



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

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

In Re: 28819098

Date: NOV. 29, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a human resources consultant, 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, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner 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 a member of the professions holding an advanced degree 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 is in the national interest.

While 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, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial

merit and national importance; (2) that 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. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

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 a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as a plan “to work as a [h]uman [r]esources and [t]alent [m]anagement [c]onsultant for her own U.S. company where she will implement her very own program . . . focused on the management of hotel employees.” She also stated that her “endeavor aims to serve the U.S. hotel industry, which is one of the industries that has suffered the most due to the devastating effects of the COVID-19 pandemic.” She added that her “endeavor will contribute towards the recovery of a sector that accounts for \$74 billion of wages and salaries paid to Americans, supporting \$335 billion in total labor income in the U.S.” because “hotel operations and guest spending supported 8 million U.S. jobs, including 4.5 million direct jobs.” The Petitioner submitted a list of exhibits, indicating in relevant part that her initial submission included a business plan. The document in the record, corresponding to the exhibit number referenced in the list of exhibits, appears to be a PowerPoint presentation written in a language other than English, accompanied by a certified translation. The translated document indicates that it is a “training program,” not a business plan, and it contains pedagogical information, not the type of plans to operate a business that a business plan would contain.

In response to the Director’s request for evidence (RFE), the Petitioner submitted, in relevant part, two documents titled “proposed endeavor statement,” dated January 2023, and an undated “updated personal statement.” However, neither document appears reliable or sufficient. Both documents end with the Petitioner’s typed name, immediately preceded by an image of a signature. However, both images of a signature appear to be identical, fuzzy and pixelated, light gray boxes not matching the white color of the remainder of the respective pages, and the rectangular boxes appear to crop the edges of fuzzy, pixelated images on both the top and bottom margins. Because the purported signatures on the documents titled “proposed endeavor statement” and “updated personal statement” appear to be fuzzy and pixelated images of signatures that could have been affixed to the documents by any person using a word processor, rather than by the Petitioner as the documents indicate, they cast substantial doubt that the individual who created the documents is the Petitioner and, thus, that the Petitioner expresses the information they contain. That doubt undermines both the reliability and sufficiency of those documents and of the record in general. *See Matter of Ho*, 19 I&N Dec. 582, 591

(BIA 1988) (“Doubt cast on any aspect of [a] petitioner’s proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.”); *see also* 8 C.F.R. § 103.2(a)(2) (describing “an acceptable signature” on a physically submitted document, in relevant part, as “one that is . . . handwritten”).

Also in response to the Director’s RFE, the Petitioner submitted a brief that references the “proposed endeavor statement” and “updated personal statement.” However, because the documents do not appear to be reliable or sufficient, the Petitioner’s references to those documents and the information they contain bear similarly reduced reliability and sufficiency.

The Director concluded that “the [P]etitioner’s proposed endeavor . . . has substantial merit.” However, the Director found that the Petitioner “has not established that her proposed endeavor has implications beyond her current employer (or prospective employer or self-owned company), their business partners, alliances, and/or clients/customers and her prospective co-workers/employees or workplace at a level sufficient to demonstrate the national importance of her endeavor,” as required by the first *Dhanasar* prong. *See Dhanasar*, 26 I&N Dec. at 888-91. The Director further concluded that the record did not satisfy the second and third *Dhanasar* prongs. *See id.*

On appeal, the Petitioner reasserts that the documents titled “proposed endeavor statement” and “updated personal statement,” submitted in response to the Director’s RFE and discussed above, demonstrate that the proposed endeavor has national importance. The Petitioner also states on appeal that “ample evidence was provided with the initial petition to demonstrate that that [sic] the Petitioner’s proposed endeavor was correctly stated and that it is of national importance.” The Petitioner reiterates on appeal that the proposed endeavor:

will contribute to the hotel sector, one of which has suffered the most due to COVID-19 pandemic, industry that is expected to reach pre-covid [sic] levels later than 2023, while on the other hand, her endeavor will contribute towards the recovery of a sector of \$74 billion of wages and salaries paid to Americans.

The Petitioner also references on appeal documents in the record that provide generalized information regarding the hotel industry, employment, human resources, and the U.S. economy.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

We first note that the reliability and sufficiency of the documents titled “proposed endeavor statement” and “updated personal statement,” submitted in response to the Director’s RFE, are undermined for the reasons discussed above. *See Matter of Ho*, 19 I&N Dec. at 591. Moreover, the doubt cast by

those documents undermines the reliability and sufficiency of the remaining evidence in the record. *See id.*

We next note that, even to the extent that the information in the record may be deemed reliable and sufficient, the generalized information in the record that the Petitioner references on appeal are immaterial to determining whether the proposed endeavor may have national importance. As noted, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work. Instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. Because the documents in the record that provide generalized information regarding the hotel industry, employment, human resources, and the U.S. economy do not discuss the Petitioner, the specific endeavor that she proposes to undertake, and how the proposed endeavor may have national importance, they are immaterial to determining whether the proposed endeavor may have national importance. *See id.* Relatedly, although the Petitioner asserts that her endeavor will “contribute to” the generalized hotel industry, and although she provides general information regarding industrywide economic estimates, the record does not quantify the extent to which the proposed endeavor will “contribute to” those industrywide economic estimates.

The record establishes that the Petitioner’s proposed endeavor of founding a hotel human resources consulting company and providing human resources consulting services to hotels may benefit the Petitioner, as the owner and operator of the consulting company; the potential, unidentified clients to whom the Petitioner may provide consulting services; and those clients’ employees and hotel guests. However, the record does not establish that the specific endeavor that the Petitioner proposes to undertake has national importance, as required by the first *Dhanasar* prong. *See id.* As noted above, the document the Petitioner identifies as a “business plan” instead appears to be a PowerPoint presentation and the English translation of that document in the record bears pedagogical information, not the type of plans to operate a business that a business plan would contain. The record does not otherwise contain reliable, sufficient evidence of plans for operating the proposed hotel human resources consulting company with information such as the location in which the company would operate, the number of employees—if any—the Petitioner’s company would hire, the workplace for those employees, and the wages the Petitioner’s company would pay those employees. Relatedly, the record does not contain reliable, sufficient evidence of the locations in which the company’s consulting clients would operate, the number of employees—if any—the consulting clients would hire as a result of the Petitioner’s consulting services, the workplaces for those employees, and the wages the consulting company’s clients would pay those employees. Without more, reliable, sufficient information, the record does not establish how the proposed endeavor may have broader implications, such as “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90. In turn, although the record contains pedagogical information about the Petitioner’s training program, it does not establish how the specific endeavor that the Petitioner proposes to undertake may have “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *See id.* at 889.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong.

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 the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.