



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

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

In Re: 27360942

Date: JULY 25, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a veterinary sonographer, seeks classification as a member of the professions holding an advanced degree or of exceptional ability. *See* 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 employment based second preference (EB-2) immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). 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 record did not establish 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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement would be in the national interest.

Whilst neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that USCIS may as a matter of discretion grant a national interest waiver of the job offer, and thus of the labor certification, to a petitioner classified in the EB-2 category if they demonstrate that (1) the noncitizen's proposed endeavor has both substantial merit and national importance, (2) the noncitizen is well positioned to advance the

proposed endeavor, and (3) that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

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

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether the noncitizen is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

## II. ANALYSIS

We will first address whether the Petitioner has established that a waiver of the job offer requirement, and thus of the labor certification, would be in the national interest.

The Director concluded that the Petitioner's substantially meritorious proposed endeavor did not rise to a level of national importance as required by the first prong of *Dhanasar*. The Director also determined that the Petitioner was not well positioned to advance their proposed endeavor. And the Director concluded that on balance of applicable factors, a waiver of the requirement of a job offer, and thus a labor certification, would not be beneficial to the national interest.

On appeal, the Petitioner contends that the Director erroneously denied the petition under the preponderance of the evidence standard and instead imposed "novel substantive and evidentiary requirements beyond those set forth in the regulations." The Petitioner specifically assigned error alleging that the Director did not "give due regard" to the business plan, "definitive statement," letters of recommendation, and industry report and articles they submitted into the record. They state on appeal that the evidence they submitted in the record prior to and at appeal demonstrated that the Petitioner meets all three prongs under the *Dhanasar* framework and merits a discretionary waiver of the job offer, and thus the labor certification, in the national interest.

## A. The Proposed Endeavor

In Part 6 of the initial petition, the Petitioner described their endeavor as a “veterinarian” who would “diagnose, treat, or research diseases and injuries of animals.”<sup>1</sup> Specifically, as described in their statements and their business plan, they would chiefly provide ultrasonography services supplemented by training activities, networking initiatives, and clinical research. The Petitioner described their endeavor as a “veterinary business” serving as a “technical reference center that will provide support to veterinary organizations and professionals carrying out ultrasound exams and other examinations aimed at animal diagnosis.” The Petitioner’s statement identified their endeavor’s main services as performing “ultrasonography abdominal exams” and “ultrasonography ophthalmic exams” on animals. The Petitioner’s business plan further explains that these “technical support services” would be performed at their clients’ locations utilizing their own equipment or equipment owned by their client, or at their own premises which is currently a single-family residence in [redacted] Florida. In essence, the Petitioner’s endeavor is to serve as a free-lance veterinary sonographer transitioning to eventually provide staffing services for veterinary organizations and professionals seeking personnel to carry out ultrasound exams on animals. The endeavor also comprises a “technical training unit” for the purposes of “training and qualification of technicians in ultrasound and other equipment and types of tests.” The endeavor will also attempt to expand their staffing services regionally and eventually to other places by serving to “support technicians network” by “forming a network of specialized service support providers to animal treatment referenced by” the Petitioner and their endeavor. And finally, the Petitioner’s endeavor proposes to have a research and development unit that will conduct research with scientific research entities, university, research centers, and specialized laboratories on “new techniques and technologies of support for animal treatment” with special research emphasis on developing “televeterinary” to provide remote and online veterinary services leveraging “the internet of things, machine learning, [and] artificial intelligence.”

In their response to the Director’s request for evidence (RFE), the Petitioner maintained that the thrust of their proposed endeavor was the provision of veterinary sonography services but also incorporated an entrepreneurial element whereby they would utilize “veterinary skills” in order “to further promote and develop” the administration, expansion, and management of their veterinary services company.

