIA 2026) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

We also note the Petitioner filed a separate petition for the Beneficiary under this same immigrant classification that USCIS approved. We did not review that record of proceeding to evaluate that decision's propriety, but we note that the agency adjudicates each case based on the material within the record. The regulation repeatedly reflects that an eligibility determination on a benefit request will be based on information contained in the record of proceeding. 8 C.F.R. § 103.2(b)(10), (11), (14), (16)(i)–(ii). Each case must be decided on its own facts with regard to the sufficiency of the evidence presented. *See, e.g.*, *Matter of H-C-R-C-*, 28 I&N Dec. 809, 812 (BIA 2024). The record before us reflects that the proper decision here was a denial of this immigration benefit.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification on the Beneficiary's behalf, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. at 954–55. Here, the Petitioner has not shown the significance of the Beneficiary's work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, at 59 (1990); *see also* section 203(b)(1)(A). Moreover, the record does not otherwise demonstrate that the Beneficiary has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated the Beneficiary's eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.