U.S. Citizenship and Immigration Services

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

In Re: 40779167

Date: FEB. 20, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, an executive in the vaccine industry, seeks classification as an individual 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.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of the ten initial evidentiary criteria, as required.[1] The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (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 sustain the appeal.

## I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to alien with 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. These individuals must seek to enter the United States to continue work in the area of extraordinary ability, and their entry into the United States will substantially benefit the United States.

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." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of their achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Alternatively, the petitioner can submit evidence that meets at least

[1] SCOPS initially denied the petition in a decision dated April 26, 2024. The Petitioner appealed the decision to our office and we remanded the matter to SCOPS for further consideration and entry of a new decision. That new decision, issued on September 11, 2025, is now before us on appeal.

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. If those standards do not readily apply to the individual's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we 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 (9th Cir. 2010) (discussing a two-part 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, 391 (5th Cir. 2022) (finding USCIS' two-step analysis of extraordinary ability "consistent with the governing statute and regulation").

## II. ANALYSIS

The Petitioner earned professional degrees in law and business administration in Belgium in the 1980s and early 1990s. After working as a lawyer for various companies in Belgium and the United Kingdom, the Beneficiary joined [redacted] where he focused on vaccine business strategy and development over a period of 27 years (1997 to 2023). During his tenure, he rose to the position of Vice President and General Counsel for Vaccine Business Development and Global Health and served as a member of the [redacted] the Legal Management Team, and the [redacted] Board of Directors. At the time of filing in 2024, he was working in the United States in O-1 nonimmigrant status as the chief business officer for a new vaccine company in the [redacted] area.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(3)(i)-(x). The Petitioner initially claimed to have satisfied five of these criteria. SCOPS concluded the Petitioner met two criteria by providing evidence that he has performed in leading or critical roles for an organization with a distinguished reputation and commanded a high salary for his services in relation to others in the field, under 8 C.F.R. § 204.5(h)(3)(viii) and (ix). The record supports SCOPS' determination that the Petitioner satisfied these two criteria.

On appeal, the Petitioner asserts that the previously submitted evidence is sufficient to establish he has made original business contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v).[2] After reviewing all the evidence in the record, we conclude that he satisfied this additional criterion and therefore satisfies the initial evidence requirements for this classification.

[2] On appeal, the Petitioner does not contest SCOPS' determination that the evidence in the record does not satisfy the plain language of the criteria at 8 C.F.R. § 204.5(h)(3)(ii) and (iii) (pertaining to memberships in associations that require outstanding achievements and published materials in professional publications, major trade publications or other major media).

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for evidence of a petitioner's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. Detailed letters from experts in the field explaining the nature and significance of a person's contribution may provide valuable context for evaluating the claimed original contributions of major significance, as long as those letters set forth the basis of the writer's knowledge and expertise, specifically describe the person's contribution and its significance to the field, and are corroborated by other documentation in the record. *See generally,* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

SCOPS concluded that the testimonial evidence in the record demonstrated that the Petitioner had "negotiated contracts and agreements between his employer and other companies or entities" but found he did not show the impact of his activities extended beyond his employer and its customers or "reached the threshold of 'major significance' required by the regulations."

On appeal, the Petitioner asserts that SCOPS did not give sufficient weight to the detailed expert opinion letters in the record, emphasizing that the authors explained the impact of the Petitioner's contributions, and that such impact was corroborated by other evidence in the record. We agree.

For example, a letter from [redacted] former global chairman of research and development, provides several detailed examples where the Petitioner, who had authority to steer [redacted] vaccine business strategy, personally "ensur[ed] that scientific advancements are properly capitalized upon as industry opportunities, but always to the benefit of the general public." The author credits the Petitioner with orchestrating several transactions that were "directly responsible for life-saving products entering the market."

Another pharmaceutical industry executive who previously worked with the Petitioner at [redacted] details the Petitioner's role in leading multibillion dollar acquisitions for [redacted] vaccine business and forming critical partnerships in response to the COVID-19 pandemic. The author offers specific examples of how the Petitioner's "unique business strategies" helped to "fuel scientific innovation." In addition, this letter and others highlight the Petitioner's leadership of a multi-stage, multibillion dollar deal between [redacted] concluded in 2015, that "resulted in one of the most important business development transactions in vaccine history."