A petitioner must establish eligibility for the benefit they are seeking at the time the petition is filed. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc Comm’r 1998). The Petitioner’s extensive revisions here are troublesome. The activities of a veterinarian performing veterinary sonography are manifestly different than those of an entrepreneur building and growing a small business. Materially

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<sup>1</sup> The Petitioner has not provided any evidence in the record supporting their ability to practice as a veterinarian in the State of Florida. And the Petitioner’s education is a single source equivalent of a United States bachelor’s degree in veterinary medicine. It is customary in the United States for veterinarians to earn a doctor of veterinary medicine degree. There is no evidence in the record reflecting that the Petitioner has earned the single source equivalent of a United States doctor of veterinary medicine degree. So we observe the Petitioner’s claim of serving as a veterinarian with a degree of skepticism. We note this issue so that it can be addressed in any future immigration proceedings where the Petitioner’s occupation as a veterinarian is applicable. The analysis of the Petitioner’s endeavor under the first prong of the *Dhanasar* analytical framework is not influenced by the Petitioner’s claim to being a veterinarian.

different duties can tend to constitute a materially different endeavor and introduce ambiguities which prevent analysis into a proposed endeavor's substantial merit or national importance.

But the record here supports that the Petitioner's substantial additions to the proposed endeavor submitted in response to the Director's RFE described a manner or philosophy through which the Petitioner would carry out their duties of their proposed endeavor and not a different proposed endeavor. So the Petitioner's extensive revisions, whilst concerning, did not disrupt the character and nature of the proposed endeavor initially described by the Petitioner.

#### B. The Proposed Endeavor's Substantial Merit and National Importance

We agree with the Director's conclusion that the Petitioner has not sufficiently demonstrated the national importance of their proposed endeavor under the first prong of the *Dhanasar* analytical framework. To satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that their proposed endeavor has both substantial merit and national importance. This prong of the *Dhanasar* framework 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.

The record here supports the Director's determination that the Petitioner's proposed endeavor, which aims to address the health and well-being of animals and their owners, has substantial merit. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirements, we look to evidence documenting the "potential prospective impact" of their work. In determining national importance under *Dhanasar*, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "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.* The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit. And 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. Thus, it is not what duties or what occupation the noncitizen will fill or perform but their actual plan with their occupation and duties that is examined.

Although the evidentiary standard in immigration proceedings is the lowest preponderance of the evidence standard, the burden is on the Petitioner alone to provide material, relevant, and probative evidence to meet that standard. Section 291 of the Act, 8 U.S.C. § 1361. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998); see also the definition of burden of proof from *Black's Law Dictionary* (11th ed. 2019) (reflecting the burden of proof includes both the burden of production and the burden of persuasion). First, a petitioner must satisfy the burden of

production. As the term suggests, this burden requires a filing party to produce evidence in the form of documents, testimony, etc. that adheres the governing statutory, regulatory, and policy provisions sufficient to have the issue decided on the merits.

The evidence and argument the Petitioner introduced into the record does not help them carry their burdens of production and persuasion. In support of their claim that they can satisfy the first prong of the *Dhanasar* analytical framework, the Petitioner provided articles from media, professional, and industry publications that attempted to link the health and wellbeing of people with the health and well-being of their pets, the contributions of veterinarians to general public health, the existence of zoonotic diseases (those diseases that spread between animals and humans), and the importance of the agricultural sector of the United States economy. The Petitioner's RFE response introduced documentation and information about a general affinity for business development, entrepreneurialism, and small business advocacy along with a new "Definitive Statement" in an attempt to characterize their endeavor as nationally important. The Petitioner also submitted an expert opinion letter from Dr. [REDACTED] an assistant professor of shelter medicine at [REDACTED] of Health Sciences.<sup>2</sup>

USCIS may, in its discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, the submission of letters from experts supporting a petition is not presumptive evidence of eligibility. *Id.* The record does not establish Dr. [REDACTED] expertise regarding veterinary sonography. The record does not make clear how their experience and individual qualifications render them an industry expert such that their opinion could shed light on the national importance of the Petitioner's endeavor. More importantly, setting aside the authors' credentials, we observe that much of the letter's content lacks relevance when it comes to the evaluation of whether the Petitioner's work rises to the level of national importance. For example, the writer identifies a shortage of veterinarians and professionals who provide veterinary services but did not explain how the Petitioner's work would alleviate those shortages at a national level. In any event, labor shortages are better addressed by the labor certification process, which requires a petitioner to undertake a labor market test to evaluate whether there are sufficient able, willing, qualified and available U.S. workers for the job opportunity. The national interest waiver process is a discretionary waiver of the labor certification to address those endeavors performed by foreign nationals rising to a level of concern with implications to the national interest.

