(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: JUL 0 2 2014 OFFICE: NEBRASKA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before us at the Administrative Appeals Office on appeal. We will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in business and as a member of the professions holding an advanced degree. The petitioner seeks employment as a business development manager. The petitioner 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. The director found that the petitioner qualifies for classification as an alien of exceptional ability in business and as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief and supporting exhibits.

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 for the underlying immigrant classification, and denied the petition based solely on the issue of whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

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).

Supplementary information to regulations implementing the Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep't of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien 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, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's assurance that the alien 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 alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on December 17, 2012. In an accompanying statement, the petitioner claimed "over ten years of professional experience in the field of business development consulting with over 100 projects certified by [redacted] at [redacted]' as well as other "projects that have had a huge impact on [the] lives of people across the EU [European Union] countries." The petitioner stated:

> [M]y vast expertise, in-depth knowledge about very specific fields and industries as well as my hand-on experience in handling strategic issues during project execution makes me a valuable contributor in many areas of substantial, intrinsic merit such as health care, nature preservation, providing care for the under privileged, [and] crisis management in times of natural disasters. . . .
>
> My work in the field of business development [and] strategy execution provides innovative solutions for businesses to grow. Throughout my professional career, I have consistently broken new ground and outperformed my peers. In addition to that [I] have a profound expertise in the financial mechanisms and regulations of the European Union which is a very unique skills set combination virtually impossible to be replaced.

The petitioner cited an example of her past work:

> My work in disaster prevention and crisis management in times of natural disasters goes way back. The heavy rainfall and floods that have occurred in in the period May-August 2005 have left substantial devastating consequences on the infrastructure and [t]he regional and local economies. The rainfalls have caused extensive flooding and material damages.
>
> . . . [P]lease find enclosed one of the projects I personally devised and consulted [for] the affected municipality. The project received external funding from [the] EU and had [an] enormous effect on the entire area. It is one of the very few projects, the details of which were not protected by a non-disclosure agreement; hence, why I am able to share the details of this project with you.

The petitioner submitted a copy of a "Grant Application Form" for a "Post-Flood Rehabilitation and Relief Scheme," which the petitioner claims to have filed with the Ministry of Regional Development and Public Works in 2006. The document is mostly in English. The petitioner's name does not appear on the document; the cover page identifies the applicant as the "Municipality of (variantly spelled). The project described in the proposal would benefit "the population of estimated at 14[,]739 people according to the current statistical dat[a] base." The record includes no documentary evidence that the grant application was approved, or that the project led to the results outlined in the application. The petitioner did not explain how a grant application seeking funds for a public works project relates to her claimed abilities in business development.

The petitioner stated: "I have enclosed testimonial letters from various businesses owners who will use my services once the [waiver] is granted. The broad spectrum of my expertise and the ability to help many different businesses to achieve significant growth is the main [reason] why I cannot be tied down to any specific employer."

director of business development at Germany, stated:

> [The petitioner] was working under my direct supervision . . . as a business development manager for over five years. She focuses her attention on exploiting all business opportunities that are presented to the organization and has [an] innovative approach in managing complex issues and identifying the best options available. Her knowledge of the regulations within the EU is rather unique and detailed. She could be very valuable to companies in the US that want to establish business partnerships with Europe. . . .
>
> [The petitioner] has a solid track record of achieving substantial results while working for She was a key figure in submitting or execution of over 100 projects and formal proposals. Some of the most notable projects are:
>
> The largest e-government project in : Integrated, administrative services on local and centralized level and rendering public services[.]
>
> Optimization of the Business Registry of the Registry Agency of Republic of [.]

managing partner at (an "asset management institution focusing on China Private Equity market"), did not explain how she knew the petitioner or was familiar with her work. Ms. stated that the petitioner "must be allowed to offer her consulting work in the United States to help companies in distress achieve successful turnaround." Ms. did not describe the petitioner's past record, if any, with distressed companies. Instead, she stated that the petitioner's "unique combination of management techniques . . . , expertise in emerging markets and international practice with diverse businesses makes her extremely valuable."

