



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

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

In Re: 36662329

Date: JAN. 30, 2025

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 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 Nebraska Service Center denied the petition, concluding that the Beneficiary qualified for classification as a member of the professions holding an advanced degree, but that the Petitioner had not established that 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.

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 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,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 their proposed endeavor; and

¹ *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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director found that the Beneficiary qualifies as a member of the professions holding an advanced degree. 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. In addition, we agree with the Director that the Petitioner has not established that, on balance, it would be beneficial to the United States to waive the job offer and labor certification requirements as required under *Dhanasar*’s third prong.

At the time of filing, the Beneficiary was working for the Petitioner as a Software Engineer.² The Petitioner indicated that the Beneficiary’s responsibilities in this capacity include:

- Create software for vehicle level functions and perform integration and verification testing.
- Analyze software defects; figure out root cause, create software solution, test and verify closure.
- Perform design and analysis on changes.
- Work with teams from multiple groups to meet project milestones.
- Perform other related duties as assigned.

Regarding the Beneficiary’s proposed endeavor, the Petitioner initially indicated that it involved “advancing critical and emerging technologies in the transportation sector.” The Petitioner submitted a March 2024 letter from [redacted] its Engineering Group Manager in the Propulsion Thermal Controls Department, stating:

[The Beneficiary] works for [the Petitioner] as a Software Engineer focusing on Propulsion Thermal Management for Battery Electric Vehicles, a critical component ensuring the safety and efficiency of EVs.

...

[The Beneficiary’s] Propulsion Thermal Management ART team works on creating thermal management software for battery electric vehicles. Its main function is to provide battery conditioning and power electronics conditioning and arbitrate heating, ventilation, and air conditioning for the cabin. The development of electric vehicles

² As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for the Beneficiary to have a job offer from a specific employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether the proposed endeavor meets the requirements of the *Dhanasar* framework.

has critical implications for sustainable transportation and manufacturing in the United States, so thermal management is of critical importance to the United States.

In response to the Director's request for evidence (RFE), the Petitioner stated that the Beneficiary planned "to advance battery electric vehicle (BEV) software engineering, particularly in the realm of thermal management controls and software. The Beneficiary's work in this area has implications in other areas of U.S. national interest including but not limited to electric vehicle adoption, renewable energy integration, climate change mitigation, and environmental sustainability." The Petitioner further asserted that the Beneficiary's undertaking involves "developing state-of-the-art thermal controls software that optimizes cooling and heating strategies by controlling temperature profiles for the battery, motor inverter, charging module, autonomous supercomputer, and other critical EV components, so that these components perform efficiently in a way that enhances performance, range and extends battery life."

In addition, the Beneficiary provided a personal statement indicating:

I am deeply committed to advancing BEV software engineering, particularly in the realm of thermal management controls and software.

My work directly contributes to the USA's sustainability goals. By enhancing the efficiency of electric vehicles, we're helping to reduce the carbon footprint of transportation. The software we develop plays a significant role in the broader adoption of electric vehicles, aligning with national efforts to combat climate change and promote energy independence. The future is bright, and as [the Petitioner] continues to push the boundaries of electric vehicle technology, I am excited to be part of this transformative era. Our commitment to excellence and sustainability is not just shaping the future of transportation but also driving the USA towards a greener, more resilient tomorrow.

My expertise lies in developing state-of-the-art thermal controls software that optimizes cooling and heating strategies by controlling temperature profiles for the battery, motor inverter, charging module, autonomous supercomputer, and other critical EV components, so that these components perform efficiently in a way that enhances performance, range and extends battery life.

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. *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.* The Director determined the Beneficiary's proposed endeavor has substantial merit. We agree.

The Director also concluded that the Petitioner established the national importance of the Beneficiary's proposed endeavor. We withdraw the Director's determination on this issue. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at

889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. As discussed below, the Petitioner has not established that the potential prospective impact of the Beneficiary's proposed work indicates national importance.