It is also unclear from the evidence in the record whether the work of a single veterinarian, veterinary sonographer, or veterinary sonography staffing entity, irrespective of its success or failure, would have a significant impact on the field beyond its immediate sphere of influence. The evidence in the record does not highlight how the prospective potential impact of the work of one professional or group of professionals in a veterinary sonography staffing entity could have broader implications implicating the national interest. The Petitioner tries to highlight the broader implications of their endeavor by linking it to the ubiquity of pet ownership across the United States as a whole. But, as we stated earlier, we do not view the broader implications of a proposed endeavor through a geographical lens. Whilst the health and welfare of pets and by extension their owners holds merit, the record does not sufficiently describe how the "ripple effects" of the accurate diagnosis of maladies in pets implicate

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<sup>2</sup> While we may not discuss every document submitted, we have reviewed and considered each one.

the greater national interest. The provision of veterinary services directly benefits only those individuals with pets availing themselves of the Petitioner's services. This is akin to how the benefit of someone's teaching is generally only directly beneficial to the students being taught and not the wider population. In *Dhanasar* we discussed how teaching would not impact the field of education broadly in a manner rising to national importance. *Dhanasar* at 893. By extension activities which only benefit a small subset of individuals and their pets, like the Petitioner's proposed veterinary sonography staffing entity, would not rise to a level of national importance. Neither provides any meaningful analysis of the endeavor's broader implications or potential prospective economic impact rising to the level of national importance. Similarly, the letters of recommendation containing testimonials of the services the Petitioner performed do not describe how the benefits they have received connect to broader implications rising to national importance or any nationally important economic impact.<sup>3</sup> In sum the record supports the conclusion that the potential impact of the endeavor of providing veterinary sonogram services (as an individual or employee of a veterinary sonography services company) would benefit only the pet and the owner engaging the service.

The record also contains insufficient evidence to support the positive economic effects the Petitioner expects will be realized by their proposed endeavor. The Petitioner roots the potential positive effects of their unrealized veterinary sonography endeavor, the [REDACTED] [REDACTED] in their potential for job creation and revenue generation. The Petitioner optimistically expects that the endeavor would realize total revenue of \$4,000,000 and an employee census of 250 people within five years of establishment. But the record contains insufficient documentation to support the Petitioner's projections. The record does not support any potential positive economic effects, such as beneficially addressing high unemployment in economically depressed areas in a manner meaningful enough to implicate the national interest and rise to the level of national importance.

The Petitioner also indicated in the record that a significant component of their endeavor would be a "technical training unit" for the purposes of "training and qualification of technicians in ultrasound and other equipment and types of tests" as well as an attempt to expand their staffing services regionally and eventually to other places by serving to "support technicians network" by "forming a network of specialized service support providers to animal treatment referenced by" the Petitioner and their endeavor. This veterinary sonography knowledge proliferation is akin to teaching activities. In *Dhanasar*, we considered a petitioner's teaching activities and concluded that teaching activities do not rise to the level of having national importance because they do not impact a field of endeavor more broadly than the immediate effect or influence on the cohort receiving the teaching. *See Dhanasar*, 26 I&N Dec. at 893. The record does not adequately support that the Petitioner's veterinary sonography knowledge proliferation through their training and qualification of professionals will have a impact on the field of veterinary sonography in the United States. The record does not have a cognizable or detailed plan for reaching an audience wider than the individuals it will purportedly hire and train in the future. Nor does the record illuminate how the Petitioner's support for a "technicians network" of professionals in the field would have impact beyond the group of professionals in the "network" and the individuals or entities they may serve.