The remaining witnesses all know the petitioner from her participation in the at in 2012. Professor founder of the stated:

> [The petitioner] was a student of mine in the . . . [which] was designed to equip functional managers with the advanced decision-making and execution skills they need to excel as multinational managers with the advanced decision-making skills they need to excel as multifaceted leaders. . . . Created for managers and functional specialists with approximately 10 years of work experience, admits only those individuals with excellent prospects for leadership. . . .
>
> [The petitioner] was an outstanding participant in . .

> I firmly believe that [the petitioner's] background and knowledge in the areas of business development, crisis management and strategy are a unique blend which sets her apart from most of her professional peers. She has not only brainstormed difficult conceptual leadership problems but has also helped develop state-of-the-art knowledge regarding complex strategy tools. In difficult times for the American economy, it is crucial for our US companies to secure existing and create new jobs.

Prof. offered general praise for the petitioner's skills, but did not establish what the petitioner's efforts to date have done "to secure existing and create new jobs."

portfolio director for the stated:

> As head of the Admissions Committee for all candidates, I was truly impressed by [the petitioner's] professional expertise. . . .
>
> Her unique combination of management techniques obtained from the EU funding field, impressive educational background, and expertise in emerging markets and international practice with large scale diverse projects makes her an extremely valuable asset in these significant times of strengthening the American economy.

Ms. stated that the petitioner "has collaborated on numerous successful projects internationally," but did not identify or describe the projects or claim any personal knowledge about them.

secretary general of the was among the petitioner's classmates in the He stated: "I believe [the petitioner] should be allowed to offer her work in the United States as her knowledge in business trends, global network and exposure to complex international projects makes her extremely valuable. . . . Her level of expertise is highly sought after and essential to achieve the goals for financial stabilization."

co-founder and co-chief executive officer (CEO) of "one of the largest media companies in the Middle East," "met [the petitioner] while participating in the Mr. stated:

> During the Program she was my partner in devising strategy road map for my company and this is how I became well acquainted with her distinctive management consulting expertise. . . . The tremendous in-depth knowledge she possesses in so many diverse fields as IT consulting, social media, international relations, finance, general management, e-justice, health care, etc. due to the large number of projects she has been involved with speaks for itself.

executive director for business development at "worked with [the petitioner] on various projects and case studies" in the Mr. stated: "I

would rank [the petitioner] as one of the best colleagues I have ever had," and that the petitioner "distinguished herself by consistently submitting exceptionally well-researched and well-written reports."

head of community management at stated:

> [The petitioner] was my classmate at and I had the opportunity to work on diverse projects with her during the entire Executive Education. . . .
>
> Her work on numerous international multi million dollar projects has equipped her with impeccable expertise and reputation in so many diverse fields that it is practically impossible to replace her unique skills set not only in [the] US but on a global scale.

managing partner at was another of the petitioner's classmates. Mr. praised the petitioner's "combination of strengths" but did not elaborate.

chief revenue officer for met the petitioner "via networking groups." He stated:

> [The petitioner] is well connected globally and has contacts and connections across the world that would be very beneficial in the business development arena. Her training and education positions make her an impact player that will super charge global growth efforts for my company and many other US businesses. She has been a strategic advisor for me and has opened doors for my company via her network of relationships in China, Middle East, Europe, and Asia. I would be delighted to use her services once her EB2-NIW petition is approved.
>
> . . . Her accomplishments to date have far exceeded those of the vast majority of her peers as evidenced by her accomplishments. In addition to that, she has a very impressive rolodex of contacts in the international business elite which will easily help her establish successful partnerships for US companies with foreign corporations.

president and CEO of "met [the petitioner] through the network and . . . was impressed by her professional experience and truly unique corporate development expertise in extremely diverse fields." Mr. stated an intention to "use her services on relevant projects if her EB2-NIW gets approved."

