



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

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

In Re: 26929638

Date: JUL. 17, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a business administrator, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding the Petitioner had not established eligibility for 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.<sup>1</sup>

## I. LAW

To establish eligibility for a national interest waiver, petitioners must 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. Section 203(b)(2)(B)(i) of the Act. In addition, petitioners must show the merit of a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>2</sup>, grant a national interest waiver if:

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<sup>1</sup> The Director’s decision only addressed the Petitioner’s eligibility for a national interest waiver, which is the sole issue on appeal. Because the Petitioner did not establish eligibility for a national interest waiver on appeal, we need not remand the matter to the Director in order to make a determination on the underlying immigration classification.

<sup>2</sup> 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

As it relates to the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner's cover letter indicated:

. . . [The Petitioner] intends to advance her career as a Business Administrator and by doing so, develop, implement, and advise using her in-depth knowledge acquired through years of experience in the field. [The Petitioner] will make her services available to small and large businesses belonging to both the private and public sector in the United States. She is determined to use her expertise as a means to complement and enhance businesses in the U.S. and to be a contributing member of American society.

. . . .

Petitioner's expert and unique skills will be crucial for the success of companies that need to improve operations, increase sales and productivity, and develop business relationships in the United States. [The Petitioner's] in depth-understanding of Business Administration will serve as an asset, promoting business growth and prosperity in the country.

. . . .

. . . Petitioner's expertise in human resources, personal management, and recruitment selection, along with her ability to reformulate, implement and manage personnel departments, identify specific team development needs, create, develop and implement salary and bonus programs, and participate in HR systems migration projects, will serve as an asset to U.S. businesses needing to grow, retain staff and improve performance levels.

The Petitioner also submitted a "Professional Plan" stating:

I intend to continue my activities as a Business Administrator, utilizing all of the academic knowledge I acquired, along with my professional experience, which has considerably contributed toward the successful development of my work in an efficient manner, guaranteeing the best results. I also intend in improving my knowledge and performance by taking new courses according to the demand in the field, which is constantly evolving.

. . . .

... I will promote business administration, ultimately contributing to companies in the Information Technology industry in the country . . . .

I will also use my experience in Business Administration with focus on Information Technology to help small and medium-sized enterprises in the U.S. improve operations and achieve better productivity and profitability levels . . . .

I will offer intelligent and innovative business development techniques aiming at supporting many businesses by optimizing processes, reducing costs, increasing productivity, enhancing business intelligence and helping companies operate more efficiently.

... I will organize the business processes for American companies and develop business, implement indicators in the marketing/commercial areas, and successfully lead the administration . . . .

....

... I will pursue the spread of my knowledge to reach a great number of professionals in the field

....

In response to the Director's request for evidence, the Petitioner submitted an updated "Professional Plan" reflecting:

... I will implement my refined set of skills in the most modern strategies and techniques of Business Administration in order to stimulate exponential growth to organizations located in the United States.

... I will oversee the daily operations of organizations and be responsible for interacting with external and internal partners, colleagues and chain of command, negotiating contracts, analyzing financial data, and improving the overall business and employee performance.

... I will play an essential part of the team that makes a business successful and profitable, ensuring organization and productivity . . . .

....

I will help companies from different sectors to improve their internal processes and achieve their goals more effectively . . . .

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains:

[The Petitioner's] proposed endeavor will broadly impact various areas since companies' financial health are a subject of national, even global importance. Planned and effective investments can change the path of a company, and poorly managed finances can lead them to bankruptcy. Not only that, but the Petitioner's experience in business IT systems meets the demands of modern economy, as institutions seek to be more efficient and accurate with lower investments. The Petitioner will ensure corporations' business operations are well-structured and financially sustainable and, thus, enhance American businesses' development and expansion.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner stresses the importance of business administration, including the submission of documentation covering topics of small businesses, administrative occupations, marketing, and trade, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her particular business administration services rather than the importance of business administration and various fields and industries.<sup>3</sup> In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

Moreover, the record contains expert opinion letters who found the Petitioner's proposed endeavor has national importance. The letters, however, make the same arguments, discussed above, relating to the importance of business administration rather than explaining the national importance of the Petitioner's specific, proposed endeavor. Furthermore, the letters do not explain how the Petitioner's business administrative services have broader implications for our country. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how her proposed endeavor largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Likewise, the record does not show through supporting documentation how her business services stand to sufficiently extend beyond her prospective employer(s), to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

The Petitioner also references the submission of recommendation letters who highlighted her past successes with businesses. Although the letters praise her for her work, the Petitioner's past work, including her skills, expertise, and abilities, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor she proposes to undertake has national importance under

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<sup>3</sup> The Petitioner's arguments and evidence relate more to the substantial merit aspect of the proposed endeavor rather than the national importance part.

*Dhanasar*'s first prong. In addition, the letters discuss the impact of the Petitioner's work to their own experiences rather than the required broad impact to the business administration industry. *Id.* at 889.

Furthermore, the Petitioner did not demonstrate how her proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation attributable to her proposed endeavor, the record does not show any benefits to the U.S. regional or national economy resulting from her business administration activities would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. For all these reasons, the record does not establish that, beyond the limited benefits provided to her prospective clients and employers, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.<sup>4</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.

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<sup>4</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).