



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

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

In Re: 24993445

Date: MAR. 10, 2023

Appeal of Texas Service Center Decision

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

The self-Petitioner, a “food innovation consultant,” seeks immigrant visa classification as a member of the professions holding an advanced degree and a waiver of the category’s normal job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to forgo the job-offer requirement if a waiver is “in the national interest.” *Id.*

The Director of the Texas Service Center denied the petition. While finding the Petitioner qualified for the requested visa category as an advanced degree professional, the Director concluded that she did not establish her proposed U.S. employment to be in the national interest. On appeal, the Petitioner asserts that the Director misapplied the standard of proof and disregarded evidence.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with the Director that the Petitioner did not demonstrate the required “national importance” of her proposed work. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a noncitizen petitioner must first demonstrate their qualifications for the underlying immigrant visa category, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. In this category, a U.S. employer must normally seek a noncitizen’s services and obtain U.S. Department of Labor certification to permanently employ them in the country. Section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). To avoid the need for a job offer/labor certification, a petitioner must demonstrate that waiving the requirement is in the national interest. Section 203(b)(2)(B)(1) of the Act.

Neither the Act nor regulations define the term “national interest.” But we have established a framework for adjudicating requests for national interest waivers. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If a noncitizen otherwise qualifies as an advanced degree professional or

an individual of exceptional ability, USCIS may waive the job-offer/labor certification requirement if the petitioner establishes that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well-positioned” to advance their proposed endeavor; and
- On balance, a waiver of the normal job-offer/labor certification requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner, a native and citizen of Venezuela, earned university degrees in chemical engineering and “agrofood chain studies.” She worked as a researcher for a food institute and has advised food companies on their products and operations. She proposes to help small U.S. food businesses focus on their customers and introduce safer, healthier products. In 2020, before filing this petition, she established her food consultancy in the United States and submits evidence that it already has clients.

A. The Requested Immigrant Visa Classification

The record supports the Petitioner’s qualifications as an advanced degree professional. She demonstrated that her profession requires an advanced degree and her possession of the foreign equivalent of a U.S. master’s degree in agriculture. *See* 8 C.F.R. § 204.5(k)(2) (defining the term “advanced degree” to include the foreign equivalent of a U.S. academic degree “above that of baccalaureate”).

B. Substantial Merit

To determine whether a noncitizen’s proposed U.S. work has substantial merit, USCIS focuses on the specific, planned endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 889. Petitioners may demonstrate merit in a variety of fields, including business and health. *Id.* USCIS favorably considers “[e]vidence that the endeavor has the potential to create a significant economic impact.” *Id.*

The Petitioner submitted a business plan indicating that, by its seventh year of operation, her consultancy would employ six people, have 68 small-enterprise clients, and generate revenues of about \$425,000. She also provided a letter from a U.S. emeritus professor of food science stating that the Petitioner’s proposed endeavor would further the joint goal of the U.S. Department of Agriculture, Environmental Protection Agency, and Food and Drug Administration to cut U.S. food waste in half by 2030, reducing environmental damage and improving food security. Further, a local college indicated its intent to hire the Petitioner to teach and train food business owners on food innovation, sustainability, and technologies. Thus, the record shows that the Petitioner’s plan could provide economic and health benefits. We therefore agree with the Director that her proposal has substantial merit.

C. National Importance

In determining whether a proposed endeavor has national importance, USCIS considers “its potential prospective impact.” *Id.* An endeavor may have national importance “because it has national or even global implications within a particular field, such as certain improved manufacturing processes or medical advances.” *Id.* A finding of national importance may also reflect “significant potential to employ U.S. workers” or “other substantial positive economic effects, particularly in an economically depressed area.” *Id.*

The Petitioner contends that her evidence specifically addresses the national importance of her proposed endeavor. She stated that her consulting would redirect the research and development budgets of U.S. food companies into consumer-centered products, lowering the businesses’ risks of investment and boosting their sales. She said her work would also encourage U.S. companies to incorporate waste prevention measures into their production processes and produce healthier food. The Petitioner’s business plan states that, in the wake of business closings and disruptions caused by the COVID-19 pandemic, her company’s work would help U.S. small businesses adapt and survive future disruptions.

As previously indicated, we agree that the Petitioner’s proposed activities have merit. But she has not demonstrated that the potential impact of her specific plan has significant regional or national implications. Her seventh-year projections of six employees and revenues of \$425,000 do not indicate a substantial, economic impact on the United States or her region. Also, as the Director found, the company’s federal income tax returns for 2020 and 2021 report no salary or wage payments, indicating that the business has no employees. The 2021 return also reports revenues of about \$200,000 and net income of less than \$20,000. Thus, the company’s financial records do not indicate that it has significant potential to economically impact the region or country. We recognize that the Petitioner’s consulting activities might help her small business clients increase their revenues and employee numbers. But the record lacks sufficient evidence that these gains would be significant enough to establish her proposed endeavor’s national importance.

The professor’s letter states that the Petitioner’s consulting activities would help small U.S. food producers and distributors: adapt to growing demands for sustainable and environmentally friendly products; achieve greater success in the wake of the COVID-19 pandemic; and financially grow and expand their operations, leading to the employment of more U.S. workers and other positive economic benefits. The professor said the Petitioner’s endeavor would also significantly benefit the American people by helping to bring higher-quality, cheaper, and more sustainable food products to market and improving the population’s health. The letter states that promotion of sustainable products can also help: preserve animal species and their habitats; reduce greenhouse gas emissions; and minimize the effects of global environmental change.

We agree that the Petitioner’s proposed activities would potentially help achieve these worthy goals. But, under *Dhanasar*, the first national interest prong - substantial merit and national importance - “focuses on *the specific endeavor*” and requires USCIS to consider the potential prospective impact of “*the proposed endeavor*.” *Matter of Dhanasar*, 26 I&N Dec. at 889 (emphasis added). The professor’s letter does not sufficiently demonstrate that the Petitioner’s specific proposed endeavor - alone - has significant potential to employ U.S. workers or has other substantial positive economic and

health effects. The record also does not demonstrate that the Petitioner's specific work would introduce improved processes or advances in the food industry or in the field of food innovation.

The local college's proposal to hire the Petitioner as a teacher also does not demonstrate her endeavor's national importance. As we found when considering a teaching proposal in *Dhanasar*, "the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of [food innovation] more broadly." *Matter of Dhanasar*, 26 I&N Dec. at 893.

For the foregoing reasons, the Petitioner has not established the national importance of her proposed endeavor. Because she does not meet the first prong of *Dhanasar*'s national interest waiver test, we need not consider her qualifications for the remaining two. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("[A]gencies are not [generally] required to make findings on issues the decision of which is unnecessary to the results they reach."). We will therefore reserve consideration of the remaining national interest criteria.

III. CONCLUSION

The Petitioner demonstrated her qualifications as an advanced degree professional and that her proposed food consulting activities in the United States have substantial merit. But she did not establish the national importance of her proposed endeavor.

ORDER: The appeal is dismissed.