



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

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

In Re: 28895683

Date: DEC. 22, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an economist, seeks classification as a member of the professions holding an advanced degree. *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. 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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. 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 qualify for a national interest waiver, a petitioner must first show eligibility 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. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates EB-2 eligibility, they must then establish that they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

After earning a bachelor's degree in 2011, the Petitioner worked as a risk underwriter and market research analyst for an insurance company in Kenya from 2011 to 2014. In 2014, she entered the United States as an F-1 nonimmigrant student to study at [REDACTED], which awarded her a doctorate in economics and finance in December 2021, three months before she filed the petition in March 2022. On her résumé, she referred to herself as “an applied economist with knowledge in statistical analysis, macroeconomics and economic policy modeling.”

The Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

A. Proposed Endeavor

In the denial notice, the Director stated that the Petitioner did not sufficiently describe her proposed endeavor at the time she filed her petition, and that information she later provided in response to a request for evidence (RFE) constituted material changes that cannot establish eligibility as of the petition's filing date. The Director acknowledged that the Petitioner submitted a business plan in response to the RFE, but determined that the Petitioner had not shown that this plan was in place when the Petitioner first filed the petition. The Director cited regulations and case law indicating that the Petitioner must establish eligibility for the benefit sought at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

On appeal, the Petitioner maintains that her proposed endeavor has not changed, and that her response to the RFE clarified, rather than changed, that endeavor. The Petitioner contends that she has consistently indicated that her proposed endeavor involves application of her “exclusive and unique method developed to avoid financial crises and losses in the financial ecosystem.”

For the reasons explained below, we agree with the Director that the Petitioner has not consistently described a single, detailed proposed endeavor. We also agree with the Director that the information provided does not establish eligibility within the *Dhanasar* national interest framework.

On the petition form, the Petitioner stated that she is “interested in research and analysis for sustainability and thus economic development and growth in the areas of infrastructure efficiency, financial institutions and markets.” Citing her interdisciplinary doctorate, the Petitioner stated: “The financial industry needs such expertise too as fulltime researchers [in] the public sector for policy development and in the private sector for ana[ly]s[is] and implementation of policy. This will help avert future crisis and minimize the economic impacts if they ever occur.”

In a separate statement, the Petitioner stated: “I am currently seeking jobs in the areas of economics, finance, infrastructure, economic growth, and economic development research with an interest in the

role of financial institutions and markets.” The Petitioner provided no further details about her future plans beyond her intent to conduct research.

On her accompanying résumé, the Petitioner stated: “I aim to get a position where I can use my knowledge and build additional skills in Econometrics, Macroeconomics, Financial, and Development economics.” The Petitioner also submitted information about her doctoral dissertation, in which she “buil[t] composite indices of economic development, infrastructure, and institution quality” in “25 Sub-Saharan African countries” “to determine the impact of the interaction term of infrastructure and financial development on economic growth and development.”

In the RFE, the Director observed that the Petitioner “did not provide a detailed description of [her] specific proposed undertaking or venture.” The Director explained that general statements about a particular field and information about the Petitioner’s “past work” did not provide the necessary information for a determination regarding the prongs of the *Dhanasar* framework. The Director therefore requested “a detailed description of the proposed endeavor.”

In response, the Petitioner asserted that she has developed a “unique methodology” that “prepares the country, companies, and society to have ready-made solutions” to economic challenges. The Petitioner also stated that she developed a “model [that] focuses on economic growth and economic development and the role played by financial development and infrastructure investment.”

The Petitioner described her model in highly technical detail and stated that her “model can help in the sustainable development and growth of American cities.” She stated that “the focus of [her] exclusive technique” is “to avoid and minimize economic losses for the country, in the area of economics of financial institutions, companies, and markets, providing forecasting solutions in appropriate research and policy recommendations for the sector.”

She also stated: “I am a financial analyst and economist,” and submitted background information about both occupations. The Petitioner submitted a business plan for a limited liability company that would serve “as a financial and economic consulting advisor center” and eventually expand into a franchise. The business plan indicates that the Petitioner’s company “aims to coordinate with federal organizations, key players in industry and commercial [sic] to advance its goal of promoting a robust, qualified, and diverse Economy / Financial Analysis workforce.”

In the denial notice, the Director stated that the Petitioner had provided general information about financial analysts, but did not establish that she had a specific proposed endeavor at the time she filed the petition. The Director acknowledged the Petitioner’s business plan, but determined that this plan did not exist at the time the Petitioner filed the petition, and therefore cannot establish the Petitioner’s eligibility at the time of filing as required by 8 C.F.R. § 103.2(b)(1).