In a September 2024 letter discussing the Beneficiary's work submitted in response to the RFE, Mr. [] listed its benefits as:

- **Optimizing Battery Performance:** Effective thermal management is essential for maintaining battery efficiency. By controlling the temperature of the battery cells, thermal management software ensures that the BEV operates within the optimal temperature range, thus maximizing the battery's performance and lifespan.
- **Enhancing Safety:** Batteries in BEVs can be volatile if not properly managed. Thermal management software plays a critical role in preventing overheating and thermal runaway, which are key to ensuring the safety of the vehicle and its occupants.
- **Improving Energy Efficiency:** Proper thermal controls can reduce the energy consumption of the heating, ventilation, and air conditioning (HVAC) system, which is one of the largest auxiliary loads on a BEV. This, in turn, can extend the vehicle's range and reduce the frequency of charging.
- **Supporting Fast Charging:** As the demand for fast charging grows, thermal management becomes even more important. The software must be able to handle the heat generated during rapid charging cycles without compromising battery health.
- **Enabling Advanced Features:** Thermal management is also linked to the performance of advanced features in BEVs, such as regenerative braking. The software ensures that the energy recovered during braking is effectively used without causing thermal issues. System also enables having remote cabin conditioning and having battery at desired temperature in preparation of fast charging.
- **Facilitating Autonomous Driving:** As the industry moves towards autonomous vehicles, the reliability of all systems, including thermal management, becomes even more critical. Software engineers with expertise in this area are key to developing robust systems that can support the high computational loads of autonomous driving technologies.

Mr. [] further stated that the Beneficiary's work "is by no means limited to Petitioner" and that areas that are impacted by his work include reducing greenhouse gas emissions, energy independence, economic growth, public health, innovation and leadership, and national security. The Petitioner, however, has not shown the Beneficiary's specific projects as a Software Engineer stand to impact these areas to an extent that his proposed work holds national importance. While the Beneficiary's proposed work may affect the Petitioner's thermal management software projects, the Petitioner has not demonstrated his undertaking's broader implications in the field or industry. It is insufficient to claim a proposed endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims.

The record also includes a March 2024 letter from Dr. [redacted] Electronic Systems Controls Team Lead at [redacted]³ who stated:

[The Beneficiary] worked at [redacted] for several years as an Electronic Systems Verification and Validation Engineer. In this position, he was responsible for performing a variety of software implementations, such as hardware-in-the-loop integration (L8) regression testing of powertrain, engine, aftertreatment, implement, display, electric drive, telematics and remote-control subsystems on [redacted] [redacted] and [redacted] machine applications using dSPACE Hardware, Control and Automation Desk, CANalyzer, CANape, [redacted] Electronic Technician and MATLAB Simulink.

The Petitioner indicates that the Beneficiary has “more than nine years of professional experience in embedded software development and validation, with a specialty in thermal management controls and software development for BEVs.” The Beneficiary’s skills, knowledge, and prior work in his field for the Petitioner and [redacted] relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar*’s first prong.

Regarding the Beneficiary’s work for the Petitioner, Dr. [redacted] asserts that the Beneficiary’s endeavor has “the potential to affect and protect billions of people.” He further contends that “[t]here is currently an urgent global need to replace fossil fuels and limit the damage of climate change. One of the important paths is to phase out internal combustion vehicles and adopt electric vehicles thus making zero emissions.” He does not, however, specify how the Petitioner’s specific software projects stand to “protect billions,” influence replacement of “fossil fuels,” “limit the damage of climate change, or “phase out internal combustion vehicles” at a meaningful level for U.S. interests.

The Petitioner also provided an “Analysis and Advisory Evaluation” letter from Dr. [redacted] Associate Professor at the [redacted] in support of the Beneficiary’s national interest waiver. Dr. [redacted] contends that the Beneficiary’s proposed work is of national importance because his generic occupation of automotive engineer and the industry in which he works stand to benefit the U.S. economy. The issue here, however, is not the national importance of the profession or industry in which the individual will work; instead, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Dhanasar*, 26 I&N Dec. at 889. The letters from Dr. [redacted] Dr. [redacted] and Mr. [redacted] do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Beneficiary’s specific proposed work offers broader implications in his field or industry or substantial positive economic effects for our nation that rise to the level of national importance.