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<sup>3</sup> Much of the documentation the Petitioner has submitted focuses on their individual accomplishments and expertise when attesting to the national importance and substantial merit of the proposed endeavor. It is important to note that the Petitioner's accomplishments and expertise are more relevant to the second prong of *Dhanasar*, which "shifts the focus from the proposed endeavor to the foreign national." *Dhanasar* at 889.

The manifest thrust of the Petitioner's claim of eligibility for the act of discretion to waive the requirement of a job offer, and thus a labor certification, in the national interest comes from the Petitioner's claims regarding their profession's importance, their past career as a veterinary sonographer in their home country, and their dedication to their field. But these attributes, critical as they may be for an endeavor's success, are not germane to the question of whether a proposed endeavor elevates to a position of national importance. We are not concerned with an individual petitioner when evaluating the first prong of the *Dhanasar* analytical framework; we are focused on the petitioner's proposed endeavor. The success of the endeavor, or attributes that could tend to make the endeavor more successful, are consequently not as important as determining whether the proposed endeavor itself stripped away from a petitioner, has attributes that would highlight the prospective positive impact of its broader implications or positive economic effects rising to a level of national importance. So we conclude that the Petitioner has not established that their proposed endeavor is of national importance.

### C. Well-Positioned to Advance the Proposed Endeavor

Since the Petitioner did not demonstrate the national importance of their proposed endeavor, the resolution of that issue by itself requires dismissal of their appeal. But since the Director's decision made specific conclusions about the Petitioner's eligibility under *Dhanasar's* second prong, we will discuss whether the Petitioner is well positioned to advance the proposed endeavor.

We agree with the Director's conclusion the Petitioner has not sufficiently demonstrated that they are well positioned to advance their proposed endeavor under the *Dhanasar* analytical framework's second prong. In evaluating whether a petitioner is well positioned to advance their proposed endeavor under *Dhanasar's* second prong, we review: (A) a petitioner's education, skill, knowledge, and record of success in related or similar efforts; (B) a petitioner's model or plan for future activities related to the proposed endeavor that the individual developed, or played a significant role in developing; (C) any progress towards achieving the proposed endeavor; and (D) the interest or support garnered by the individual from potential customers, users, investor, or other relevant entities or persons.

As stated above, a petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Y-B-*, 21 I&N Dec. at 1142 n.3. The record contains evidence of the Petitioner's education and presentations of academic work related to their field of endeavor individually and as a group. But simply having education, skills, and/or knowledge in isolation do not place a petitioner in a position to advance their proposed endeavor. This is only one factor amongst many factors which are evaluated together to determine how well positioned a petitioner is to advance a proposed endeavor. We agree with the Director that It is not clear from the totality of the evidence in the record how an individualized consideration of the multifactorial analysis under *Dhanasar's* second prong would demonstrate how well positioned the Petitioner is to advance their proposed endeavor.

For example, the Petitioner's business plan identified a target audience for their proposed endeavor and listed a variety of way in which they would engage with their target audience over social media. But a social media marketing plan to engage with pet owning individuals did not demonstrate a model for the actual activities that the Petitioner has developed or played a significant role in developing to

advance their proposed endeavor. The business plan instead only placed heavy emphasis on what the Petitioner had done in their past and their qualifications to continue the same activities in the future. The record simply does not reflect any progress to achieving the proposed endeavor.

And the record does not reflect how the Petitioner's prior activities as described in the recommendation letters is either a similar effort as that of their proposed endeavor or how it constitutes a record of success. And the recommendation letters the Petitioner submitted are not material, relevant, or probative evidence in the record of interest or support in the endeavor the Petitioner proposed in their petition. Whilst they speak generally of the Petitioner's realization of certain objectives and skill in their field, they do not identify any recognition, achievements, or significant contributions to their field that tend to reflect that the Petitioner is well-positioned to advance their endeavor.