The witnesses quoted above praised the petitioner's accomplishments, but did not provide any significant details about what those accomplishments were.

The petitioner submitted a copy of an invitation to attend the on November 21, 2012, and copy of a pre-meeting message sent to participants in the 6th Annual held on May 28, 2012.

The director issued a request for evidence on June 3, 2013. The director instructed the petitioner to submit evidence to establish that the benefit from her employment will be national in scope, and that she has "a past record of specific prior achievement that justifies projections of future benefit to the national interest." The director stated that "[l]etters of support alone are not sufficient" to establish eligibility for the national interest waiver. In response, the petitioner submitted additional witness letters and related documentation.

The petitioner stated:

> In addition to my extensive consulting career, during the at I have been a student of the inventor of the Professor The in-depth study of this unique strategy management tool compl[e]mented my existent proficiency in strategic management and contributed to an even better approach when consulting international companies. This formed a very rare combination of skills set, knowledge and international expertise which put to work in consulting various companies will inevitably benefit the national interest of USA. This very same combination cannot be replaced by others because of my unique background executing EU funded projects which excellent solutions can be replicated in US, adopted best practices from the corporate world during my Internship, acquired leadership techniques while CEO of a fast developing company and refined management and strategic consulting abilities as a participant in best in class type program at

The petitioner then described the method in detail. The petitioner did not claim to have developed the method. An alien's job-related training in a new method, whatever its importance, cannot be considered to be an achievement or contribution comparable to the innovation of that new method. *See NYSDOT*, 22 I&N Dec. at 221 n.7. Special or unusual knowledge or training does not inherently meet the national interest threshold. The issue of whether similarly-trained workers are available in the U.S. is an issue under the jurisdiction of the Department of Labor. *Id.* at 221. Furthermore, there is no indication that familiarity with is particularly rare in the U.S. business community. The petitioner stated: "The [was] first proposed in . . . 1992," and that "more than 50 percent of the Fortune 1000 companies use a version of . . . " including such major corporations as and These assertions indicate that the is already in widespread use in the United States.

Regarding her track record in business, the petitioner stated:

> I was appointed to be CEO of one of the fastest developing consulting companies, at the age of 25. . . . I personally supervised and actively participated in the preparation and consulting of 100+ diverse projects for corporate and public customers. . . .
>
> The projects I personally have devised or consulted and the results from their implementation have been cited more than several hundred times in local newspapers and TV station[s], national newspapers and TV stations, prominent business magazines, official government newsletters and announcements and official media releases of the . . .
>
> I have achieved major accomplishments exceeding my peers' given the scope and importance of the projects I have worked on. As a business development manager at I devised and implemented [a] new strategic direction which led to [a] 700% revenue increase. Our team implemented the largest e-government project in the country which developed e-services for over 2 million people.

The petitioner claimed "several hundred" media stories regarding her work, but the record does not document any of them. The petitioner's unsupported claims do not meet the burden of proof. *See Matter of Soffici*, 22 I&N Dec. at 165.

Professor stated:

> Participants in [the program have been selected by their employers as having the potential to advance to become a senior executive. I was a member of the teaching faculty and could observe that [the petitioner] was an active and informed participant, who contributed a great deal to the class discussion and learning.

now an associate professor at previously taught business strategy in the He stated that the petitioner "was a very good student, indeed one of the best" in his classes, and praised her "strong knowledge of EU regulations and EU funding." He did not claim any personal knowledge of the petitioner's claimed business achievements, stating instead: "My understanding is that [the petitioner] is a business professional with over ten years of international experience and world-class expertise in the area of business development, crisis management and strategy."

anticorruption expert at the stated:

I met [the petitioner] while working on EU funded projects back in 2004 and was truly impressed by the unique combination of educational background, experience and proficiency she possesses in many diverse fields. She has been involved in numerous significant projects which had positive effect on . . . millions of people as direct and indirect beneficiaries. . . .

