



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

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

In Re: 27417162

Date: JUN. 29, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an agricultural finance consultant, seeks classification as a member of the professions holding an advanced degree. 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 Texas Service Center denied the petition, concluding that the Petitioner qualifies as an advanced degree professional but that the record did not establish that a waiver of the job offer requirement is 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)(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, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither 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 a matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

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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 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 Petitioner intends to establish a consulting business [REDACTED] based in Florida that will provide services such as financial planning and business management in the agribusiness sector. The Director found that the Petitioner qualifies for EB-2 classification as an advanced degree professional, based upon obtaining the foreign equivalent of a bachelor of science degree in agriculture and possessing at least five years of progressive post-baccalaureate experience. However, as to eligibility for a national interest waiver, the Director found that the Petitioner established only the substantial merit element of the first prong and not national importance, and did not establish eligibility under either the second or third prong of the *Dhanasar* analytical framework, and as such, did not establish that a waiver of the job offer requirement is in the national interest.

As to the first prong of the *Dhanasar* analytical framework, the Director found that the Petitioner established the substantial merit of her proposed endeavor but not its national importance. Specifically, the Director found that the Petitioner did not offer sufficient information and evidence to demonstrate that the proposed endeavor would have substantial positive economic effects such as revenue or job creation, nor had the Petitioner shown that the proposed endeavor would have broader implications for the agribusiness field.

On appeal, the Petitioner asserts that she has established the national importance of her proposed endeavor because she has submitted a professional business plan in which she explains her entrepreneurial plans, and because she submitted articles that discuss the lack of access in the United States to funding for agribusiness development. The Petitioner also contends that the fact that her proposed endeavor is regionally focused should not preclude it from establishing national importance. Finally, the Petitioner claims that the proposed endeavor has the significant potential to employ U.S. workers.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

As to the Petitioner's business plan, upon de novo review, we agree with the Director that it does not establish the proposed endeavor's national importance. The business plan does not provide projections for potential revenue or job creation, and states only that it will hire "an employee" to help with accounting management and coordination. The business plan also does not establish the specifics of the services that the Petitioner's consulting business will provide, nor sufficiently establish that there is a demand for these services, nor establish that providing these services may result in a broad impact

in the agribusiness sector. Primarily, the plan discusses the professional background of the Petitioner, describes the agribusiness sector in the United States generally, and provides definitions for terms such as “consulting,” “animal scientist,” and “plant scientist.” We conclude that this evidence and information is not sufficient to establish the national importance of the Petitioner’s proposed endeavor.

The Petitioner also states on appeal that the articles in the record help establish the proposed endeavor’s national importance. The record contains an article about promoting climate-resilient agriculture, an article about a bill in Congress to provide relief to small farms experiencing the effects of the pandemic, an article about a cooperative agreement with U.S. Department of Agriculture (USDA) and the Florida Agriculture Commission to purchase and distribute locally grown food, a zone map from USDA regarding historically underserved funding designations, and data from the USDA website with statistics about agriculture. Although the language in the Petitioner’s brief is unclear,<sup>2</sup> the Petitioner appears to be asserting that these articles establish that there is a lack of access in the United States to funding for agribusiness, and that as such there is a nationally important need for financial consulting services in the agribusiness sector.

The articles and reports do relate to the agricultural sector, and some relate to agricultural funding, but we conclude that these articles do not establish the proposed endeavor’s national importance. As an initial matter, in assessing national importance the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, we focus on the potential prospective impact of the “specific endeavor that the [noncitizen] proposes to undertake.” See *Matter of Dhanasar*, 26 I&N Dec. at 889. None of the articles relate to the Petitioner nor her proposed endeavor. Moreover, the articles do not help establish how financial consulting services, such as the Petitioner’s, are likely to help farmers in an impactful way. Although some of the articles and reports—such as the USDA zone map regarding areas that have been historically underserved in agricultural funding—may help show a lack of access to funding in certain areas, the Petitioner’s proposed endeavor does not appear to involve directly providing funding, but rather to providing consulting services. The record is not clear, and the Petitioner has not established, how the Petitioner’s services would address the problem of lack of access to funding.