We note that the Petitioner intends, at least initially, to house their endeavor's operations in a single-family residence in [redacted] Florida of approximately 1,800 square feet. The Petitioner's endeavor anticipates a highly aggressive growth strategy which will eventually employ 250 people.<sup>4</sup> The record does not contain any evidence other than an oblique statement that operations would be in an "appropriate" venue at some unspecified time in the future ostensibly acknowledging that 250 people could not work out of a single-family residence. But the Petitioner's business plan does contemplate the veterinary sonographer(s) providing services at client sites and also at the single-family residential location in [redacted] Florida. Taking into account the need for medical equipment (even if compact), zoning considerations, parking for support employees and patients, as well as health and safety requirements it is unclear in the record how any veterinary sonography services could legally be provided from the single-family home.

So the Petitioner has not demonstrated with material, relevant, and probative evidence that they are well-positioned to advance their proposed endeavor.

#### D. Categorical Eligibility for Employment Based Second Preference

Upon a de novo review of the record, we will withdraw the Director's conclusion that the Petitioner demonstrated that they were an advanced degree professional eligible for classification as an employment based second preference immigrant.

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree. The record contains a credential evaluation equating a combination of the Petitioner's education and progressive work experience to a U.S. doctor of veterinary medicine degree. In order to be eligible under section 203(b)(2), 8 U.S.C. § 1153(b)(2)(A), the Petitioner must have a single degree that is the "foreign equivalent degree" to a United States master's degree or a single degree that is the "foreign equivalent degree: to a United States baccalaureate degree plus five years of progressively responsible work experience. So the credential evaluation is not probative to establish

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<sup>4</sup> The record contains expressions of intent to eventually employ 250 people or 34 people as part of the proposed endeavor in different documents in the record. These inconsistencies raise reasonable questions about the veracity of the Petitioner's contentions as a whole because of how fundamental the number of projected employees is to a proposed business endeavor. See *Matter of Ho*, 19 I&N Dec. 582 at 591 ("Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition").



the Petitioner's categorical eligibility for classification as a employment based second preference immigrant.

The record contains the Petitioner's bachelor of veterinary medicine degree issued by the [redacted] University [redacted] in Brazil after a four year course of study. The Educational Database for Global Education (EDGE), maintained by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), reflects that baccalaureate degrees earned after a four or five year course of study in Brazil are the single source equivalent to a United States bachelor's degree.

But the work experience letters contained in the record are not sufficient to evaluate whether the Petitioner has gained at least five years of progressively responsible post-baccalaureate work experience in the specialty. The Petitioner identifies their profession as that of a veterinarian. The work experience letters do not contain a sufficient description of the duties the Petitioner performed in their post baccalaureate work experience. If we cannot determine what work the Petitioner performed and whether it was in the Petitioner's field of specialty, we cannot conclude that the Petitioner is an advanced degree professional as a non-citizen who has earned a single source bachelor's degree in a field of specialty with at least five years progressively responsible post-baccalaureate work experience in the specialty.

And the record contained insufficient evidence to evaluate the Petitioner's eligibility for EB-2 classification as an individual of exceptional ability. The Petitioner should be prepared to address their categorical eligibility for EB-2 classification in any future proceedings requiring a petitioner to demonstrate eligibility as an advanced degree professional or individual of exceptional ability.<sup>5</sup>

### III. CONCLUSION

Because the Petitioner has not met the requisite first or second prong of the *Dhanasar* analytical framework, we conclude that they do not merit a favorable exercise of discretion to waive the requirement of a job offer, and therefore a labor certification. We further withdraw the Director's conclusion that the Petitioner established that they were an advanced degree professional eligible for classification as an immigrant in the EB-2 category. We reserve the issue of whether the Petitioner demonstrated eligibility under the remaining prong of the *Dhanasar* analytical framework respecting whether, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. See *INS v Bagamasbad*, 429 U.S. at 25 and *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

In immigrant petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

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<sup>5</sup> As the resolution of the issues pertaining to the Petitioner's eligibility for a waiver of the job offer requirement, and thus of a labor certification, under the *Dhanasar* analytical framework are dispositive of this appeal, further investigation and analysis of the Petitioner's categorical eligibility for EB-2 classification by issuing a request for evidence would serve no legal purpose.