



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

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

In Re: 26399940

Date: MAY 2, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a business administrator, seeks second preference 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 immigrant 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 she 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. 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, 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 (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*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification 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 waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. As the Director determined that the Petitioner's endeavor has substantial merit but not national importance under the first prong of *Dhanasar*, we will only analyze whether the Petitioner's endeavor is of national importance. If the Petitioner does not meet the first prong, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the second and third prongs.

Although the Petitioner asserts on appeal that the Director's decision "contains numerous erroneous conclusions of both law and fact," she does not indicate where the Director misapplied law or policy in the decision. The Petitioner mainly contends that she has previously provided sufficient evidence to show the national importance of her proposed endeavor. We examined the record including the Petitioner's professional plan, articles and reports on small businesses and labor shortage, letters of recommendation, two expert opinion letters, and U.S. Bureau of Labor Statistics (BLS) occupational outlook report on the industry of administrative services. While we do not discuss each piece of evidence individually, we have reviewed and considered each one. Upon de novo review, we agree with the Director that the Petitioner did not demonstrate her endeavor satisfies the national importance element of *Dhanasar*'s first prong, as discussed below.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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.

The Petitioner's initial professional plan from September 2021 states that she proposes to work for companies in the United States to offer her services as a business administrator and help small and medium-size enterprises in the U.S. "to improve operations and achieve better productivity and profitability levels."

In response to the Director's request for evidence (RFE), the Petitioner submitted an updated professional plan that further elaborates and expands her proposed activities as a business administrator. The Petitioner states that she "will offer a wide range of services and solutions to organizations located in the U.S. to be more than a consultancy, to support and commit to the client in building customized solutions" and her endeavor "involves specific and high qualified work that is not commonly found, notably with the high degree of excellence." However, the proposed activities in her new professional plan entail typical work of a business administrator, such as planning and executing projects to produce profits, optimizing cost reduction, identifying and evaluating new

opportunities, promoting growth in operational results, carrying out people management, and monitoring macro actions and results to formulate business strategies.

The Petitioner claims that we should evaluate the prospective impact of her endeavor based on her past achievements and experience. The Petitioner further asserts the evidence demonstrates how she has contributed to success of businesses throughout her career by increasing sales and revenues, opening new business locations, and creating jobs. However, the Petitioner's knowledge, skills, education, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of her proposed work.

We reviewed the Petitioner's resume and letters of recommendation from her former co-workers. The authors of the letters praise the Petitioner's abilities as a business administrator, and the personal attributes that make her an asset to the workplace. While the recommendation letters evidence the high regard for the Petitioner and her work, they do not discuss the Petitioner's proposed endeavor or specific impact of her endeavor.

The Petitioner also submitted two expert opinion letters, one from [redacted] a professor at University of [redacted] School of Management, and [redacted] an associate professor of marketing at [redacted] University. [redacted] discusses the Petitioner's skills and abilities as a business administrator and speculates on how her services can potentially improve business practices and improve productivity of companies but does not offer any persuasive detail concerning the Petitioner's proposed endeavor or how her endeavor's impact would extend beyond companies that she will serve.

Similarly, [redacted] states that the Petitioner's proposed endeavor has significant potential to employ U.S. workers, especially in economically depressed areas of the United States, and that she will "implement her unique methods and strategies to increase U.S. business revenue by providing her expertise in entering the Latin American market." However, the Petitioner has not submitted that her proposed endeavor will employ U.S. workers in economically depressed regions or that she plans to specifically assist companies that enter the Latin American market. As such, these letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

The Petitioner further contends that her proposed endeavor is nationally important based on reports and articles about the industry in which the Petitioner proposes to work. The Petitioner explains that rapidly growing business consulting industry is facing a talent shortage, thus business and management professionals are integral to the business sector's success. The Petitioner also asserts that the United States government's initiatives regarding small businesses raise the national importance of her endeavor. We acknowledge that the Petitioner's work in business administration is in high demand and assisting small businesses to flourish has substantial merit. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. 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 "the specific endeavor that the foreign national proposes to undertake." *Id.* 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.* We 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.

The Petitioner contends that by providing business administration services to small and medium businesses to improve business strategies, gain business contracts, and increase administrative efficiencies in the United States would lead to “a series of attached causes/consequences” that would ultimately lead to significant potential to employ U.S. workers or substantial positive economic benefits. While any basic economic activity has the potential to positively impact the economy, the record does not demonstrate how working for a company or companies as an individual business administrator<sup>2</sup> generates such significant economic activity that rises to the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.*

Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, the Petitioner’s claims linking her proposed endeavor to “significant potential to maintain the U.S. workforce production at a fast pace,” “generation of revenue, creation, and support of U.S. jobs,” and “increasing tax revenues to the federal and state governments” are too attenuated to sufficiently show the proposed endeavor’s impact at a level commensurate with 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 find that while individual employer or company may benefit from her business services, she has not offered a sufficient explanation for how this individual benefit rises to the level of national importance or will impact the field more broadly. The Petitioner also does not suggest that her business techniques or innovations are unavailable in the United States or better than that which is already offered in the United States: “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* at 889. Accordingly, we find that the Petitioner has not established that her proposed endeavor has national importance.

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. As the identified reasons for dismissal are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “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).

---

<sup>2</sup> The Petitioner submitted as evidence a job offer email from  a data company that pays for work-from-home projects involving data collection and evaluation.

### III. CONCLUSION

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

**ORDER:** The appeal is dismissed.