



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

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

In Re: 25803065

Date: MAR. 17, 2023

**Appeal of Texas Service Center Decision**

**Form I-140, Immigrant Petition for Alien Workers (Advanced Degree, Exceptional Ability, National Interest Waiver)**

The Petitioner, a battery cell engineer, 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, concluding that the record did not establish eligibility for a national interest waiver under the Dhanasar framework. 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 sustain the appeal.

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;
- The individual is well-positioned to advance their proposed endeavor; and

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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).

- On balance, waiving the job offer requirement would benefit the United States.

The Petitioner qualifies for the underlying classification as an advanced degree professional. The evidence demonstrates he earned a Doctor of Philosophy degree from a U.S. university. On appeal, the Petitioner asserts that the Director did not analyze the Petitioner's evidence and provided generic language in a templated request for evidence (RFE) and final decision. We agree.

By a preponderance of the evidence, the Petitioner has established the substantial merit and national importance of his proposed endeavor. He provided a detailed and consistent statement of his endeavor, including the future research he proposes to undertake and how it has the potential to impact clean energy transportation and battery system safety. In addition, the Petitioner provided a sufficiently detailed explanation of how his past research added to a body of knowledge that has national or even global implications. He supported his statements with corroborating evidence, including a strong publication and citation history, as well as evidence that others have built upon the Petitioner's findings in furtherance of the field. Further, the Petitioner provided articles and reports that reinforced how his research would have broader implications and an impact rising to the level of national importance.

Based upon his education, knowledge, experience, and record of success in similar research, we also conclude the Petitioner sufficiently established that he is well positioned to advance the proposed endeavor. He described his plan for future research and supplemented this with credible details concerning his progress towards those initiatives, including the support his current employment position offers him in this area. Academic acquaintances and professionals in the field provided well-written and detailed accounts of the Petitioner's past and current work. In addition, the Petitioner is a named inventor on several patents related to his research.

The Petitioner established by a preponderance of the evidence that it would be beneficial for the United States to waive the requirements of a job offer and labor certification. We reviewed the totality of the evidence and conclude that, on balance, the importance and potential of his proposed endeavor work, his professional qualifications, and his demonstrated past success, combine to sufficiently establish that his prospective contributions will benefit the United States even if other qualified workers are also available. In summary, the Petitioner has adequately presented information and evidence to warrant foregoing the labor certification process.

The Petitioner has established he is eligible for and merits a national interest waiver.

ORDER: The appeal is sustained.