



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

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

In Re: 26246152

Date: JUN. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a chief technology officer, 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 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. The Director determined that the record established the Petitioner's eligibility for the underlying EB-2 classification but did not establish 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. Section 203(b)(2) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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:

---

<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 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

The Director determined that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree and the record supports this conclusion.<sup>2</sup> Therefore, the sole issue before us is whether the record establishes that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest.

Although the Director found substantial merit in the proposed endeavor, and that the Petitioner is well-positioned to advance it, the Director concluded that the Petitioner did not establish that his proposed endeavor has national importance and that, on balance, waiving the job offer requirement would be beneficial to the United States. For the reasons provided below, we conclude that the Petitioner has not established the national importance of his proposed endeavor and therefore is not eligible for a national interest waiver as a matter of discretion.

### A. The Proposed Endeavor

The record reflects that the Petitioner is an experienced information technology (IT) professional with approximately 25 years of employment which has included technical, commercial, academic, and senior management roles, and involvement in projects spanning several industries. His resume reflects that he had one prior assignment as a chief technology officer (CTO) with a Brazilian company, from May 2019 until his entry to the United States in 2020.

In a professional plan submitted with the initial filing in September 2020, the Petitioner described his intended employment as a CTO in the United States as follows:

I want to work with a company that provides products or services that is enabled by cutting edge technology systems to improve people's lives. . .

My career plan in the United States is to use the knowledge I have acquired in the Information Technology field to work on large scale projects in the United States that involve complex Information Technology Systems. I am capable of developing, implementing, and managing all activities for such projects and I plan to continue using my intimate knowledge of information technology to directly help companies, organizations and institutions in the U.S. with their computer and information systems.

In response to a request for evidence (RFE), in which he was asked to provide a more detailed discussion of his specific proposed endeavor, the Petitioner submitted an updated professional plan indicating:

---

<sup>2</sup> The Petitioner provided an official academic record documenting his completion of a master of science in electronic and computer engineering at a Brazilian university, along with an educational evaluation indicating that this foreign degree is equivalent to a U.S. master's degree in the same field. *See* 8 C.F.R. § 204.5(k)(2) (defining "advanced degree").

My career plan in the United States is to work for American financial technology companies (FINTECs) that require my specialized knowledge, years of experience, and significant expertise in the IT field as Chief Technology/Operations Officer. . .

If my waiver is granted, I will contribute significantly to the information technology sector, helping FINTECs or other U.S. businesses improve their strategies and practices.

In his RFE response, the Petitioner indicated that he has been working for [REDACTED] a Florida-based financial technology company that provides loan and payment processing solutions to the e-commerce industry, since March 2021, initially in the position of director of global payments, and currently as vice president of operations.

#### B. Substantial Merit and National Importance

The first prong of the *Dhanasar* analytical framework, 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. *Dhanasar*, 26 I&N Dec. at 889.

In support of his claim that he meets the requirements of this prong, the Petitioner initially submitted his professional plan and statement, an expert opinion letter, recommendation letters, and industry articles and reports on the software and IT industry, the future of technology in the workplace, and the global talent shortage in the technology and business sectors. The Petitioner's response to the RFE included: his updated professional plan; a [REDACTED] investor presentation; published articles and reports on the financial technology market and the rise of financial technology firms as a source of lending to small businesses; articles about the role of CTOs in financial technology companies; and additional letters from his current and former employers. While we may not discuss each piece of evidence individually, we have reviewed and considered each one in determining whether he satisfies the first prong of the *Dhanasar* framework.

In denying the petition, the Director determined that although the Petitioner's proposed endeavor has substantial merit, the record did not establish the endeavor's national importance, as the evidence did not convey an understanding of how the Petitioner's proposed activities stand to have broader implications in his particular field. The Director emphasized that the overall importance of the Petitioner's occupation or industry does not establish the national importance of his proposed activities and concluded that here, the Petitioner did not submit sufficient evidence to establish that the proposed endeavor has significant potential to employ U.S. workers, would broadly enhance societal welfare, or would offer substantial positive economic effects for the United States.

On appeal, the Petitioner emphasizes his extensive experience in the IT field and asserts that the previously submitted evidence establishes that his role as a CTO is of national importance because it serves several needs of the U.S. economy and impacts "nationally important matters" related to the

fields of business and technology, offering benefits that will support the success and growth of small- and medium-sized businesses.<sup>3</sup>

When 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 “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. 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.*

Here, much of the evidence submitted in support of this prong addresses the industry or profession in which the Petitioner intends to work without addressing his specific proposed endeavor. For example, the Petitioner has submitted articles, reports and statistics that highlight the importance of the IT industry, the growing financial technology field, and the impact these industries have on the growth of the U.S. economy, along with generalized descriptions of the CTO role and its significance. Although we agree that these fields and industries are important, and senior technology roles are critical to companies operating in these sectors, we emphasize that this evidence does not necessarily establish the national importance of the Petitioner’s proposed endeavor under the first prong of the *Dhanasar* framework.

