



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

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

In Re: 29547473

Date: JAN. 25, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a project management specialist, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, 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 Acting Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that a waiver of the classification's job offer requirement, 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.

Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that his proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. at 884. Because this identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining *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).

## 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 is in the national interest.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.<sup>1</sup> 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,<sup>2</sup> 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
- On balance, waiving the job offer requirement would benefit the United States.

## II. ANALYSIS

The Director determined that the Petitioner was a member of the professions holding an advanced degree.<sup>3</sup> The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner states that he has more than 20 years of experience in strategic planning and management, including for the Brazilian government, focusing on "project management in the environment and town planning fields." He states that his experience includes "team leadership, organizational consulting, environmental preservation projects, urbanism and town planning initiatives, budgetary, financial and people management." His proposed endeavor is to "advance [his] career in project management, focusing on the Environmental, Urbanism, and related fields." The Petitioner proposes to offer the following services to U.S. companies:

- Create innovative and effective solutions for urban and environmental problems common in American cities, improving welfare.
- Plan and promote initiatives to improve traffic, leisure areas, and the better use of natural resources, benefitting citizens and enabling economic growth.
- Provide management strategy, for huge projects, ensuring proper deployment while diminishing the impact on society's routine.

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<sup>1</sup> Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

<sup>2</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).

<sup>3</sup> The record demonstrates that the Petitioner holds the equivalent of a U.S. master's degree awarded in 2022. *See* 8 C.F.R. § 204.5(k)(3)(i)(A).

- Support U.S. companies in the infrastructure and urbanism fields to establish their objectives by creating adequate solutions to meet government standards and requests concerning environmental issues, ensuring the success of the project and the economy.
- Develop and implement effective training programs to educate other professionals in the project management field.

With the initial filing the Petitioner submitted evidence of his education and experience, a personal statement describing his proposed endeavor and claimed eligibility for a national interest waiver, as well as recommendation and support letters, an expert opinion letter, and evidence of his accomplished projects. He also submitted evidence of U.S. government initiatives highlighting infrastructure, transportation and environmental protection, as well as articles and industry reports discussing the demand for and shortage of project management professionals.

Following initial review, the Director issued a request for evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence in attempt to establish his eligibility for the national interest waiver. The Petitioner's response to the RFE includes an updated personal statement, additional academic records, and copies of evidence previously submitted.

In his updated personal statement, the Petitioner states that he will offer his services as project manager or consultant to companies, universities, and local, state, and federal governments. He states that he intends "to bring effective solutions to common urban problems, planning and deploying complex projects successfully, to avoid delays and unnecessary expenses [to] stimulate urban development with environmental preservation, attending to urgent demand from the federal, state, and local government, in favor of the development of economy and infrastructure."

After reviewing the Petitioner's RFE response, the Acting Director determined that the Petitioner had established that he is well-positioned to advance his proposed endeavor and that he submitted sufficient evidence to demonstrate that his proposed endeavor has substantial merit. However, she concluded that the Petitioner had not demonstrated that his proposed endeavor had national importance, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of the labor certification. The Acting Director determined that the record did not demonstrate that the Petitioner's business will have a regional or national impact at a level consistent with having national importance, or that the Petitioner's work will have broader implications in his field of endeavor, going beyond his own business and clients. Additionally, the Acting Director determined that the Petitioner did not demonstrate national interest factors such as the impracticality of a labor certification, the benefit of his prospective contributions to the United States, an urgent national interest in his contributions, the potential creation of jobs, or that his self-employment does not adversely affect U.S. workers.

On appeal, the Petitioner submits a brief and asserts that the Acting Director erred in not "analyz[ing] all the evidence attached in this case." In his brief on appeal, the Petitioner references evidence already in the record and states that this evidence demonstrates by a preponderance of the evidence that he merits a national interest waiver. The Petitioner also submits an updated report for a project he completed in Brazil. The Petitioner states that the updated system report demonstrates "that the interest and relevance are in growth, as accesses are presenting exponential growth."

### A. Substantial Merit and National Importance

The first prong, 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. *Matter of Dhanasar*, 26 I&N Dec. at 889.

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." *See Id.* 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.