Next, the Petitioner notes that the fact that the endeavor is “regionally focused” should not preclude it from being considered nationally important. The Petitioner cites to *Matter of Dhanasar*, which modified our prior precedent decision’s “national in scope” assessment to a “national importance” requirement to “avoid overemphasis on the geographic breadth of the endeavor.” *Id.* at 889-90. The Petitioner is correct that the analytical framework introduced in *Matter of Dhanasar* sought to reduce the focus on the geographic impact of an endeavor. See *id.* at 887. However, the Petitioner does not claim that the Director made any specific legal or factual errors in considering the regional nature of the Petitioner’s endeavor. The Director did not rely on the regional nature of the Petitioner’s endeavor in concluding that it lacks national importance. Rather, the Director concluded that the Petitioner did not offer sufficient information and evidence to demonstrate that the proposed endeavor would have substantial positive economic effects such as revenue or job creation, nor had the Petitioner shown that her proposed endeavor would have broader implications for her field. Upon de novo review, we

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<sup>2</sup> For example, the Petitioner’s appeal brief states as to this claim, “Petitioner/Appellant presents articles and information which discuss high-level, diverse areas of national concern to the United States agricultural areas lack of access to both private and public of funding for agribusiness development supposedly as a consequence of absences of proper agribusiness guidance and consultancy which applicant has focused as one of her objectives on her prospective endeavor.”

agree. As stated in *Matter of Dhanasar*, an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, may have national importance. *Id.* at 890. Although an endeavor that is regionally focused may have national importance, it must still have a broad impact. *Id.* at 889.

The Petitioner also asserts on appeal that the endeavor has significant potential to employ U.S. workers. As stated above, the Petitioner's business plan mentions hiring "an employee" to assist the Petitioner in her consulting business. We conclude that the potential to create a single job does not rise to the level of the "significant" economic effects contemplated in *Matter of Dhanasar* as establishing national importance. The Petitioner also asserts that the proposed endeavor will create jobs because the businesses that use her consulting services will generate more revenue and thus be able to hire additional workers. However, the Petitioner has not provided documentary evidence in support of this claim. As discussed above, the Petitioner's business plan does not provide specifics as to the services her business will offer nor provide specific, credible projections for the potential economic impact of her proposed endeavor. Without additional evidence to establish the potential prospective impact of the proposed endeavor, the Petitioner's unsupported assertion alone is not sufficient to establish this claim.

Finally, the Petitioner refers to a prior non-precedent decision concerning a petitioner who proposed to establish a consultancy firm to assist U.S. veterans and wounded warriors in which we found that the petitioner established that a waiver of the job offer requirement was in the national interest. This decision was not published as a precedent decision and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case and may be distinguishable based on the evidence in the record of proceeding, the issues considered, and applicable law and policy. Moreover, we note that in that decision, in concluding that the petitioner established the proposed endeavor's national importance, we stated that the petitioner provided "probative expert letters from individuals holding senior positions in the military, government, business, and philanthropic organizations" that described the specific importance of the petitioner's proposed endeavor. The record here does not contain such specific, probative evidence to establish national importance.

The Petitioner's primary contention on appeal is that the Director generally disregarded the evidence in the record or did not properly consider it. In support, she largely restates arguments already presented in her initial brief and RFE response. In fact, much of the language in the Petitioner's appeal brief is identical to that in the RFE response. We have thoroughly reviewed the evidence in the record and conclude that although the Petitioner asserts that her proposed endeavor has national importance, she offers little corroborative evidence or explanation to support her claims. While the Petitioner provided a significant volume of evidence, eligibility for the benefit sought is not determined by the quantity of evidence alone but also the quality. *Matter of Chawathe*, 25 I&N Dec. at 376 (citing *Matter of E-M-*, 20 I&N Dec. 77, 80 (Comm'r 1989)). Accordingly, we conclude that the Petitioner has not established the national importance of her proposed endeavor.

The Petitioner has not established that her proposed endeavor has national importance, as required by the first prong of the *Dhanasar* analytical framework. Because the Petitioner has not met the requisite first *Dhanasar* prong, we conclude that the Petitioner has not established that she is eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or

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 the applicant is otherwise ineligible).

### III. CONCLUSION

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

**ORDER:** The appeal is dismissed.