In support of his eligibility under the *Dhanasar* framework, the Petitioner submitted as expert testimony a letter from a professor at [REDACTED] University. However, this evidence also focuses primarily on the Petitioner’s proposed occupation and the IT field in general. The author emphasizes that the IT industry provides a “foundation for much of the business, military and civilian activity that occurs daily throughout the country,” generally discusses the industry’s impact on the U.S. economy and emphasizes that the Petitioner is qualified to perform work that is “in demand and has national importance in the IT sector.” Although the professor comments generally on the IT industry, his letter does not explain how the Petitioner’s specific endeavor would have broad implications for the industry or substantial economic effects on the regional or national economy consistent with national importance.

The professor also opines that the Petitioner’s proposed endeavor “impacts a matter that a government entity has described as having national importance or is the subject of national initiatives,” emphasizing the federal government’s commitment to advancing technological research and development, promoting emerging technologies and innovation, and creating well-paying jobs in the technology sector. Many proposed endeavors that aim to advance science, technology, engineering, and mathematics (STEM) technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national importance. *See generally 6 USCIS Policy Manual F.5(D)(2)*, <https://www.uscis.gov/policy-manual>. However, the fact that a petitioner’s proposed endeavor falls within an IT or STEM field does not automatically show eligibility for a national interest waiver. Rather, the specific proposed STEM endeavor must have both substantial

---

<sup>3</sup> On appeal, the Petitioner also asserts that the Director deprived him of due process and fair treatment by denying the petition without first issuing a request for additional evidence or notice of intent to deny. However, as noted, the record reflects that the Director issued an RFE on May 11, 2022. The Director specifically addressed the Petitioner’s RFE response in the final decision.

merit and national importance with respect to the first prong of *Dhanasar*. Therefore, while the expert opinion letter points to national initiatives to promote progress in STEM fields, it does not opine on whether the Petitioner's proposed endeavor would "aim to advance STEM technologies and research" and otherwise have sufficiently broad potential implications to demonstrate national importance. The professor's assertion that persons in CTO roles are generally responsible for controlling research and product innovation are overly broad and do not address the Petitioner's specific proposed activities.

We observe that USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, see also *Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacked relevance and probative value with respect to the national importance of the Petitioner's proposed endeavor. The Petitioner must demonstrate the national importance of his specific proposed endeavor as a CTO, rather than the significance of the occupation within an organization or the national importance of STEM and IT-related industries.

To demonstrate national importance, we look for evidence of a proposed endeavor's broader implications in the field. See *Dhanasar*, 26 I&N Dec. 889. *Dhanasar* explains 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.

As noted, the Petitioner's specific proposed endeavor involves working in a CTO role with a financial technology company. On appeal, he emphasizes that his activities will include leading the development of artificial intelligence (AI) based credit and risk management solutions that enable increased access to credit for early-stage small- and medium-sized businesses as well as leading the implementation of "low-cost, cross-border digital payments that would enable small and medium business to export/import goods and services." He maintains that due to the contributions of small businesses to the U.S. economy and the fact that a large percentage of America's 32 million small business firms have women, minority and/or veteran owners, his proposed endeavor's support of small businesses "is an initiative of national importance with direct impact to the U.S. economy and social development." The Petitioner also cites statistics regarding the rapid growth of the financial technology market, noting that it is projected to grow to \$324 billion by 2026. He asserts that "national importance is evident" with respect to his proposed endeavor and maintains that there will be a continuing need for professionals with his expertise.

The Petitioner asserts that he will work as a CTO with a financial technology company or "other business," but primarily describes his proposed endeavor in terms of his current employment as vice president of operations with [REDACTED]. In support of his claims, he submitted his U.S. employer's investor presentation and letters from two of its executives. The submitted investor presentation highlights [REDACTED] mission to provide e-commerce merchants with "the best financial tools to grow their business, while noting that these merchants are "underserved by financial institutions and fintechs" and as a result may struggle to finance their growth with debt and lack access to financial products that meet their specific needs. The presentation also highlights the company's

unique competitive positioning within the growing \$45 billion global market for e-commerce financial products, emphasizing its sole focus on e-commerce merchants, scalable solutions, and its “industry-leading” technology and intellectual property that includes “state-of-the-art scoring models and risk management.”

The record includes letters from [ ] chief compliance and risk officer and chief executive officer, who both similarly praise the Petitioner’s “high level of expertise” and emphasize specific contributions he has made to company products and processes during his first full year of employment, noting that such contributions have positively impacted both the company and its customers. While these letters establish that the Petitioner’s expertise and professional skills are highly valued by [ ] the letters primarily focus on how his work benefits his employer. The chief compliance and risk officer, for example, does not articulate any broader implications for the financial technology industry or otherwise address how the Petitioner’s activities for [ ] are of national importance.