On appeal, the Petitioner asserts that she had submitted a detailed business plan in response to the RFE, and that the Director should have considered that evidence.

The Director did not object to the business plan merely because the Petitioner submitted it in response to the RFE instead of with the initial filing. Rather, the Director determined that the business plan constituted a material change to the proposed endeavor, because the Petitioner’s initial submission did

not include any claim that the Petitioner sought to start her own business and employ individuals in a wide range of professions and other occupations.

The Petitioner states, on appeal, that she had already established that she “want[s] not to be an employee.” Regarding her earlier statement that she is “currently seeking jobs in the areas of economics, finance, infrastructure, economic growth, and economic development research,” the Petitioner contends: “I am **currently** looking for and developing financial work in the job vacancies offered by employees who will be my potential clients once the permanent residency is confirmed. . . . IT’S PART OF MY CURRENT STRATEGY TO DEVELOP SEVERAL PARTNERSHIPS” (emphasis in original).

But at the time of filing, the Petitioner did not indicate that she sought such positions in order to establish relationships with potential future clients. Rather, she initially stated: “My long-term goal is to employ my knowledge of research in the areas of economics of financial institutions and markets to ensure citizens’ economic risk exposure is minimized or avoided at all costs. If policymakers have the proper research and policy recommendations, then the economy’s stability is ensured.” The initial emphasis on research included references to the Petitioner’s dissertation, a manuscript that the Petitioner had submitted for publication, and reference letters that focused on her research skills.

The Petitioner has not established that, at the time she filed the petition, her proposed endeavor included establishing her own company as described in the business plan and her accompanying statement submitted in response to the RFE. We conclude, therefore, that the information the Petitioner provided in response to the RFE amounts to a material revision and change of the proposed endeavor, rather than a clarification of a plan that was already in place when she filed the petition. A petitioner must meet eligibility requirements at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1). A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm’r 1998).

Furthermore, the business plan and RFE response statement do not present specific, consistent details about the nature of the proposed endeavor. The Petitioner at times referred to herself as an economist, a financial analyst, or both. The two occupations are related but not identical.

The business plan does not consistently describe the company that the Petitioner seeks to establish. The plan calls the proposed business “an Economy / Financial Analysis business established and focused on the accountant’s shortage . . . committed to attract a new generation of American accountants.” The business plan also refers to “demand for Economists/Financial Analysts professional teams,” and states that one of the company’s “Key Objectives” is “[t]o offer solutions by financial auditors.” The business plan states that the company’s “vision . . . is to be the source of the highest quality human and technological resources to provide an improve [sic] to the commercial ecosystem. The company will save the economy millions by preventing the workforce from getting the required expertise from outside the country.”

The Petitioner provided statistics about financial analysts and other occupations, and stated her intention to establish a company that will employ a range of professionals, but the business plan does not articulate a consistent, specific explanation of the range of services the company would provide

and the Petitioner's role within the company. Also, the Petitioner has not explained how her plans to establish a financial analysis firm relates to her previously discussed intention to influence economic policy through research.

We agree with the Director that the Petitioner has not presented a consistent description of her proposed endeavor. Therefore, the Petitioner has not met her burden of proof in this regard. Nevertheless, below we will consider the information regarding the proposed endeavor in the context of the *Dhanasar* national interest framework.

B. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Matter of Dhanasar*, 26 I&N Dec. at 889.

In the denial notice, the Director stated that the Petitioner had not established that she had a specific proposed endeavor at the time of filing, and therefore "we cannot meaningfully determine whether your proposed endeavor meets the requirements of the first prong of the *Dhanasar* framework." The Director acknowledged the Petitioner's later submission of the business plan, but stated that the Petitioner had not shown that this plan existed on the petition's filing date.

On appeal, the Petitioner maintains that she "produced nothing new" in response to the RFE, and contends that the Director cited precedent decisions that do not closely relate to her petition. While the overall fact patterns in *Izummi* and *Katigbak* do not resemble that of the petition on appeal, the general principle that a petitioner must be eligible when they file the petition is more widely applicable. This principle is also consistent with the regulation at 8 C.F.R. § 103.2(b)(1), which requires each petitioner to establish eligibility at the time of filing.

The Petitioner has not established that the business plan submitted in response to the RFE relates to the vague and general plans that she discussed when she first filed the petition. At the time of filing, the Petitioner stated that she was "seeking jobs" in economics or finance. She did not state any intention of establishing her own company, employing a professional staff, or addressing a claimed shortage of accountants. The Petitioner's initial statement emphasized her research and its potential implications for public policy, and the Petitioner has not explained how her operation of a financial analysis firm would influence policy in this way or otherwise result in implementation her economic models.

