



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

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

In Re: 27892437

Date: AUG. 7, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a logistician, seeks classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability in the sciences, arts or business. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition. The Director determined that the record does not establish the Petitioner qualifies for classification as an individual of exceptional ability; however, the Director did not comment on whether, in the alternative, the record establishes the Petitioner qualifies as a member of the professions holding an advanced degree. Instead, the Director concluded that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal. 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 dismiss the appeal.

## I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of*

*Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen’s proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## II. ANALYSIS

As noted above, the Director determined that the record does not establish the Petitioner qualifies for classification as an individual of exceptional ability; however, the Director did not address whether the Petitioner qualifies for second-preference classification as a member of the professions holding an advanced degree. See section 203(b)(2) of the Act. Because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies second-preference eligibility criteria. See *id.*; see also *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

Initially, the Petitioner described the endeavor as a “goal . . . to create new transportation services for small companies or personal shipments.” The Petitioner elaborated that she “partnered with an important company which will provide the drop shipping [s]ervices for Walmart clients.” She also stated, “The company I create, and lead will provide quality services and options for those starting in this world of supply chain.” She further asserted that her endeavor will “generate new employment in office and field work.”

In response to the Director’s request for evidence (RFE), the Petitioner resubmitted a copy of the same description of the proposed endeavor, addressed above. She also submitted a letter from [redacted] a professor and coordinator of project and supply chain management at [redacted] University at [redacted]. The Petitioner asserts that [redacted] letter about her proposed endeavor establishes her endeavor has national importance. The letter reiterates that the Petitioner “will create job opportunities for individuals in the U.S. and promote economic growth through her company.” The letter also provides generalized information about the supply chain management industry.

The Director concluded that the record establishes the proposed endeavor “has substantial merit,” as required by the first *Dhanasar* prong. However, the Director “has not demonstrated that her endeavor is of national importance and has not met the first prong of the *Dhanasar* framework.” More specifically, the Director acknowledged the Petitioner’s brief description of her proposed endeavor,

addressed above; however, the Director concluded that “this summary does not include the depth and breadth of the impact the [Petitioner] will have on the supply chain on the United States.” The Director also noted that the record does not establish the proposed endeavor “stands to sufficiently extend beyond the individuals [she] would serve, to impact the business management industry or field more broadly.” Furthermore, the Director noted that the record does not establish how the endeavor “would have significant potential to employ U.S. workers or have other substantial positive economic effects.” In addition to concluding that the record does not establish the proposed endeavor has national importance, as required by the first *Dhanasar* prong, the Director also concluded the record does not satisfy the second and third *Dhanasar* prongs. See *Dhanasar*, 26 I&N Dec. at 888-91.

On appeal, the Petitioner asserts that her “entry into the United States will substantially benefit the U.S. economy through the creation of jobs.” She also asserts that “supporting the growth of small and medium-sized enterprises pay dividends for all U.S. citizens by increasing tax revenues to the federal and state governments,” referencing the [REDACTED] letter submitted in response to the Director’s RFE. The Petitioner also states that her endeavor “stands to improve the societal and cultural welfare of the United States,” again referencing the [REDACTED] letter. She further asserts that the proposed endeavor “aligns with multiple government initiatives relating to securing the U.S. [s]upply [c]hain,” again referencing the [REDACTED] letter, which in turn references Executive Order 14,017, a copy of which she also submitted in response to the RFE.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

First, although the Petitioner asserts on appeal that she will “bring jobs to the United States,” she does not elaborate on the types of jobs her endeavor will create; the number of jobs her endeavor will create; the location and wages of the employees hired for those jobs; comparative data about existing jobs of the same type(s) at the respective location(s); and other details that would inform whether the proposed endeavor has “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” See *id.* Similarly, the [REDACTED] letter opines that “600,000 new jobs will be created in transportation and material moving by 2026 owing to increased consumer spending, resulting in greater delivery needs,” without elaborating on the location and wages of the employees hired for those jobs or providing comparative data that would inform whether the creation of those 600,000 jobs would have substantial positive economic effects. See *id.* Notably, however, the [REDACTED] letter indicates that those 600,000 jobs are anticipated to be created by 2026, regardless of whether the Petitioner performs her proposed endeavor. Particularly given the lack of information regarding the jobs the Petitioner asserts her endeavor would create and the location(s) where those jobs would be created, [REDACTED] opinion that “600,000 new jobs will be created in transportation and material moving by 2026,” regardless of the Petitioner’s endeavor, casts doubt that her particular endeavor would have “significant potential to employ U.S. workers or . . .

other substantial positive economic effects, particularly in an economically depressed area” in context. *Id.* at 889-90.

Next, the Petitioner paraphrases the [ ] letter, asserting on appeal that, as a consequence of her transportation services company, unspecified other “small and medium-sized enterprises” will generally “improve operations and achieve better productivity and profitability levels, therefore generating revenues within the country and creating employment opportunities.” Aside from generating unspecified jobs, as discussed above, the Petitioner asserts that a consequence of unspecified enterprises generally improving operations and increasing their revenue is that “tax revenues to the federal and state governments” would also increase by some unspecified amount. In turn, she posits that this unspecified increase in tax revenue would increase “the funds available to spend on hospitals, schools, roads, and other essential services.” However, as noted above, neither the Petitioner nor [ ] provide more details regarding any particular enterprise’s anticipated productivity improvement, its revenue increase, and a consequential tax revenue increase, beyond generalized economic theories regarding economic growth. As noted above, “to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889. The record does not establish how the specific endeavor the Petitioner proposes to undertake would increase tax revenues by any particular amount and other information that would establish whether such results would amount to “substantial positive economic effects.” *Id.* at 889-90.

Next, the Petitioner asserts on appeal that the “proposed endeavor will broadly enhance societal welfare or cultural enrichment,” and she quotes paragraphs from the [ ] letter that provide generalized information about the e-commerce industry. However, as addressed above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889. Neither the Petitioner nor the [ ] letter elaborate on any particular aspect of generalized “societal welfare” or culture the proposed endeavor will enhance or enrich, any particular location in which welfare and culture would be enhanced or enriched, how the endeavor would accomplish such enhancement or enrichment, or other information that would establish the proposed endeavor has broader implications such as “substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

Next, the Petitioner asserts on appeal that her proposed endeavor “aligns with multiple government initiatives relating to securing the U.S. [s]upply [c]hain.” To support this assertion, the Petitioner quotes a paragraph from the [ ] letter, stating that Executive Order 14,017 “mandates a pair of government-led supply-chain reviews.” The [ ] letter summarizes that the first of those reviews “concludes, public and private-sector procurement and supply chain organizations ought to prepare for potential legislative, policy, or regulatory changes.” The [ ] letter further warns that if those potential legislative, policy, or regulatory changes are enacted, “they will likely add complexity and cost to [supply chain organizations’] governance, risk management, and compliance efforts.” The [ ] letter then opines that the Petitioner “will build a level of redundancy and resilience into supply chains . . . [a]s a supply chain expert.” Although the [ ] letter then summarizes the general job description of a supply chain manager, it does not elaborate on how the Petitioner and her proposed endeavor will have “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* Again, although the proposed supply chain endeavor and the supply chain industry may “align[],” in

determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889. We further note that an increase in an industry’s “governance, risk management, and compliance . . . complexity” does not lead to the conclusion that the industry—or any particular endeavor within that industry—has national importance.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. As noted above, we also reserve our opinion regarding whether the record establishes the Petitioner is eligible for second-preference classification. *See id.*

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.