Furthermore, the Petitioner submitted articles on the importance of software developers, automated vehicle safety technologies, system diagnostics for safer vehicles, software-defined vehicles, the automotive industry, electric vehicles (EVs), boosting EV manufacturing capacity, and building a national EV charging network. The record also includes information about thermal runaway, carbon pollution from transportation, the impact of global warming on the automotive industry, limiting

³ Dr. [redacted] indicated that he previously worked with the Beneficiary at [redacted]

Chinese components in American vehicles, U.S. critical infrastructure sectors, critical and emerging technologies, the Bipartisan Infrastructure Law, and the Biden-Harris Administration's actions to attract STEM talent.⁴ The Petitioner claims that these articles support the national importance of the Beneficiary's proposed endeavor. The determination of national importance does not focus on the importance of one's field or industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Beneficiary or his assigned projects, or otherwise speak to the potential prospective impact of his specific proposed endeavor.

The Petitioner points to USCIS policy guidance relating to national interest waivers sought by persons with advanced science, technology, engineering, and mathematics (STEM) degrees.⁵ While the policy manual explains how the *Dhanasar* framework can apply to STEM graduates and entrepreneurs, the Petitioner still must meet the three prongs set forth in *Dhanasar* to establish it is in the national interest that USCIS waive the requirement of a job offer, and thus the labor certification. We agree that the Petitioner's proposed endeavor involves STEM technologies and has substantial merit in relation to U.S. science and technology interests, but he must also demonstrate that it has sufficiently broad potential implications to demonstrate national importance.

The Petitioner asserts that the Beneficiary's proposed endeavor has national importance due to the Bipartisan Infrastructure Law. The Petitioner argues that its company "initiatives are critical to and in alignment with the U.S. federal government's transportation, manufacturing, safety, and environmental goals," but it has not demonstrated that benefits resulting from its overall operations would be attributable to the Beneficiary's particular role as a Software Engineer to an extent that his specific proposed work holds national importance.

The Petitioner further claims that the Beneficiary's work "directly supports the acceleration of EV production and adoption of EVs," "promotes electrification of vehicles in the U.S., and supports climate change mitigation and environmental sustainability," but the evidence does not show that his proposed work stands to offer broader implications in his field or industry beyond his software projects for the Petitioner. The issue here is not the broader implications of the company's innovations in EV technologies and sustainability, but rather the potential prospective impact of the Beneficiary's specific work as a software engineer.⁶

In addition, the Petitioner presented information about its business operations, renewable energy strategy, EV manufacturing capacity, zero emissions vehicle program, and [REDACTED] System's "patented heat pump." The Petitioner indicated that it [REDACTED]

[REDACTED] Benefits to a specific employer alone, even an employer with a national footprint such as the Petitioner, are not sufficiently relevant to the question of whether a person's

⁴ With respect to *Dhanasar's* first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance. *See generally* 6 *USCIS Policy Manual*, F.5(D)(2), <https://www.uscis.gov/policy-manual>.

⁵ The Beneficiary received a Master of Science degree in Electrical Engineering from the [REDACTED] in 2015. The Beneficiary's education, however, is a factor considered under *Dhanasar's* second prong. *Id.* at 890

⁶ The evidence does not indicate, for example, that the Beneficiary is an inventor of the Petitioner's patented technologies or that he publishes or presents technological research.

endeavor has national importance. At issue is whether the Beneficiary's own individual endeavor stands to have broader implications in the industry or field beyond his employer and its thermal management software projects.

To evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889. While the Petitioner's statements reflect the Beneficiary's intention to improve his employer's BEV thermal management software, it has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. *Id.* at 893. Here, we conclude the record does not show that the Beneficiary's specific proposed endeavor stands to sufficiently extend beyond his employer and its operations to impact the field of software engineering, the U.S. BEV industry, societal welfare, public safety, or our country's economy more broadly at a level commensurate with national importance. Nor has the Petitioner demonstrated that the Beneficiary's specific undertaking offers broader implications in the automotive manufacturing or renewable energy industries, reducing greenhouse gas emissions, affecting U.S. energy independence, or advancing our country's national security.