In her initial statement, the Petitioner asserted that her proposed endeavor had national importance because her "research in the areas of Finance, Economics, infrastructure, and economic growth and development will provide policy suggestions on creating a strong environment for innovation and entrepreneurship necessary for a strong and viable economy." The Petitioner discussed the overall importance of a strong U.S. economy, but did not indicate the extent to which her proposed endeavor would affect the entire U.S. economy.

In response to the RFE, the Petitioner discussed her research and stated: “I will introduce my solution for the protection of U.S. Finance and Economy. . . . The specific endeavor that I propose to undertake . . . involves the following procedures and techniques.” The section that followed, however, did not describe any procedures or techniques. Rather, the Petitioner provided information and statistics about inflation. The Petitioner stated that “some companies have used inflation as a reason to raise prices and boost their profits,” but she did not explain how her proposed endeavor would address this issue.

The Director concluded that the Petitioner did not provide enough information about the proposed endeavor to establish its substantial merit and national importance. Upon review of the record, we conclude that, while the proposed endeavor lacks some necessary details, there is substantial merit both in economic research and in entrepreneurship in the financial field. But the lack of a consistent, specific proposed endeavor prevents a conclusion that the Petitioner has established national importance.

Economic research *can* have national importance, in ways that the Petitioner has described, but the Petitioner has not provided enough information about her research plans to establish the national importance of her proposed endeavor as it relates to research. Discussion of her past work does not suffice in this regard, and neither does general information about the field.

With respect to the business described in the Petitioner’s second endeavor, the business plan describes a limited liability company that would serve “as a financial and economic consulting advisor center” and eventually expand into a franchise. The business plan indicates that the Petitioner’s company “aims to coordinate with federal organizations, key players in industry and commercial [sic] to advance its goal of promoting a robust, qualified, and diverse Economy / Financial Analysis workforce.”

The business plan does not explain how the proposed company would have a significant impact beyond its employees and customers. A list of the company’s “key objectives” mostly focuses on customer service and business operations. One item on the list indicates that the company seeks to “reduce racial animosity among different ethnic groups in the United States by hiring widely diversified professionals and offering them the same level of opportunities.” While we recognize the great value in this stated objective, the business plan does not explain how the Petitioner’s intended hiring policy would have broader implications beyond the company’s own staffing, and thereby reach the national importance standard.

For the reasons discussed above, we agree with the Director’s conclusion that the Petitioner did not initially describe a specific proposed endeavor, and that the Petitioner’s response to the RFE introduced material changes rather than clarify the Petitioner’s initial discussion of the proposed endeavor. The Petitioner has not established the national importance of her planned business, and her research plans lack sufficient detail to meet her burden of proof regarding the national importance of that research.

C. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is well positioned to advance the proposed endeavor, we consider

factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The record provides partial information about two separate proposed endeavors, neither of which is sufficiently documented.

The Petitioner did not provide the context in which she would be able to conduct her planned economic research. Her past research work has been in the context of her now-completed graduate studies. She did not indicate that she would seek employment at a university or research institution. The Petitioner did not establish that she has secured or even sought grant funding that would support future research activities. The Petitioner stated an intention to work with government and private entities, but she has not shown that those entities have expressed an interest in supporting or implementing her research.

Apart from her master's thesis and doctoral dissertation, the only documented output from the Petitioner's research is a paper accepted for publication in January 2022, two months before she filed the petition. The Petitioner submitted letters from former professors and a classmate. The Director acknowledged these letters in the denial notice, but concluded that they do not suffice to establish that the Petitioner is well-positioned to advance the proposed endeavor. We agree with the Director. The letters do not establish the reception or impact of her past research work beyond .

While the Petitioner possesses the necessary educational background to conduct economic research and has described her past work in detail, she has not provided enough details about her intended future research and has not otherwise shown that she is well-positioned to advance a proposed endeavor in research.

Turning to the business activity she first described in response to the RFE, the Petitioner did not explain how her research, models, and methods would relate to the operation of a company or franchise that employs financial analysts and accountants. The Petitioner did not explain how work with individual clients would “minimize . . . the effects of the crisis, scarcity, shortages, negative country trade balance, and problems related to maintaining the United States’ financial health.”

