



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

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

In Re: 27423209

Date: JULY 20, 2023

Appeal of Texas Service Center Decision

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

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

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he 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.

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. Section 203(b)(2)(B)(i) of the Act. Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

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<sup>1</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 individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

## II. ANALYSIS

The Director found that 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner indicated that he intends “to work in the United States as a Business Controller providing controllership services with a focus on management and budget, equity, economic, tax and financial coordination of startups and small and medium-sized companies in various segments.” He stated that he planned “to assist in making business decisions, providing the improvement of financial performance and assets and reducing costs through the identification and reduction of operational failures, better allocation of financial resources, strategic planning, among other benefits.” The Petitioner further asserted that his proposed services include financial and budget management; monitoring business data; tax planning; information collection, storage, and analysis; preparation of reports; strategy studies; gap identification; finding and correcting mistakes; and digitization of accounting and financial processes.

The record includes information about the job outlook for financial managers, treasurers, and controllers. In addition, the Petitioner provided articles discussing the effect of the COVID-19 pandemic on the U.S. economy, safety as part of a business recovering strategy, and the growth of small businesses attributable to Biden Administration initiatives. He also submitted information about small businesses as contributors to the economic recovery from the COVID-19 pandemic, small business financial outcomes during the onset of COVID-19, strategies for repositioning controllership after the pandemic, and Biden Administration programs contributing to new small business growth. The record therefore supports the Director’s determination that the Petitioner’s proposed endeavor has substantial merit.

Furthermore, the Petitioner provided letters of support from A-H-, J-S-, G-M-, and P-J- discussing his controller skills, financial management knowledge, and business projects. The Petitioner’s skills, knowledge, and prior work in his field, however, 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 that he proposes to undertake has national importance under *Dhanasar*’s first prong.

The Petitioner also submitted an “Expert Opinion Letter” from Dr. J-B-, a professor of finance at [redacted] University, in support of his national interest waiver. Dr. J-B- asserted that the Petitioner’s proposed work is of national importance because his generic occupation of accountant and the field in which he works stand “to help small and medium-sized enterprises in the U.S. improve operations and achieve better productivity and profitability levels, therefore generating revenues within the country and creating employment opportunities.” Dr. J-B- further contended that “[g]rowth supported by small and medium-sized enterprises pays dividends for all U.S. citizens by increasing

tax revenues to the federal and state governments . . . .” The issue here, however, is not the national importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889. The letter from Dr. J-B- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner’s specific proposed work as a controller offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated that the Petitioner had not demonstrated that his undertaking stands to sufficiently extend beyond his clients “to impact the industry or field more broadly.” The Director also indicated that the Petitioner had not shown his proposed work “has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.”

On appeal, petitioner contends that his proposed endeavor stands to “make companies more organized and profitable, favor the maintenance of the companies’ operations, and, therefore, contribute to the U.S. economic growth with the increase of their revenues, competitiveness of the market, increase in investments and generation of jobs and income.” He asserts that “business controllership is an effective way for a company to maintain financial stability and to also rebuild financially distressed corporations to avoid greater negative impacts on the economy.” Additionally, the Petitioner indicates that his undertaking offers “accurate and reliable information to assist in making business decisions, providing the improvement of financial performance and assets and reducing costs through the identification and reduction of operation failures, better allocation of financial resources, strategic planning, among others.” He also claims that his proposed work “has national or even global implications within a particular field as Petitioner’s services can increase a company’s profits and revenue, as well as shape new strategies for companies considering the post-pandemic scenario and, consequently, help all levels of government within the U.S. collect taxes, whether through income taxation or business taxation.”

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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.

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. While the Petitioner’s statements reflect his intention to provide valuable accounting and financial management services for his employer or business clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that 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.

Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his employer or clientele to impact the financial management field, the accounting industry, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's business projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the third prong outlined in *Dhanasar*. *See 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"); *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).

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible 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.