Her accomplishments to date have far exceeded those of the vast majority of her peers as evidenced by her achievements and successful execution of the projects she consulted.

I would definitely classify her as one of the most excellent experts in the field of strategic consulting, e-justice, healthcare and EU and international regulations. . . . [H]er specific knowledge and expertise are incredibly hard to find within the European Union and dare say impossible to find in the US.

The only witness to describe a specific project was [redacted] chairman of the [redacted] who stated:

I met [the petitioner] in 2007 when she had played a significant role in the execution of the largest e-government project in [redacted]

[redacted]

This project received widespread affirmative media publicity in the entire country as it created e-services for several million beneficiaries and its positive impact on the everyday life of people, local businesses and government organizations was enormous.

Later on I had the pleasure of working with [the petitioner] as she was an external strategic consultant in the implication of the project managed by the [redacted]

[redacted]

. . . The project was implemented in 14 [redacted] municipalities and it aimed [for] improvement of the transparency and efficiency of the public procurement process and implemented best practice through cooperation with municipalities in [redacted]

[The petitioner] has an impeccable reputation [as a] highly skilled expert who contributed to the successful implementation of numerous EU funded projects in significant fields, as mentioned above, and very diverse corporate and government

strategic management expertise which is extremely valuable in times of strengthening the world economy.

Mr. did not describe the nature of the petitioner's role in the projects identified above, and the record contains no evidence about the projects or their results that would identify the petitioner's contributions or establish that she was integral to their success.

The petitioner submitted a copy of an offer from signed by to employ the petitioner "as a consultant for our initiative." The date of the offer is July 24, 2013. The petitioner also submitted a copy of a "Consulting Agreement / Project" from executed on August 15, 2013. The petitioner did not establish that these offers differ significantly from routine consulting agreements, and the existence of demand for the petitioner's services is not, on its face, evidence of eligibility for the national interest waiver. Furthermore, even if the agreements were persuasive evidence of eligibility, they both date from after the petition's December 2012 filing date and the June 2013 issuance of the request for evidence. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). Therefore, subsequent events cannot cause a previously ineligible alien to become eligible after the filing date. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

The director denied the petition on October 11, 2013. The director discussed the petitioner's evidence and quoted from some of the witness letters, but found that the petitioner had submitted insufficient evidence and information to warrant approval of the petition. The director acknowledged the intrinsic merit of the petitioner's occupation, and found that the benefit can be national in scope, but the director concluded that the petitioner had not met the third prong of the *NYSDOT* national interest test, concerning the petitioner's impact on her field.

On appeal, the petitioner asserts that she "completed the most prestigious program in the world for business minds with leadership potential at Eligibility for the waiver rests not on a quantified threshold of experience or education, but rather a past history of demonstrable achievement with some degree of influence on the field as a whole. *See NYSDOT*, 22 I&N Dec. at 219 n. 6.

The petitioner states: "My services in a highly sought-after area of business were preferred by a WA based US employer. I was chosen over big consulting companies because of the novelty of the approach in developing

The petitioner submits a letter from president and CEO of who states: "The process of developing effective has some particular steps known to evidently a very few in the consulting circles. . . . The search for a consultant took significant time." The appeal also includes evidence that appears to contradict the claim that her expertise in is a rare, distinguishing feature. The petitioner submits a copy of a September 2007 *New York Times* article,

which includes this statistic: "the was being used in about 57 percent of international companies by 2004." The petitioner had previously identified several large corporations that use the These facts are inconsistent with the uncorroborated claim that the process includes "some particular steps known to evidently a very few in the consulting circles."

