



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

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

In Re: 34870466

Date: DEC. 20, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a manager within the field of cartography, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this 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 while the Petitioner established his eligibility for the underlying EB-2 classification, he 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 pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (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,¹ grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

¹ *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director found that the Petitioner qualified for the underlying EB-2 visa classification as an advanced degree professional.² The matter before us is whether the Petitioner has established the national importance of the proposed endeavor. Upon review, we conclude that it does not.

The Petitioner's proposed endeavor, [REDACTED] as described by a business plan submitted with the Petitioner's response to the Director's request for evidence (RFE), is to "develop a geostatistical information system (GIS) for local management" and to "provide consulting, advisory, and instruction services for developing geographic and statistical information systems at a local scale." Per this business plan, the proposed endeavor's intent is "to facilitate decision-making on complex planning problems ... based on the diagnosis, monitoring, control, and execution of public policies with the support of information technologies (IT)."

The Director concluded that while Petitioner had established the substantial merit of his proposed endeavor, he had not demonstrated its national importance and had not shown that it would be beneficial to the United States to waive the requirement of a job offer, and thus a labor certification.³ Upon de novo review of the record, the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The first prong of *Dhanasar*, substantial merit and national importance, 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

On appeal, the Petitioner first asserts that the proposed endeavor is of national importance because it would contribute data complementing current Federal data collection mechanisms, optimize Federal resources of "vital importance," and provide important and timely data to a variety of state, local, and private resources. He explains that the proposed endeavor could provide GIS data that complements data captured in national surveys such as the American Community Survey (ACS) and the decennial Census, providing timely data for areas with fewer than 10,000 inhabitants, data that he asserts is not currently available in the ACS and the Census. The Petitioner further argues that the proposed endeavor could optimize resources currently used by Federal agencies such as the Federal Aviation Administration (FAA), the Centers for Disease Control and Prevention (CDC), and the U.S. Department of Transportation (DOT), among others.⁴ In addition, the Petitioner asserts that the proposed endeavor could provide timely data to state and local agencies to assess the need for essential services; to researchers, non-governmental and non-for-profit organizations; and to emergency

² The Director did not reach the matter of whether the Petitioner established eligibility for the underlying EB-2 classification as an individual of exceptional ability.

³ The Director determined that the Petitioner established he was well positioned to advance the proposed endeavor.

⁴ The Petitioner notes that the CDC currently uses geospatial data resources organized into topic areas such as "Public Health Resources" and "GIS Data," while the DOT's current GIS shows that DOT considers GIS a valuable tool.

planners to “provide essential characteristics” of a population displaced by a natural disaster, among others. 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.” *Matter of Dhanasar*, 26 I&N Dec. at 889. 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, the Petitioner does not explain how the proposed endeavor would expand to provide services to these prospective clients nor is it apparent from the business plan. Further, the record lacks other evidence, such as letters from interested government agencies or quasi-governmental entities with expertise in the proposed endeavor, that might establish the broader impact of the proposed endeavor.⁵ Absent sufficient documentary evidence of the proposed endeavor’s broader impact, it does not meet the “national importance” element of the first prong of the *Dhanasar* framework. *Id.*

Next, the Petitioner contends that because the proposed endeavor was “configured as a social and non-profit initiative,” it is of national importance.⁶ In support of this contention, the Petitioner references our finding in *Dhanasar* that “[e]vidence that the endeavor has the potential to create a significant economic impact may be favorable but is not required, as an endeavor’s merit may be established without immediate or quantifiable economic impact.” *Id.* However, this relates to establishing the substantial merit of the proposed endeavor, rather than to its national importance.

The Petitioner further argues that as a non-profit initiative, the proposed endeavor aligns with national initiatives as it “represents an inclusive and equitable process with the US population, consistent with the R&D priorities of various agencies.” The record includes a White House memo highlighting FY 2023 research and development priorities which, per the Petitioner, indicates the importance of workforce development in STEM areas as well as the importance of providing the results of research and development data to the public. The Petitioner also notes that the Biden-Harris Administration has emphasized the important role that community-based science and technology practitioners play in making a “robust STEM ecosystem.” While these government priorities indicate the importance of inclusivity in STEM fields, the record lacks evidence showing that the government has a particular interest in the Petitioner’s proposed endeavor. Merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. When determining whether the proposed endeavor has national importance, the relevant question is not the importance of the field, 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.* Thus, while we acknowledge the importance of inclusivity in STEM fields, this fact alone is insufficient to establish the national importance of the Petitioner’s proposed endeavor.

In addition, the Petitioner asserts that the proposed endeavor is of national importance as it has a “detailed scope in Data processing and analysis techniques,” directly linking it to advanced computing, an area of critical and emerging technology identified on the U.S. National Science and Technology Council’s updated list of critical and emerging technologies. USCIS recognizes the importance of progress in STEM fields, especially in focused critical and emerging technologies or other STEM

⁵ See generally 6 USCIS Policy Manual F.5(D)(3), <http://www.uscis.gov/policymanual>.

⁶ We note that, in an apparent contradiction to this assertion, the record includes the proposed endeavor’s Articles of Organization establishing it as a limited liability corporation.

areas important to U.S. competitiveness or national security.⁷ A STEM area may be important to competitiveness or security in a variety of circumstances, if, for example, evidence shows that the proposed endeavor will help the United States to remain ahead of strategic competitors or current and potential adversaries, or how it relates to a field, including those that are research and development-intensive industries, where appropriate activity and investment, both early and later in the development cycle, may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners.⁸ However, the Petitioner does not offer evidence sufficient to explain or otherwise demonstrate the proposed endeavor's importance to U.S. competitiveness and national security in a manner that may reflect its national importance.

Finally, the Petitioner argues that the national importance of the proposed endeavor is "related to the urgency of its application to the field of study." Specifically, he contends that, due to increasing demand for, and labor shortages in, the fields of STEM, the United States may "lose[e] leadership in technological areas that are key to the country's development." The Petitioner offers a general discussion of the important role that immigrants could play in the United States economy in addressing these shortages and points to statements suggesting that fewer Americans are specializing in STEM fields. He then references statistics from the Bureau of Labor Statistics indicating an increase in labor demand in STEM fields and asserts that the proposed endeavor could address these shortages. However, the Petitioner has not offered evidence sufficient to establish how the proposed endeavor would affect national employment levels in the field of cartography, STEM fields, or the U.S. economy more broadly consistent with national importance. Further, it is important to note that the shortage of professionals alone does not render the Petitioner's proposed endeavor nationally important under the *Dhanasar* framework. Rather, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. This identified reason for dismissal is dispositive of the Petitioner's appeal, and thus, we decline to reach and hereby reserve remaining arguments concerning his eligibility under the third prong of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

⁷ See 6 USCIS Policy Manual, *supra*, at F.2.

⁸ *Id.*