The Petitioner has not established that she is well-positioned to operate the business described in the business plan. The Petitioner asserts that she is qualified to work as a financial analyst, but she has not documented any past experience in that occupation. The Petitioner's response to the RFE included a letter from the administrator of an elder care provider service, stating that the Petitioner “has been working [for the company] as a market researcher since January 2022. She has helped with primary research and helped build successful marketing models” to increase the number of clients.

The Director gave this letter no weight because it dates from February 2023, after the petition's filing date. The letter describes employment that began in January 2022, before the filing date, and therefore the letter warrants consideration. But the letter describes the Petitioner's work “as a market researcher,” which is not the occupation described in the proposed endeavor. The Petitioner has not established that her work as a market researcher has positioned her well to start and operate her own financial analysis company.

In terms of a model or plan for future activities, the business plan lists various general goals, such as providing “the highest quality services,” but it provides few details about the company’s specific activities and the steps that the Petitioner has taken or will take to establish the business.

The business plan included no specific details about staffing. The only job titles listed in the plan’s financial projections are “Instructor,” “Secretary,” “Manager,” and, after the first year, “General Staff,” with total annual salary and staff expenses reaching \$824,725 in the third year.

In her separate statement, the Petitioner did not specify the number of anticipated employees, but she stated that her company would be “hiring Economists, Analysts, researchers, technicians, accountants, lawyers, administrators, IT professionals, marketing, and other staff,” who would work in ten divisions and subdivisions labeled “Law,” “Administration,” “Marketing,” “Financial/Economy,” “Patrimony,” “Training,” “Operational,” “Laboratory,” “Information Technology and Computing,” and “Supply.” The Petitioner’s business plan articulated few details about the timeline for the company’s growth. It is not apparent that the third year salary projection of about \$825,000 is adequate to cover the anticipated salaries for all the occupations listed in the Petitioner’s statement.

The business plan also states:

Our team is constituted of professionals whose professional career expands over three decades. Throughout their exceptional careers they have been in command of strategic positions and playing key roles in execution of projects and operations of national and regional interest. Our team has extensive experience in, Economy / Financial Analysis service, consulting, and managements.

The phrasing quoted above suggests that the Petitioner has already assembled a “team” of several experienced “professionals,” but the record includes no other information or evidence about members of the claimed team other than the Petitioner herself. The record does not show that the proposed company already exists or has any employees. The Petitioner stated that the company would initially be based in Georgia, but the Petitioner has resided in Wisconsin throughout this proceeding.

Without further details, the limited information about projected services and staffing do not allow us to determine if she is well positioned to advance her proposed endeavor.

The Petitioner has likewise not documented any progress towards achieving the proposed endeavor as it relates to the business plan. The business plan presumes first-year assets of over \$175,000, but the record does not say where these funds will come from. Likewise, the Petitioner has not documented the interest of potential customers, users, investors, or other relevant entities or individuals. Instead, the business plan contains general statements about shortages, demand, and future marketing plans.

The Petitioner observes, on appeal, that she holds a doctorate in a field relating to science, technology, engineering or mathematics (STEM). The Petitioner states: “USCIS has clarified, in Volume 6 of its Policy Manual, how the national interest waiver . . . can be used for individuals . . . with advanced degrees in STEM fields and entrepreneurs. It is a [sic] ‘especially positive factor’ in the adjudication.” The original context of the quoted phrase is in this sentence:

USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong.

6 *USCIS Policy Manual* F.5(D)(2), <https://www.uscis.gov/policy-manual>. The Petitioner has also shown that economics qualifies as a STEM field for immigration purposes. But the *Policy Manual* does not indicate that an advanced degree in a STEM field is always sufficient to establish eligibility; the degree must “be considered along with other evidence.” In this instance, the Petitioner has not overcome the Director’s finding that the petition, as originally filed, did not adequately describe a specific proposed endeavor. The Petitioner’s response to the RFE, while it reiterated some prior assertions about research, also introduced new plans to start a business that does not appear to have a significant connection to that research.

For the reasons discussed above, the Petitioner has not established that she is well positioned to advance a proposed endeavor either in research or in the operation of a new business.

The above conclusions determine the outcome of the appeal. Detailed discussion of the third remaining Dhanasar prong cannot change that outcome. Therefore, we reserve argument on the third prong, which relates to whether, on balance, the United States would benefit from waiving the job offer requirement.²

III. CONCLUSION

The Petitioner has not sufficiently described two separate proposed endeavors. She has therefore not met her burden of proof to establish the national importance of either proposed endeavor, and has not shown that she is well positioned to advance either of the proposed endeavors. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

ORDER: The appeal is dismissed.

² See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *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).