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

(b)(6)

DATE: AUG 2 1 2015

FILE #:
PETITION RECEIPT #:

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:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the Form I-140, Immigrant Petition for Alien Worker (Form I-140). The Administrative Appeals Office (AAO) dismissed a subsequent appeal and a motion to reopen. The matter is again before us on a motion to reopen. The motion is granted. We will reaffirm the denial of the petition.

I. PERTINENT PROCEDURAL HISTORY

The petitioner, a business development manager, seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an individual of exceptional ability in business and as a member of the professions holding an advanced degree. 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 denied the Form I-140 on October 11, 2013, finding that the petitioner established her qualifications as an individual of exceptional ability and an advanced degree professional, but did not establish that an exemption from the requirement of a job offer would be in the national interest of the United States.

On July 2, 2014, we dismissed the petitioner's appeal, affirming the director's finding regarding the national interest waiver of the job offer requirement. We thoroughly discussed the petitioner's evidence and found that she had not submitted sufficient documentation to support assertions regarding her past success in her field. We found that statements regarding the petitioner's unique training and skill set are not a sufficient basis for a national interest waiver, and that the record did not demonstrate that the petitioner's work had some degree of influence on the field as a whole. We further found that the petitioner had not established that she qualifies as an individual of exceptional ability or an advanced degree professional, and we therefore withdrew the director's finding regarding the petitioner's qualification for the underlying immigrant classification.

The petitioner filed a motion to reopen on August 1, 2014, submitting a statement, a new letter of recommendation, and a copy of a previously submitted letter. In her statement, the petitioner contended that our previous decision was incorrect, and additionally stated that she had invented and was the first to implement a new approach to developing business strategies that combines the methods of two of her professors. In support of the motion, the petitioner submitted a copy of a previously submitted letter of recommendation, as well as a new, undated letter from the chair and co-founder of a charity initiative. The letter stated that the petitioner had assisted the organization in establishing its mission, vision, values and identity, and that the petitioner's help allowed the organization "to move on much faster, pinpoint the partnering entities, set up goals and leverage the talent in the team."

We dismissed the petitioner's motion on December 29, 2014, finding the new evidence insufficient to overcome our previous decision. We stated that the petitioner had not submitted documentary evidence to support the assertion that she was the inventor or pioneer of the combined approach described in her statement, or to establish its impact on the field of business management development. We also found that the petitioner's motion did not address or overcome our finding that she did not establish eligibility for the underlying immigrant classification. Finally, we noted that the petitioner's assertions that our appellate decision was incorrect amounted to a motion to reconsider, "the purpose of which is to contest

the correctness of the original decision based on the previously established factual record." We stated that, even if the petitioner had filed a motion to reconsider, we would have dismissed that motion as the petitioner did not establish that our previous decision was based on an incorrect application of law or policy.

II. MOTION TO REOPEN

A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). The petitioner filed the instant motion to reopen on January 27, 2015. Accompanying the Form I-290B, Notice of Appeal or Motion, the petitioner submits a statement and a new letter from president and Chief Executive Officer of , a former employer who also wrote a previously submitted letter of recommendation on the petitioner's behalf. We grant the motion to reopen in order to consider the evidence submitted with the petitioner's Form I-290B.

On motion, the petitioner states, "Pioneering individual work with every single employee in the company is something which has not been undertaken by any other strategy consultant developing Balanced Scorecard Projects as evidenced in the letter provided by ." In her undated letter, Ms. states that the petitioner developed a business strategy for using the Balanced Scorecard approach with "unique alterations" including "engaging every single employee of the company and sourcing their perspective on solving pressing issues." Ms. states that this modification "is definitely something [the petitioner] has pioneered." She attests that the petitioner's work has resulted in increased hiring and revenue growth for the company.

As stated above, we previously found that the petitioner had not established eligibility for a national interest waiver because the record did not demonstrate that her past work had some degree of influence on her field as a whole. While Ms. attests that the petitioner was the first person to modify the Balanced Scorecard approach to include input from every employee, the petitioner has not submitted documentary evidence to support this assertion. 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)). Further, even if supported by documentary evidence, Ms. letter does not indicate or demonstrate that this modification has had an influence on the field of business development management as a whole. The evidence submitted on motion does not overcome our finding that the petitioner has not established eligibility for a national interest waiver of the job offer requirement, and we therefore affirm that finding.

With regard to her eligibility for the underlying immigrant classification, the petitioner refers to herself on motion as "a holder of an advanced degree, and an alien of exceptional ability."[1] The petitioner also states that "additional evidence shall be presented" regarding her advanced degree. Review of the record, however, indicates that the petitioner does not submit additional evidence relating to this issue, or relating to the evidentiary criteria required to establish status as an individual

of exceptional ability. We therefore affirm our previous finding that the petitioner has not established eligibility for the underlying immigrant classification.

The petitioner's statement on motion also includes discussion of the ways in which her previously submitted evidence establishes her eligibility and the importance of her work. To the extent that the petitioner asserts that our previous findings were in error, such assertions are not a basis for a motion to reopen. A motion to reopen seeks a new hearing based on new or previously unavailable evidence, as opposed to a motion to reconsider, which contests the correctness of the original decision based on the previous factual record. See *Matter of Cerna*, 20 I&N Dec. 399, 403 (BIA 1991).

As stated in our previous decision, even if the petitioner had filed a motion to reconsider, we would dismiss such a motion as the petitioner has not established that our decision was based on an incorrect application of law or policy. A motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior decision. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Instead, the moving party must specify the factual and legal issues that were decided in error or overlooked in the prior decision or must show how a change in law materially affects the prior decision. *Id.* at 60.

III. CONCLUSION

The petitioner has not established eligibility for the underlying immigrant classification, and has not established that a waiver of the job offer requirement is in the national interest of the United States. We will therefore reaffirm the denial of the petition.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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 AAO reaffirms its July 2, 2014, decision. The petition remains denied.