In his letter, [ ] CEO states that the Petitioner is “leading the development of an innovative payment orchestration solution” which would enable traditional banks, other financial technology companies, e-commerce platforms, payments companies and others to “take advantage of our state of the art scoring model and risk management . . . to expand their services to small and medium e-Commerce Business.” The author expresses his opinion that this solution, once implemented, will be “an unprecedented contribution to this industry,” but does not further explain or elaborate on this project or otherwise provide a basis for that conclusion. He also states that the Petitioner’s “strong background in technology, software engineering, business management and strategic thinking, makes him a key contributor to [ ] and to the Fintech industry, being proved by [ ] strong operation metrics and expressive growth (>200%) Year on Year.” While the CEO’s letter suggests that the Petitioner has already made and will continue to make contributions with broader implications in the financial technology industry and substantial economic effects that would reach beyond his employer and its customers and partners, we find insufficient evidence in the record to support a conclusion that the Petitioner’s proposed endeavor is of national importance.

Although the Petitioner indicates that it is his intention to work as a CTO in the financial technology sector, the record does not establish that his position as vice president of operations for [ ] is comparable to a CTO role. As noted, proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, may have sufficiently broad potential implications to demonstrate national importance. Many of the responsibilities and accomplishments the Petitioner lists in his updated resume indicate he is focused on internal operating efficiencies for his employer rather than on activities to advance the company’s technology. For example, he indicates that his main responsibilities include managing and revamping customer support services, implementing loan portfolio risk and default analysis, managing delinquency collections, supporting merger and acquisition strategies and analysis, designing new operating procedures, defining the company’s business continuity and recovery plan, and managing the operational treasury. While he lists “managing product development” among his responsibilities, it is evident that the company has separate technology, global payments, and technology departments and reasonable to conclude that those departments are more directly involved in advancing the company’s technology solutions. In addition, the organizational chart for the operations department, which includes the Petitioner’s direct and indirect reports, does not include engineering or other IT positions; the positions listed are roles in customer service, agreements, collections and payments, delinquency, analytics, factoring, and sales

support. While we do not doubt that he has some involvement in steering product development activities, the exact nature of his role in advancing his employer's technology is not clear and it does not appear to be the primary focus of his position.

In his professional plan, the Petitioner himself describes his projects within [redacted] primarily in terms of how they will positively impact his employer's profit and loss and the staffing of the operations department that he leads, rather than discussing the broader implications of his specific activities. The submitted investor presentation provides examples of how [redacted] has positively impacted several customers operating in the e-commerce sector. However, it is unclear that the company's reach in the sector is sufficiently widespread to have national implications. The investor presentation indicates that [redacted] operates within a \$45 billion e-commerce financial solutions market, and offers a specific combination of solutions not offered by other companies that provide financial products to e-commerce customers.<sup>4</sup> As noted, the Petitioner maintains that his continued work on development of products and solutions in this sector will therefore result in increased access to credit for early-stage small- and medium-sized businesses as well providing "low-cost, cross-border digital payments that would enable small and medium business to export/import goods and services." While [redacted] product portfolio includes lending and international payment solutions to e-commerce merchants, the record does not demonstrate, for example, that it is a major player or driver of growth in the market in terms of its size, revenue or number of customers served, or that it has received industry recognition for its product and service contributions.

As noted, in *Dhanasar*, 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. In his professional plan, the Petitioner stated that he restructured [redacted] operations department and created six additional positions that will be filled as the business evolves. His plan includes staffing projections for his department, noting that he expects the number of full-time departmental employees to increase from 12 in 2022 to 26 by 2025. He does not attribute the creation of any additional direct or indirect jobs to his specific proposed endeavor. Therefore, while the record reflects that the Petitioner has the authority to hire subordinate operations staff, he has not established how his individual employment, or this hiring authority, would affect information technology employment levels or the U.S. economy more broadly consistent with national importance. Without sufficient information or evidence regarding projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

We acknowledge that the Petitioner provided numerous reference letters from former colleagues and professional contacts. The authors of the letters extol the Petitioner's personal and professional qualifications, his past record of achievements, as well as his performance and experience. However, the Petitioner's qualifications and expertise 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 Director

---

<sup>4</sup> The investor presentation indicates that [redacted] competitors include banks, small and medium enterprise (SME) lenders, e-commerce lenders, financial technology firms such as PayPal, and e-commerce platforms such as Amazon, Walmart, and Etsy.

found the Petitioner well-positioned to advance his proposed endeavor and these letters tend to support that conclusion. The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar*'s first prong.

We acknowledge the Petitioner's assertion that his continued work in his current field will ultimately support the growth of small and medium businesses in the United States, as well as drive the growth of the financial technology industry, both important contributors to the national economy. However, the record lacks sufficient evidence that his specific proposed endeavor will have broad implications in the field or substantial positive economic impacts on a scale that rises to the level of national importance. Therefore, we conclude that the Petitioner has not satisfied the first prong of the *Dhanasar* analytical framework.

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding his eligibility under the third *Dhanasar* prong. *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 demonstrate his eligibility for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.