



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

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

In Re: 33961079

Date: SEP. 18, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, seeks second preference immigrant classification (EB-2) for the Beneficiary, its senior advisor, 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 EB-2 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 although the Beneficiary qualified for classification as an advanced degree professional and his endeavor has substantial merit, the Petitioner had not established that the Beneficiary's endeavor is of national importance, that he 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

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. Section 203(b)(2)(B)(i) of the Act.

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 (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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id. at 889.

II. ANALYSIS

The Director determined that the Beneficiary qualifies for the underlying EB-2 qualification as an advanced degree professional. The Beneficiary has the U.S. equivalent of a master's degree in economics (with a concentration in environmental economics) from [REDACTED] in Colombia and a bachelor's degree in agricultural science at [REDACTED] in Haiti. The remaining issue is whether the Petitioner has met the *Dhanasar*'s three prongs to demonstrate eligibility for a national interest waiver.

The Petitioner, [REDACTED] is a nonprofit organization that provides essential food and supplies to the world's vulnerable populations. The Beneficiary's proposed endeavor is to work for the Petitioner as a senior advisor of monitoring, evaluation, accountability and learning (MEAL). His role is to oversee the Petitioner's portfolio of food security and livelihoods programs funded by the U.S. Agency for International Development (USAID) and its Bureau for Humanitarian Assistance (BHA), "[conduct] monitoring and evaluating assistance to food security projects in Mali, Niger, Burkina Faso, and Uganda" and provide accurate data to the funders in this humanitarian work.

The Director concluded that the Beneficiary's endeavor has substantial merit but not national importance under the *Dhanasar*'s first prong.² Specifically, the Director concluded that the evidence does not demonstrate that the proposed endeavor of working as a senior advisor offer benefits that extend beyond the company to the humanitarian field more broadly or show that the level of employment will have the potential to provide substantial positive economic effects to the region where the company is located or to the nation. We agree with the Director.

To evaluate whether the proposed endeavor satisfies the national importance requirement, we focus on the specific endeavor that the foreign national proposes to undertake and look to evidence documenting its "potential prospective impact." *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.

¹ See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts to conclude the national interest waiver determination is discretionary in nature).

² The Director also concluded that the Petitioner did not satisfy the second or third prongs of the *Dhanasar*'s analytical framework.

On appeal, the Petitioner does not assert any errors made by the Director in denying the petition. Instead, the Petitioner reiterates same claims made in its initial filing and RFE response that the Beneficiary's endeavor has national importance as it "broadly impacts the humanitarian field" by "increasing the overall effectiveness and impact of [the Petitioner's food security and livelihood] programs" and resulting in "job creation for young people in various nations and economic growth." The Petitioner also contends that the endeavor is "contributing to global prosperity and stability" and "well-aligned with the United States' commitment to promoting human rights, dignity, and equality both domestically and internationally." However, the Petitioner does not provide any new information or evidence on appeal to support these claims.

With the initial filing, the Petitioner claimed that the national importance of the Beneficiary's endeavor is evident from its mission and nature of work in saving lives of children and fostering "self-sufficient communities across the world." The record shows that the Beneficiary's duties mainly include managing "standardized M&E (monitoring and evaluation) systems in a global food security and livelihoods portfolio"; developing "M&E guidelines, protocols, templates, and activity schedules for field-based M&E teams to ensure quality and regularity of program monitoring data"; and collaborating with M&E working groups to research efficiencies and best practices.

In response to the Director's request for evidence (RFE), the Petitioner appears to refocus the Beneficiary's endeavor from working as a M&E senior advisor in advancing the humanitarian field to adopting and integrating "cutting-edge technologies" such as "Machine Learning, Natural Language Processing (NLP), Generative AI, and Computer Vision" into M&E activities. The Petitioner claimed that the Beneficiary is "a foreign national with special skills in AI [Artificial Intelligence] seeking to continue his work in the United States" and such endeavor is aligned with the government's initiatives in promoting innovation and competition and advancing American technological leadership in the field of AI.

Although we acknowledge that the Beneficiary's role as a senior advisor is important to the company's work in feeding the vulnerable population and alleviating poverty, the Petitioner has not demonstrated that the economic implications and humanitarian assistance resulting from the company's operations would be directly attributable to the Beneficiary's particular role as a senior advisor. The issue here is not the broader implications of the company's humanitarian work but rather the potential prospective impact of the Beneficiary's specific proposed work as a M&E senior advisor.

We recognize the value of data monitoring and evaluation in non-profit management and importance of humanitarian work by [REDACTED] both domestically and internationally; however, in determining national importance, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, the Petitioner largely relied on the industry articles and reports to claim that the fields in which the Beneficiary intends to work, whether it is the humanitarian and food insecurity field or M&E work in general, has national importance instead of focusing on the Beneficiary's specific endeavor. None of the articles and reports specifically mention the Beneficiary's name or his work or discuss the government's interest in promoting the use of the Beneficiary's specific innovation or solutions. Therefore, such evidence does not demonstrate that the endeavor's prospective impact has "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or "significant

potential to employ U.S. workers or ha[ve] other substantial positive economic effects” as contemplated in *Dhanasar*. *Id.* at 889-90.

The record contains numerous letters of recommendation from the Beneficiary’s work colleagues at [redacted] and collaborators from USAID and World Bank, who attest to his expertise, understanding, and knowledge in M&E of humanitarian programming.³ Although the Beneficiary’s work colleagues praise his work in “research and advancement of M&E techniques” and assert that his work “advances scientific knowledge and promotes the efficient distribution of humanitarian relief,” they do not sufficiently address his specific future endeavor with persuasive details. The Petitioner also submitted the Beneficiary’s articles published on LinkedIn and FSN (Food Security Network) discussing usage of AI or NLP in M&E work. But the Petitioner has not provided independent and corroborating evidence to demonstrate that the Beneficiary’s expertise in M&E has broader implications in his field at a level commensurate with national importance. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

In *Dhanasar*, 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. *Dhanasar*, 26 I&N Dec. at 893. Here, we agree with the Director that the Petitioner did not sufficiently demonstrate how the Beneficiary’s proposed endeavor stands to extend beyond his employer to impact the humanitarian field more broadly on a scale commensurate with national importance. Nor has the Petitioner shown that the Beneficiary’s particular research or other future projects offer innovations that contribute to advancements in the M&E practice, or otherwise has broader implications for that field. Accordingly, the Beneficiary’s proposed work as a senior advisor for the Petitioner does not meet the national importance element of the *Dhanasar*’s first prong and the Petitioner has not demonstrated the Beneficiary’s eligibility for a national interest waiver. Therefore, further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose.⁴

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 that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

³ In addition, the Beneficiary’s knowledge, skills, and experience in the field relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890.

⁴ *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that “courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *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).