The Petitioner also provided a detailed letter from the former Director of the NIH's National Institute of Allergy and Infectious Diseases (NIAID), who describes the "unique partnership" he developed with the Petitioner when they were both participating members of [redacted] Senior Leaders meetings.[3] The author explains the important role the Petitioner held as this partnership's "sole expert in the design and implementation of the business and legal framework needed to ensure that science has the best chance of leading to life-saving vaccines." The letter states that [redacted] "have been able to work closely together over the last 7+ years on a number of industry-leading projects with a direct impact on public health," noting that the Petitioner's approach "allowed us to exploit publicly funded research in a systematic and structured way to drive results with maximum global impact." He

[3] The stated purpose of these meetings is for senior officials within both organizations to discuss "ongoing collaborations, recent technology trends and new proposals for advancing science to exploit and further develop US-funded technologies at a global and commercial public health level."

offers several examples to support his statement that "the true impact of [the Petitioner's] work reaches well-beyond[redacted]" Finally, this letter, like several others in the record, highlights the Petitioner's role as a "key player in Covid-19 pandemic response efforts, specifically in the preparation of infrastructure for Covid-19 vaccines, booster vaccines, and pan-coronavirus vaccines."

Finally, the Petitioner provided letters from former Texas Governor[redacted] and a former Assistant Secretary for Health at the U.S. Department of Health and Human Services (HHS). These letters discuss the Petitioner's role in establishing a[redacted] as a collaboration between[redacted] Governor[redacted] explains why the facility was considered "a significant milestone in pandemic preparedness" and "major source of technological progress," and credits the Petitioner with being "the driving force in the success of this project." The former[redacted] Assistant Secretary further explained in his letter that the Petitioner "was revolutionary in the design and implementation of the joint venture platform based on cell culture technology" and in the establishment of the[redacted] and two additional vaccine manufacturing facilities "that were deemed essential for US pandemic preparedness." He further detailed how the Petitioner "played a central and critical role in the establishment of partnerships between[redacted] and numerous other pharma and public health organizations for the purpose of providing support during the 2020 Covid-19 pandemic," and described the Petitioner as "a constant force in this continued successful relationship between[redacted]"

While the Petitioner acknowledges that much of his executive-level business strategy and development work has been conducted "behind the scenes," the record nevertheless shows that several of the major business deals, acquisitions, and public-private partnerships referenced in the expert opinion letters attracted media coverage. This evidence shows the Petitioner has represented his employer at press conferences and has been quoted in related press releases related to these transactions and collaborations. Overall, based on the evidence addressed above and other letters and supporting documents not discussed here, the Petitioner has provided sufficient evidence to establish the nature and significance of his business-related contributions to his field during his long tenure at[redacted]

B. Final Merits

The Petitioner has provided evidence that he meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) as an executive specializing in business strategy and development in the vaccine industry. In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

The evidence establishes that the Petitioner has achieved the required recognition in his field for his extensive achievements in business strategy and development. Further the record shows that this acclaim has been sustained over the course of the Petitioner's long career, during which he has successfully identified and steered vaccines, therapeutics and related technologies from early stages of research and development through commercialization and widespread availability. The evidence indicates he has been particularly effective in establishing public-private partnerships and orchestrating major collaborations, such as the establishment of the[redacted] facility

discussed above, that have had a demonstrable impact on the industry and contributed to pandemic preparedness efforts that impact public health. The record also shows that he has commanded a high salary that reflects his expertise and recognition in his field, and that he has regularly been invited to present in academic, professional and national industry forums based on his status as a leading expert in his field. His decades of work as a senior business executive for vaccines for one of the world's largest pharmaceutical companies, his significant contributions in this specialized area, and the recognition this work has brought him from his industry peers, places him among the small percentage at the very top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3).

## III. CONCLUSION

The Petitioner has submitted the required initial evidence and demonstrated in the final merits determination that he qualifies, by a preponderance of the evidence, as an individual of extraordinary ability in business. In addition, he has shown that he will continue to work in his area of extraordinary ability and that his entry will substantially benefit prospectively the United States.

**ORDER:** The appeal is sustained.