



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

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

In Re: 27061929

Date: AUG. 09, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an architect, seeks employment-based second preference (EB-2) immigrant 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, 8 U.S.C. § 1153(b)(2)(B)(i). 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner's proposed endeavor is of national importance. 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 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.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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 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;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.<sup>2</sup>

## II. ANALYSIS

The Director's decision did not address whether the evidence of record demonstrates that the Petitioner qualifies for the EB-2 classification. In a request for evidence (RFE), however, the Director stated that "the beneficiary's Master's degree in Architecture classifies [her] as a member of the professions holding an advanced degree." A review of the record shows that the Petitioner obtained the foreign equivalent of a U.S. bachelor's degree from a university in Brazil and that she subsequently worked for more than five years in the field of architecture.<sup>3</sup> The record establishes that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. The remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework.

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. *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner proposes to work as an architect in the United States. Her petition initially included an overview of her intent to work for companies to design houses, office buildings, and stadiums with a focus on sustainability. Although the Director determined that the Petitioner's proposed endeavor has substantial merit, he issued an RFE requesting, in part, evidence to demonstrate how the Petitioner's proposed endeavor is of national importance. In response, the Petitioner submitted a professional plan in which she describes her endeavor in five parts: "Architectural Projects," "Project Management and Administration," "Work Management Aimed at Construction Quality," "Focus on Sustainability," and "Furniture Design." These parts provide general descriptions of how the Petitioner will use her qualifications to undertake responsibilities and perform duties typically expected of architects and designers. In terms of the positive effects of her proposed endeavor, the Petitioner states,

In the United States, I will create, develop and manage innovative architectural projects to attend U.S. companies' needs. I will provide unique contributions to each business by implementing new design and processes to develop executive projects, providing real-time integration to companies of different sizes and segments. Ultimately, I will offer intelligent and innovative project development ideas and techniques aimed at supporting many businesses by optimizing processes, reducing costs, increasing

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<sup>1</sup> 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).

<sup>2</sup> See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

<sup>3</sup> See 8 C.F.R. § 204.5(k)(2) (stating that a United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree).

productivity, enhancing business intelligence and helping companies operate more efficiently.

In determining national importance, the relevant question is not the importance of the 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. In *Dhanasar*, we further 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. Further, to evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of her work. 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.

The Director denied the petition, concluding,

[W]hile the petitioner’s aim is meant to impact the broader field, the potential prospective impact of [her] proposed endeavor pointed to a single impact with her employers and their clients, rather than substantial positive economic effects for the United States. Accordingly, without sufficient documentary evidence of its broader impact, the petitioner’s architectural projects and project management and administration, construction quality, and furniture design work does not meet the “national importance” element of the first prong of the *Dhanasar* framework.... [The record] is insufficient to establish that the petitioner’s work will serve as an impetus for progress in the business sector.

On appeal, the Petitioner asserts that the Director’s decision “contains numerous erroneous conclusions of both law and fact.” The Petitioner, however, does not specify how the Director erred or what factors in the decision were erroneous.<sup>4</sup> The Petitioner provides a brief that is largely identical to a cover letter included with her RFE response,<sup>5</sup> stating (quoted as written),

[redacted] intends to apply her expertise and unique professional experience in construction management, providing specialized services that encompass the entire construction process, from conception to execution and decoration. She will analyze project’s feasibility, design structures and develop accurate 3D perspectives to better align with client’s demands, considering all electrical, hydraulic, lighting and temperature control systems and needs in her designs. The Petitioner will also perform site assessment and construction work planning, monitoring and budgeting, as well as conduct interior decorating assessments and plans. The Petitioner apply her knowledge

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<sup>4</sup> An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v).

<sup>5</sup> We note that the brief references a “newly enclosed Professional Plan.” Upon review of the record, it appears that this phrase does not refer to a new plan submitted with the brief, but to the plan submitted in response to the RFE.

in sustainable projects, using innovative and greener materials and reducing material waste in construction works.

Upon review, we agree with the Director's conclusion that the Petitioner has not established that her proposed endeavor to work as an architect in the United States rises to the level of national importance. Beyond general descriptions of the Petitioner's intention to work with clients to plan, design, and oversee sustainable projects, the record does not contain documentation that specifically identifies or details her endeavor, nor does the record include evidence demonstrating a plan to achieve the endeavor. Apart from references to growth in the construction industry, the record does not contain probative evidence showing that the Petitioner's individual work has significant potential to employ U.S. workers or otherwise demonstrate its positive economic effects. The record does not show that the Petitioner's proposed endeavor would extend beyond providing services to her immediate clientele and otherwise impact the fields of sustainable development on either a national or global scale.

Further, while the Petitioner asserts that her work will "contribute to the talent shortage the industry faces" by "strengthening the U.S. architecture industry," she does not explain how the work of a single architect would alleviate a shortage at a nationally important level. Similarly, despite her assertion that "her work is a key factor in creating a functional city, efficient buildings and a healthy economy by building with more efficient and sustainable practices," the record does not contain probative evidence to support this statement and others in the record that claim the potential national importance of the Petitioner's endeavor.<sup>6</sup> Although the Petitioner's statements reflect intentions to develop sustainable design and construction projects, she has not offered sufficient information or evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance and, therefore, has not demonstrated that her proposed endeavor would have a broad influence commensurate with national importance. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the documentation in the record does not establish national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner's arguments with respect to the second and third prongs outlined in *Dhanasar*. 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 an applicant is otherwise ineligible).

### III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver. The petition will remain denied.

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<sup>6</sup> The Petitioner must support assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. 369 at 376.

**ORDER:** The appeal is dismissed.