



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 35663435

Date: JAN. 28, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner,  seeks for the Beneficiary, a mechanical engineer, 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. 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 the Petitioner did not establish eligibility for a national interest waiver as it did not demonstrate the national importance of the proposed endeavor 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. 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 that the beneficiary is 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 the beneficiary's eligibility for the underlying EB-2 classification, they must then demonstrate that the beneficiary merits 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,<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 Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals 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 Director determined that the Beneficiary qualifies as a member of the professions holding an advanced degree and that the Beneficiary is well positioned to advance the proposed endeavor under the second prong of the Dhanasar framework. 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of the Beneficiary's proposed endeavor under the first prong of the Dhanasar analytical framework.

### A. Substantial Merit and National Importance

The first Dhanasar prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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." *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.

We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the above-mentioned range of areas of substantial merit. Therefore, we will first identify the Beneficiary's endeavor as shown in the record and then evaluate the evidence in support of the endeavor's national importance.

The Beneficiary's proposed endeavor is "to utilize advanced computing, artificial intelligence, human-machine interfaces and directed energy to design critical components of audio products for [redacted] a subsidiary of [redacted]. The Beneficiary's endeavor focuses on using "these technologies to design innovative hardware and mechanical components that enhance automated machinery and manufacturing processes for various audio equipment, thereby producing a wider range of state-of-the-art, unique, reliable and safe audio products for the consumer population."

On appeal, the Petitioner asserts that the Director erroneously misapplied the preponderance of the evidence standard, disregarded key probative evidence, and erroneously concluded that the proposed endeavor would need to benefit the United States at a national level or have geographic breadth to be considered nationally important instead of focusing on the nature of the proposed endeavor. However, while the Director noted that national importance could be demonstrated by the geographic breadth of an endeavor, the Director correctly highlighted that the "relevant question is not the importance of the field

or profession in which the individual will work,” but instead “focuses on the specific endeavor that the [Beneficiary] proposes to undertake.” Although the Beneficiary’s endeavor – the design of hardware and mechanical components for audio equipment and safe audio products for distribution to [redacted] customers – relates to the fields of advanced computing, artificial intelligence, and human-machine interfaces, which in general have national importance, merely working in an important field is insufficient to establish the national importance of a proposed endeavor. For example, classroom teaching activities in these technologies, by themselves, may have substantial merit but are not generally indicative themselves of impact on these field more broadly and would generally not establish their national importance. Here, the Petitioner has also not shown the Beneficiary’s proposed endeavor advances these critical and emerging technologies or has broader implications in the field.

The evidence in the record also does not establish by a preponderance of the evidence – that it is more likely than not – that the Beneficiary’s endeavor will “further U.S. capabilities in several critical and emerging technologies . . . in a way that is clearly for the benefit of the American public by leveraging those technologies to enhance the gaming experience and ensure the integrity of advanced audio technology” or “help to advance the U.S. interest in attracting and retaining STEM workers, which is critically important given the shortage of qualified workers in those fields.” The alleged shortage of occupations or occupational skills does not render a proposed endeavor nationally important under the Dhanasar framework and such shortages are directly addressed by the U.S. Department of Labor through the labor certification process. Further, broad statements and projections regarding the potential growth of emerging technologies – based upon the Beneficiary’s employment at [redacted] – do not demonstrate the prospective impact directly attributable to his proposed endeavor or establish how his endeavor will impact the industry beyond the company’s customers and the operations of the business. Here, aside from these assertions and despite the size of the Beneficiary’s employer and their scope of influence, the Petitioner must demonstrate the Beneficiary’s own tasks rise to the level of a nationally important endeavor. The Petitioner has not established that the Beneficiary’s endeavor, as a designer of hardware and mechanical components for audio products, alone has national implications within the field or otherwise offers substantial positive economic effects, as contemplated by Dhanasar.

As our finding on this issue is dispositive of the Petitioner’s appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the Dhanasar framework. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “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). As the Petitioner has not met the requisite first prong of the Dhanasar analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.