



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

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

In Re: 22244369

Date: MAY 17, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an architect, seeks classification as a member of the professions holding an advanced degree. 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 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. The Director concluded the Petitioner qualified as an advanced degree professional, but further determined she did not demonstrate her proposed endeavor would be in the national interest of the United States. The Director also concluded that the Petitioner did not establish she was well positioned to advance her proposed endeavor or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. 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

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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 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;

---

<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 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, a citizen of Argentina, indicated she was a member of the professions holding an advanced degree because she earned a master's degree in architecture and urbanism, and a bachelor's degree in architecture and urbanism, and was currently earning a second master's degree in architecture. The Petitioner also stated she had been a licensed architect and urbanist in Brazil since 2011, and an AIA International Associate since 2018.

In the initial petition, the Petitioner explained that her architectural skills will "implement many benefits to the U.S." such as providing more "affordable housing for young/older/poorer residents," and would "improve education and training program for U.S. children through her knowledge of art and design." The Petitioner also stated that student enrollment in architecture studies is decreasing, and that the need for architects is growing. Further, in the Petitioner's view, the field of architecture is vital to improve national development and help the economy through risk management and growth of areas in the United States. The Petitioner provided letters of support evidencing she is well positioned to advance her endeavor through her skills, knowledge, education, and experience.

The Director issued a request for evidence (RFE), noting an endeavor as an architect has a substantial merit, but requested a detailed description of the Petitioner's proposed endeavor and how it would be of national importance to the United States. In response, the Petitioner submitted an analysis impact report that explained the Petitioner would specialize in healthcare architecture for [REDACTED] [REDACTED] where she would work on projects to make hospitals pleasant and functional for patients and staff and prepare those facilities to handle the COVID-19 pandemic and Florida's aging population. The report also stated the Petitioner will offer consulting services to other architects on healthcare projects regarding the Florida's building codes and standards for those types of facilities. Further, the Petitioner will utilize her experience with hurricane-resistant structures to build resilient architecture and reconstruction solutions, which would provide a substantial economic effect by lowering the cost of loss due to hurricane damages in Florida.

The Analysis Impact Report submitted by the Petitioner names her objectives as follows, in verbatim:

- Assist in planning and designing the U.S.'s healthcare facilities to face the challenges brought by COVID-19 and future emergencies.
- Contribute towards the U.S.'s expansion efforts into the areas of STEAM (Science, Technology, Engineering, Arts and Math).
- Continue to carry out research that will contribute to improved urban design and architecture in [REDACTED] and the rest of Florida.
- Contribute to the health of Floridians by providing sound consulting on healthcare architecture.
- Help the state's residents and business people reduce the cost of natural disasters through her knowledge of disaster-resilient architecture.
- Support the U.S. in lowering its \$1.75 trillion loss due to damages from weather and climate disasters between 1980-2019.

In denying the petition, the Director determined the Petitioner did not adequately demonstrate the national importance of her work, reasoning she did not establish that her work would have implications beyond the individual clients she would serve. In addition, the Director noted the proposed endeavor changed in response to the request for evidence and included details and plans that were not present at the time of filing such as a new position title with a new company, and a proposed endeavor dealing with COVID-19 issues, but the pandemic was not in existence at the time of filing. On appeal, the Petitioner largely reiterates her prior assertions, again reiterating her proposed endeavor as outlined in the analysis impact report submitted in the response to the Director's RFE.

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.

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." *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.* 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.

First, as noted by the Director, the Petitioner has not sufficiently articulated what her proposed endeavor in the United States would be. To contrary, the Petitioner has provided varying descriptions of her proposed endeavor. For instance, in the initial petition the Petitioner stated she would utilize her architectural skills to provide more "affordable housing for young/older/poorer residents," and "improve education and training program for U.S. children through her knowledge of art and design." However, by the time of her response to the RFE, the Petitioner was employed in a new architectural firm and stated that she would specialize in healthcare architecture and would work on hospital design. Further, it was in response to the RFE that the Petitioner first stated she would work on disaster-resilient architecture to reduce the cost of losses due to natural disasters in Florida. Moreover, although the Petitioner indicated in response to the RFE her proposed endeavor as healthcare architecture, a letter from the President of her new employer stated that during her employment she worked on many projects including hospitals, office buildings, and higher education buildings. Thus, it is not entirely clear if the Petitioner will solely focus on healthcare architecture as outlined in the submitted impact analysis report. Therefore, in sum, because the Petitioner has not submitted a clear proposed endeavor, we cannot conclude that it would have national importance as defined by *Dhanasar*. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. Although the Petitioner's statements reflect intentions to provide architecture consulting and design services to healthcare facilities and hurricane resistant solutions to clients, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed

endeavor rises to the level of 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. *Dhanasar*, 26 I&N Dec. at 893. Here, the record does not show that the Petitioner’s proposed endeavor stands to sufficiently would extend beyond her clientele, and it is not sufficiently clear in what field her ambiguous business plans would have an impact. As such, the Petitioner has not demonstrated that her proposed endeavor, even if sufficiently clear, would have a broad influence commensurate with national importance.

The Petitioner has also not demonstrated that the endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. The Petitioner will work for an architecture firm and does not indicate that her proposed endeavor will employ individuals. The Petitioner does not establish the benefits to the regional or national economy that would result from her undertaking such that it reaches the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, the Petitioner did not offer sufficient evidence to demonstrate that the areas where she would operate are economically depressed, she would employ a significant population of workers in these areas, or her endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue. Accordingly, the Petitioner’s proposed endeavor does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish 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. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner’s arguments with respect to the second and third prongs outlined in *Dhanasar*. 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 an applicant is otherwise ineligible).

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude 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.

S