Additionally, the Petitioner has not shown that the specific endeavor the Beneficiary proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the Petitioner asserts that the national importance of the Beneficiary's endeavor is evident from the scope of its vehicle manufacturing operations, it has not demonstrated that the economic implications of its vehicle production would be attributable to the Petitioner's specific projects to an extent that his proposed work holds national importance. Here, the Petitioner has not shown that the wider economic effects it claims are implications of the Beneficiary's specific proposed endeavor to improve his employer's BEV thermal management software. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the Beneficiary's specific proposed work, the Petitioner has not shown that the benefits to the U.S. regional or national economy resulting from his projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner has not established that the Beneficiary's proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field or industry, or has other broader implications indicating national importance.

B. Whether on Balance a Waiver is Beneficial to the United States

The third prong requires a petitioner to demonstrate 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. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to

warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

In denying the petition, the Director’s decision indicated:

[T]he Beneficiary does not appear to have skills or duties that could not easily be articulated in a labor certification. The evidence does not illustrate that there is an urgency in the Beneficiary’s contributions sufficient to warrant forgoing the labor certification process. The Petitioner did not demonstrate how the Beneficiary’s work will directly lead to the creation of jobs, or that the United States will benefit, on a national scale, from the contributions. Further, while it appears the Beneficiary is qualified to work in their field, it appears their endeavor would contribute most directly to their immediate employer

On appeal, the Petitioner states: “Are the skills so specialized it would harm the U.S. if a minimally qualified worker performed this role?” The Petitioner contends that it is in our country’s “national interest to waive the labor certification process as a minimally qualified worker would not be able to achieve or execute the advanced thermal management controls and software for BEVs, which the Beneficiary has been able to achieve.” It further asserts that the Beneficiary’s position “cannot be done based on someone who is only minimally qualified. Furthermore, the time, training, and resources required to further a minimally qualified U.S. worker for this position would be impractical as [the Beneficiary] already possesses these skills and cumulative experience.”

In *Dhanasar*, we indicated that the third prong “does not require a showing of harm to the national interest or a comparison against U.S. workers in the [beneficiary’s] field.” *Id.* at 891. For the third prong, we assess whether the proposed endeavor and the individual being well positioned to advance that endeavor, taken together, provide benefits to the nation such that a waiver of the labor certification requirement outweighs the benefits that ordinarily flow from that requirement. Here, the Petitioner has not demonstrated that it would be impractical either for the company to provide a job offer or to obtain a labor certification, or that the Beneficiary’s BEV software engineering achievements supersede the benefit from the labor certification.

The Petitioner also points to “the urgency of the Beneficiary’s proposed endeavor,” asserting that his “work on battery thermal management and controls is critical to the advancement of EVs and battery safety within the United States.” While the record includes documentation relating to the benefits of battery safety, carbon emissions reduction, and migration away from fossil fuels as ways for countering climate change, this information is insufficient to show that the national interest is better served by a waiver of the job offer and thus the labor certification requirement. The labor certification process is intended to ensure that the admission of foreign workers will not adversely affect the job opportunities, wages, and working conditions of U.S. workers. We acknowledge the Beneficiary’s master’s degree in a STEM field (Computer Science); his nine years of experience in embedded software development, software controls, thermal control management for batteries, and controls and instrumentation; and his contribution to software engineering projects for both [redacted] and the Petitioner, but the evidence in the aggregate is not sufficient to show that a national interest waiver outweighs the benefits inherent to the labor certification process.

The Petitioner has not shown that the Beneficiary offers contributions of such value that, on balance, it would be beneficial to the United States to waive the job offer and labor certification requirements even assuming that other qualified U.S. workers are available.

III. CONCLUSION

As the Beneficiary has not met the requisite first and third prongs of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established he 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, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.