A second letter from repeats assertions from the witness's earlier letter, adding what she called "some specific examples of [the petitioner's] outstanding management consulting career, her roles and the significant impact the projects had on the national economy." Ms. stated that the petitioner "was a member of the executive project management team of the largest e-government project in to date," and identified three projects: "Integrated, administrative services on local and centralized level and rendering public services" (Ministry of State Administration and Administrative Reform); "Development of the economy: support for the effectiveness of the companies and provision of sufficient business environment" (Ministry of Economy); and "Establishment of National e-Health portal and introduction of personal e-health record for 40,000 employees of the state administration" (Ministry of Health).

In discussing the Ministry of State Administration and Administration Reform project, Ms. did not mention the petitioner or her role. Ms. stated that the 2007 Ministry of Health project, which comprised integration of various electronic health records along with "education of the end users and delivery of the relevant licenses," "was one of the first which directly benefited the end use on a larger scale. . . . The solid reputation of [the petitioner] secured her a role of strategic adviser in this career changing project with significant national interest impact." Ms. speculated that the petitioner "will contribute to many insightful solutions" relating to the implementation of the Patient Protection and Affordable Care Act, Pub. L. 111-148 (Mar. 23, 2010), 124 Stat. 119.

Relating to the Ministry of Economy project, Ms. stated that the petitioner "consulted the entire application process of numerous businesses which successfully received [grant] funding." Ms. stated that, as a result of the project, "the average GDP growth over the period 2000-2006 reached 5.4%, while the average growth for EU-25 was 2.2%." Ms. claimed that she began working with the petitioner in 2004, and the petitioner claimed no experience prior to 2004 that evidently involved EU-funded projects. The stated period of "2000-2006," therefore, consists mostly of time when the petitioner was not working on the described projects. The record lacks documentary evidence to support Ms. assertions, and to establish that the petitioner's contributions changed and improved the outcomes of the various projects in which she participated. *See Matter of Soffici*, 22 I&N Dec. at 165.

director of the "met [the petitioner] at a community event." She states:

> We discussed my new community project – the building of a new church which is a big undertaking. Within the first 15 minutes she came up with a creative fundraising

> plan which in the next 3 month[s] helped us raise 1.3 million dollars and will help us raise another 4.7 million in the next 2 years. . . .
>
> She also developed a for the . . . Implementing a provides a comprehensive and consistent approach to managing for results using data-driven decisions aligned with the organization's mission, vision, goals, and strategies.

The record does not show how the petitioner's efforts, and the results achieved, differ from those attained by other qualified workers on comparable projects.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). *See also 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)).

The letters considered above primarily contain general evaluations of the petitioner's abilities and qualifications, without specifically identifying innovations and providing specific examples of how those innovations have influenced the field. The petitioner also failed to submit corroborating evidence in existence prior to the preparation of the petition, which could have bolstered the weight of the reference letters.

The petitioner has identified some of the projects on which she has worked, but she has not documented the extent to which her involvement has shaped or improved the outcome of those projects. Evidence about the indicates that the method is already in widespread use. Furthermore, the petitioner did not create or improve the method, and therefore evidence about the is not evidence of the petitioner's impact or influence on the field. Her familiarity with the method is not, itself, evidence of eligibility for the national interest waiver.

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *NYSDOT*, 22 I&N Dec. 217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole.").

The intrinsic importance of one's occupation is not sufficient to establish eligibility for the waiver, and neither are expectations of future success not founded on specific, verifiable evidence. The petitioner's participation in [redacted] and her familiarity with the [redacted] show that the petitioner has advanced training in her specialty, but these factors do not establish past influence and, thus, eligibility for the waiver. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

Review of the record reveals additional grounds for denial of the petition. The AAO may identify additional grounds for denial beyond what the Service Center identified 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. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

The petitioner claims eligibility for classification both as an alien of exceptional ability in business and as a member of the professions holding an advanced degree. The director did not discuss this issue in depth, offering only the summary conclusion "that the petitioner holds the requisite advanced degree or exceptional ability." The record contains insufficient evidence to support this conclusion.

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) contains the following relevant definitions:

> *Advanced degree* means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.
>
> *Exceptional ability in the sciences, arts, or business* means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.
>
> *Profession* means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.