The Petitioner submits articles and industry reports describing the role of project managers, as well as Executive Orders demonstrating that investment in infrastructure is a national initiative.<sup>4</sup> We conclude, however, that the articles and reports in the record do not establish the national importance of the Petitioner's proposed endeavor. A printout of the Washington, D.C. Department of Human Resources website describes the city's Certified Public Manager program, a graduate-level course focusing on team building and leadership. The Petitioner does not explain how this course description demonstrates that his specific proposed endeavor is of national importance. Similarly, a printout of the U.S. General Services Administration website announces that the agency will discontinue the use of the "Electronic Project Management Tool" to manage projects. The Petitioner also does not explain the relevance of this information. Two reports from the U.S. Environmental Protection Agency discuss urbanization and smart growth. However, these reports provide general information and do not focus on the Petitioner's specific proposed endeavor. As noted above, the Acting Director determined the endeavor has substantial merit, and we agree. However, the question we are examining here is national importance.

Much of the Petitioner's evidence relates to the initiative of infrastructure improvement, rather than his specific proposed endeavor. Although we agree that project management plays an important role in infrastructure development, and infrastructure development may be the subject of national initiatives, we conclude that this does not necessarily establish the national importance of the Petitioner's specific proposed endeavor. Even considering the articles and reports, collectively and in the totality of circumstances, the record contains insufficient information or evidence regarding the Petitioner's proposed endeavor to show broad potential implications demonstrating national importance.

The Petitioner also submits his personal statements to support the national importance of his proposed endeavor. As noted, to establish national importance, the Petitioner must demonstrate the proposed endeavor's impact. In *Dhanasar*, we noted that "we look for broader implications" of the proposed

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<sup>4</sup> While we discuss a sampling of these articles and reports, we have reviewed and considered each one.

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. Although the Petitioner states that his proposed endeavor “has the potential to impact the economy and America’s quality of life,” he has not supported these assertions with sufficient independent, objective evidence.

The Petitioner does not provide a business plan to describe how he intends to offer his services or identify potential clients. The Petitioner’s personal statements are not specific or detailed enough for us to assess the potential prospective impact of it in the abstract, without considering the specific ways in which the Petitioner intends to implement this goal. The record does not include letters of interest from any business or potential client. Although the record includes descriptions of the Petitioner’s past managed projects in Brazil, he does not provide a description of any project that he intends to manage through his proposed endeavor. “In determining national importance, the officer’s analysis should *focus on what the beneficiary will be doing* rather than the specific occupational classification.” 6 *USCIS Policy Manual* F.5(D)(1), <https://www.uscis.gov/policy-manual> (emphasis added).

The Petitioner claims that the denial is deficient because the Acting Director did not consider the entirety of the evidence in the record. While we agree that an adjudicator should consider the relevant evidence in the record, the Petitioner does not sufficiently support his claim that there was relevant evidence that the Acting Director did not consider. The Petitioner does not cite to or describe which specific evidence was not given consideration. We note that the decision discusses each of the claimed pieces of evidence the Petitioner lists in his brief. Nevertheless, we address them again herein.

The Petitioner continues to rely upon the asserted merits of the services he will provide, his personal and professional qualities and achievements, and the general importance of project management to national initiatives, including infrastructure development and environmental preservation. However, as set forth above, the evidence does not sufficiently demonstrate the proposed endeavor’s national importance. Therefore, we conclude that the Petitioner has not met the requisite first prong of the *Dhanasar* framework.

As the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* framework, he is not eligible for a national interest waiver and further discussion of the balancing factors under the second and third prongs would serve no meaningful purpose. As noted above, we reserve the Petitioner’s appellate arguments regarding the two remaining *Dhanasar* prongs.<sup>5</sup> See *INS v. Bagamasbad*, 429 U.S. at 25.

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<sup>5</sup> Even if we had addressed the remaining issues, we still would have dismissed this appeal. As noted above, the Acting Director concluded that, although the proposed endeavor has substantial merit, the Petitioner did not establish its national importance, or 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. On appeal, the Petitioner references the same supporting evidence submitted with the original petition and RFE response. The Petitioner does not explain how the new evidence, an updated system report regarding a past project in Brazil, demonstrates his eligibility for a national interest waiver. The Acting Director fully addressed the previously submitted evidence and explained how it was deficient in establishing that the Petitioner met the first and third *Dhanasar* factors and would be eligible for a national interest waiver. The Petitioner’s assertions on appeal do not establish that he meets all of the three *Dhanasar* prongs.

### III. CONCLUSION

As the Petitioner has not met all of the requisite three prongs set forth in 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.

**ORDER:** The appeal is dismissed.