



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

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

In Re: 29424497

Date: JAN. 26, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a finance manager, 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. 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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. 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 qualify for a national interest waiver, a petitioner must first show eligibility 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. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates EB-2 eligibility, 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,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *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 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 qualifies as a member of the professions holding a bachelor's degree and at least five years of progressive post-baccalaureate experience in the specialty, equivalent to an advanced degree as defined at 8 C.F.R. § 204.5(k)(2). The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner earned a bachelor's degree in accounting in Brazil in 2003, and held financial or accounting positions for companies in the construction, engineering, transportation, and petroleum industries from 2002 to 2019, mostly in Brazil, with one period in Venezuela from 2015 to 2017. He entered the United States as the F-2 nonimmigrant spouse of an F-1 student in 2019, and since 2020 he has worked as a financial representative for various insurance companies and agencies in Florida.

The first *Dhanasar* 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.

When he filed the petition, the Petitioner stated that he "intends to continue his career as a Financial Advisor . . . by offering consulting services to both American [and foreign] individuals and corporations." The Petitioner asserted that his proposed endeavor would benefit U.S. businesses by providing business consulting services, and that it would attract foreign investment in the United States and lead to creation of more jobs for U.S. workers.

In an advisory opinion, a professor at the [redacted] did not discuss foreign investment in the United States. Rather, the individual stated that the Petitioner's "in-depth knowledge of the business environment in Brazil" "is of substantial merit and national importance for U.S. companies doing business or planning to do business in Brazil." The record does not otherwise emphasize benefit to U.S. businesses seeking to invest in, or expand into, Brazil.

Because the Petitioner's initial submission lacked detailed, consistent information about the proposed endeavor, the Director requested "[a] detailed description of the proposed endeavor" and evidence to support the Petitioner's claims about its national importance.

The Petitioner's response to the request for evidence included a business plan for an unnamed "future business," in which the Petitioner would serve as the "Managing Director and Lead Consultant."

The Director determined that the Petitioner had established the substantial merit of his proposed endeavor, but not its national importance. We agree with the Director, as explained below.

In the denial notice, the Director acknowledged the submission of a business plan, but noted that this plan was written in November 2022, more than a year after the petition's June 2021 filing date. The Director concluded, therefore, that the business plan could not establish eligibility at the time of filing as required by 8 C.F.R. § 103.2(b)(1). The Director also concluded: "The petitioner's work experience only shows potential impact at the local level in Brazil. The petitioner has not demonstrated that the economic implications of these operations to an extent that his proposed [endeavor] holds national importance."

On appeal, the Petitioner contends that the Director "did not give due regard" to the Petitioner's business plan and an "Industry Report and Articles, demonstrating the national importance of the [Petitioner's] proposed endeavor."

Reports and articles in the record discuss subjects such as the financial services industry, immigrant entrepreneurship, and foreign investment, but these materials do not describe details about the specific impact of the Petitioner's proposed endeavor. Rather, these materials amount to background information about the general subject. The Petitioner, however, must establish the national importance of the specific proposed endeavor; it cannot suffice for the Petitioner to establish the overall importance of a particular subject, occupation, or field. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See, generally, 6 USCIS Policy Manual F.5(D)(1), <https://www.uscis.gov/policy-manual>.*

As the Director noted, the business plan did not exist until after the Petitioner filed the petition. Nevertheless, we will discuss that document here because it is the most detailed explanation of the Petitioner's proposed endeavor.

The business plan describes "a consulting agency specializing in financial consulting services," serving "Latin American and Brazilian companies and small and medium-sized companies." The business plan indicates that the Petitioner intends to "open an office in Florida" in the first year of operations, followed by offices in [redacted] in the second year and in [redacted] a year after that, to "provide well-informed advice" to clients.

Beyond this initial description, however, the business plan does not establish that the proposed endeavor has broader implications beyond benefit to the Petitioner's company and its customers. The rest of the business plan consists primarily of general information about financial consultants and accountants, along with general information about subjects such as the U.S. economy, the importance of paying taxes, and the role of management consultants.

The business plan devotes several pages to the proposed endeavor's claimed "National-level Impact." This section of the plan consists mostly of statistics and information about such topics as small businesses, the economy, and the role of accountants, with assertions that the Petitioner's expertise will help customers to navigate the changing market. These claims rely on general assertions about the overall importance of the Petitioner's field, rather than the impact and importance of his specific proposed endeavor. The Petitioner did not establish that the proposed endeavor would have a significant impact beyond a limited number of his company's customers.

The business plan projects that the company would have 23 employees on staff after five years, most of them tax analysts, accounting analysts, and accountants. The business plan further projects that the Petitioner's company will "[g]enerate direct effects on employment equivalent to 41 jobs in year 5." The Petitioner did not establish that these figures are significant in an industry that, according to business plan, employs about 500,000 people in the United States, and the Petitioner did not show that his proposed endeavor would be the primary impetus behind the potential indirect job creation. Likewise, the Petitioner contends that there is a shortage of qualified workers in his field, and that the proposed endeavor will address this shortage because the Petitioner "will provide training and guidance to the Company's financial consulting staff." But the Petitioner does not explain how these efforts will have effects so significant as to give the endeavor national importance.

The Petitioner did not establish that the direct and possible indirect jobs would have a significant or substantial economic impact consistent with national importance. *Dhanasar* does not state that every employment-generating endeavor has national importance. Rather, it states: "An endeavor that has *significant* potential to employ U.S. workers or has other *substantial* positive economic effects . . . may well be understood to have national importance." *Id.* at 890. The burden is on the Petitioner to establish these effects.

The job offer requirement ordinarily applies to professionals in the Petitioner's field, and the burden is on the Petitioner to establish the "broader implications" of his proposed endeavor to show why he should be exempted from the job offer requirement. *See Matter of Dhanasar*, 26 I&N Dec. at 889. We must consider the proportional impact of the Petitioner's work in particular. In *Dhanasar* we acknowledged the petitioner's intention to teach engineering classes, but we concluded that the petitioner had not shown that his teaching work would "impact the field . . . more broadly" than the students with whom he would work directly. *Id.* at 893. The Petitioner's assertions about the cumulative impact of individuals in his field do not establish the broader implications of his proposed endeavor in particular.

For the reasons explained above, we agree with the Director's conclusion that the Petitioner has not established the national importance of the proposed endeavor. Detailed discussion of the second and third *Dhanasar* prongs cannot change the outcome of this appeal. Therefore, we reserve argument on those prongs.²

III. CONCLUSION

The Petitioner has not established the national importance of the proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

ORDER: The appeal is dismissed.

² See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); 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 the applicant did not otherwise meet their burden of proof).