To qualify as a member of the professions holding an advanced degree, the petitioner must show that her occupation meets the above definition of a profession, and that she holds a qualifying advanced degree. Section 101(a)(32) of the Act does not include business development managers in the list of professions, and the petitioner has not established that a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. Therefore, the petitioner has not established that she is a member of the professions.

In terms of academic degrees, the petitioner has documented bachelor and master of public administration degrees from in but she has not submitted credential evaluations to establish their equivalency to United States degrees. The petitioner may hold a degree equivalent to a United States master's degree, but she has not submitted sufficient evidence to support that conclusion.

To establish exceptional ability in the sciences, the arts, or business, the USCIS regulation at 8 C.F.R. § 204.5(k)(3)(ii) requires the petitioner to submit at least three of the following:

> (A) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;
>
> (B) Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;
>
> (C) A license to practice the profession or certification for a particular profession or occupation;
>
> (D) Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;
>
> (E) Evidence of membership in professional associations; or
>
> (F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

The petitioner claims to have met five of the six listed standards, as discussed below.

> *An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability.* 8 C.F.R. § 204.5(k)(3)(ii)(A)

The petitioner holds relevant degrees, as described above. The regulation does not require evidence of equivalency with United States degrees. The director acknowledged the petitioner's submission of her "academic credentials."

> *Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought.* 8 C.F.R. § 204.5(k)(3)(ii)(B)

The petitioner claims "over ten years of professional experience . . . with over 100 projects certified by " but Mr. stated that the petitioner worked at "for over five years," not the ten years required by the regulation identified above. Mr. did not specify when the petitioner began working at but the petitioner states that her employment there began in 2007. The petitioner's claimed ten years of experience includes internships and intervals of employment for which the petitioner has not submitted the required employer letters.

In the request for evidence, the director discussed the petitioner's claim of exceptional ability, but did not state that the petitioner had established at least ten years of full-time experience in the occupation she seeks. The petitioner has not satisfied this criterion.

> *Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability.* 8 C.F.R. § 204.5(k)(3)(ii)(D)

stated that the petitioner "commanded a salary with full benefits and bonuses which was 400% higher than the normal range in her field of expertise. The exact compensation package cannot be revealed due to non-disclosure agreement and company policies." Unsupported assertions are not evidence. *See Matter of Soffici*, 22 I&N Dec. at 165. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). The director did not list this criterion among those that the petitioner had satisfied.

> *Evidence of membership in professional associations.* 8 C.F.R. § 204.5(k)(3)(ii)(E)

The director, in the request for evidence, stated: "USCIS acknowledges evidence of the beneficiary's . . . memberships in professional associations." The record, however, does not support this finding, because it contains no such evidence. In her introductory statement, the petitioner named 18 organizations and stated: "These groups and associations do not issue letters evidencing membership; however, I represent under penalty of perjury to be a current and active member." The regulation requires not claims of membership, but evidence of membership. Unsupported assertions are not evidence. *See Matter of Soffici*, 22 I&N Dec. at 165. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

> *Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.* 8 C.F.R. § 204.5(k)(3)(ii)(F)

The director, discussing the petitioner's exceptional ability claim in the request for evidence, deviated from the wording of this criterion, stating: "USCIS acknowledges evidence of the beneficiary's . . . high esteem in the eyes of former colleagues and industry professionals." Evidence of "high esteem" does not satisfy the plain wording of any of the regulatory criteria for exceptional ability.

The petitioner did not establish that her occupation is a profession; that she holds a degree equivalent to a U.S. advanced degree; or that she has exceptional ability in business. Therefore, the evidence of record is not sufficient to support the director's finding that the petitioner has met all of those requirements. We hereby withdraw these findings by the director, raising an additional ground for denial of the petition. Even without this additional ground, we would have dismissed the appeal based on the director's original finding that the petitioner had not established eligibility for the national interest waiver.

We will dismiss the appeal 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.