



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

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

In Re: 28398334

Date: AUG. 18, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a credit analyst, seeks classification as a member of the professions holding an advanced degree. 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. 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 a waiver of the job offer requirement is in the national interest. 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.

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, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither 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 USCIS may, as a 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.

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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).

Although the Director did not make a finding in the decision as to whether the Petitioner qualifies for the underlying EB-2 immigrant classification, the Director did state in a request for the evidence (RFE) that the Petitioner qualifies as an advanced degree professional.<sup>2</sup> The Director concluded that the Petitioner did not, however, establish any of the three required prongs of the *Dhanasar* analytical framework. The Petitioner proposes to establish a mortgage lending company, [REDACTED] in the state of Florida to provide mortgage loans to “American and international clients looking forward to developing optimal loan solutions.”

In analyzing the first prong of the *Dhanasar* framework, the Director found that the Petitioner established the substantial merit of the proposed endeavor but not its national importance. The Director concluded that although the Petitioner’s business plan states that the company will hire 21 full-time employees, the record does not establish the business need for this number of workers, nor that the creation of this number of jobs would have a substantial positive economic effect that would rise to the level of national importance. The Director also concluded that the record does not establish that the proposed endeavor would impact the mortgage lending industry more broadly. Finally, the Director concluded that the industry reports in record regarding foreign entrepreneurs and their positive economic impact did not establish the proposed endeavor’s national importance.

On appeal, the Petitioner asserts generally that the Director improperly imposed a higher standard of proof than a preponderance of the evidence and did not give due regard to the evidence in the record, including the Petitioner’s statement, business plan, and industry reports and articles. However, the Petitioner does not support these assertions with specificity as to the record or how the Director imposed a higher standard. The Petitioner’s unsupported assertions alone are not sufficient to establish error in the Director’s decision nor meet her burden of proof to demonstrate eligibility for a national interest waiver.

As to the national importance of the proposed endeavor specifically, the Petitioner primarily discusses on appeal her educational background and employment experience as establishing the national importance requirement. However, evidence of the Petitioner’s education, skills, and expertise, including work experience, generally relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the [noncitizen]” and whether she is well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the Petitioner’s specific proposed endeavor—to establish a mortgage lending company—has national importance under *Matter of Dhanasar*’s first prong. The evidence of the Petitioner’s work experience does not elaborate on the Petitioner’s specific proposed endeavor nor support its national importance.

The Petitioner next disputes the Director’s finding that the Petitioner did not establish the business need for the number of employees projected in the business plan. The Petitioner states that the need for these employees “will arise as the business expands” and that “various positions such as real estate manager, real estate agents, brokers, telemarketers, compliance officers, receptionists will have to be filled up to ensure the success of the business.” Although the Petitioner asserts that the business plan supports this need, she does not provide further clarification as to how this number is justified by the

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<sup>2</sup> The record shows the Petitioner obtained the foreign equivalent of bachelor of business administration degree and possesses at least five years of progressive post-baccalaureate experience in business management and finance.

business plan. Moreover, we agree with the Director that the Petitioner has not established that the creation of 21 jobs in five years would result in the type of “substantial positive economic effects” that would rise to the level of national importance. *Matter of Dhanasar*, 26 I&N Dec. at 890.

Finally, the Petitioner asserts on appeal that the language of *Matter of Dhanasar* allows for a regionally focused endeavor to nevertheless establish national importance, and that we should “avoid overemphasis on the geographic breadth” of the proposed endeavor. The Petitioner is correct that the analytical framework introduced in *Matter of Dhanasar* sought to reduce the focus on the geographic impact of an endeavor. *See id.* at 887. However, the Petitioner does not claim that the Director made any specific legal or factual errors related to the regional nature of the Petitioner’s proposed mortgage lending company. The Director did not rely on lack of geographic breadth in concluding that it lacks national importance. Rather, the Director concluded that the Petitioner did not offer sufficient information and evidence to establish that the proposed endeavor would have broader implications for the mortgage lending industry or that it would offer substantial positive economic effects. Upon de novo review, we agree. Although an endeavor that is regionally focused may have national importance, it must still have a broad impact. *Id.* at 889.

The Petitioner’s appeal brief includes many broad claims about the potential impact of the proposed endeavor, including that it will “help the U.S. stay competitive by bringing competitive services, helping develop the country, and producing income for the U.S. economy,” or “will be able to affect the entire mortgage market in the United States by proving [sic] a range of financial services . . . .” These claims are not supported by the evidence in the record. Although the record reflects the Petitioner’s hope to establish a small mortgage lending company in Florida, the Petitioner has not demonstrated that the potential prospective impact of this endeavor rises to the level of national importance.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she 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 Petitioner’s eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 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). Because the Petitioner has not met the national importance requirement of the first prong of *Dhanasar*, we conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.