



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

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

In Re: 34342468

Date: NOV. 22, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary, an accounting manager, 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 Director of the Nebraska Service Center denied the petition, concluding that although the Beneficiary is a professional holding an advanced degree and her proposed endeavor has substantial merit, the Petitioner did not establish that the Beneficiary's endeavor is of national importance, that she is well positioned to advance the proposed endeavor, or that, on balance, 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

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. 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>1</sup> grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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

*Id.*

## II. ANALYSIS

The Petitioner stated that it develops, constructs, owns, and operates solar distributed generation systems with a focus on community solar and commercial solar markets to provide renewable energy solutions. The Petitioner explained that the Beneficiary's employment as an accounting manager is critical to the company's success in the solar energy sector by ensuring fiscal responsibility, adherence to regulatory standards, and proficient management of financial opportunities. The Petitioner also noted that the potential prospective impact of the Beneficiary's proposed endeavor is significant due to its contribution to furthering the development of solar and battery storage plants and the generation of clean energy across the United States, and a significant potential to employ U.S. workers.

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. *Id.* at 889.

The Director acknowledged that the Beneficiary's proposed endeavor has substantial merit. The Director determined, however, that the Petitioner did not establish the Beneficiary's proposed endeavor is of national importance, and that, the Beneficiary is well-positioned to advance the proposed endeavor, and, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner reiterates previous statements made in the initial petition.

In determining 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." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Beneficiary's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Further, "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.* The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit. And 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.

Moreover, to evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. In

*Dhanasar*, we determined 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. We recognize the overall value of providing accounting management services for solar energy projects; however, the evidence does not sufficiently demonstrate that the Beneficiary’s undertaking stands to have an impact beyond the organizations and clients she would serve. Specifically, the Petitioner provides support letters detailing the Beneficiary’s proposed endeavor and the essential duties in managing the accounting and financial duties to develop solar and battery storage plants; however, the record does not establish with specific, probative information how the Beneficiary’s particular services would have broader implications beyond her company and clients’ growth and possible ripple effects to companies working with the Petitioner. The record does not establish the Beneficiary has plans to introduce novel methodologies or techniques that may be disseminated to or adopted by others operating in the field or industry. Here, the record does not show through supporting documentation how her services stand to sufficiently extend beyond her prospective clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the Beneficiary’s specific endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. On appeal, the Petitioner reiterates that the Beneficiary’s proposed endeavor has national importance because the endeavor has significant potential to employ U.S. workers and have a substantial positive economic effect. The Petitioner contends that the proposed endeavor can prospectively employ 700 U.S. workers in the roles of electricians, engineers, performance analysts, operations specialists, portfolio managers, office administrators, scientists, project managers, auditors, technicians, lawyers, foremen, and landscapers. While the Petitioner claims that the proposed endeavor has growth potential, they have not presented evidence indicating that the benefits to the regional or national economy resulting from their undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that the Beneficiary’s endeavor will generate significant employment and create a substantial number of indirect job opportunities, they have not offered sufficient evidence that their endeavor offers a substantial economic benefit through employment levels, tax revenue, or business activity. Outside of statements made by the Petitioner, the petitioner does not provide corroborating evidence of the claimed 700 employees that could potentially find employment due to the proposed endeavor. The Petitioner must support all assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to the Beneficiary’s future work, the record does not show that benefits to the regional or national economy resulting from the Beneficiary’s endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, the Beneficiary is not eligible for a national interest waiver. We acknowledge the Petitioner’s arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Beneficiary’s eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prong. *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 is otherwise ineligible).

### III. CONCLUSION

As the proposed endeavor has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that the Petitioner has not established that the Beneficiary 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.