



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

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

In Re: 28083606

Date: AUG. 22, 2023

Appeal of Texas Service Center Decision

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

The Petitioner works as a financial controller of global oil and gas companies. He requests his classification under the employment-based, second-preference (EB-2) immigrant visa category as a member of the professions holding an advanced degree and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 202(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse a job offer - and thus the related requirement for certification from the U.S. Department of Labor (DOL) - if a petitioner demonstrates that a waiver would be "in the national interest." *Id.*

The Director of the Texas Service Center denied the petition. The Director found the Petitioner qualified for the requested immigrant visa category as an advanced degree professional. But the Director concluded that the Petitioner did not demonstrate the "national importance" of his proposed endeavor or the benefit of waiving U.S.-worker protections to the country. On appeal, the Petitioner contends that the Director overlooked evidence and misapplied law and USCIS policy.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he has not sufficiently established that his proposed U.S. work has national importance. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, petitioners must first demonstrate their qualifications for the requested EB-2 immigrant visa category, either as advanced degree professionals or noncitizens of "exceptional ability" in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect the jobs of U.S. workers, this category generally requires prospective employers to seek noncitizens' services and obtain DOL certifications to permanently employ them in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). To avoid these job offer/labor certification requirements, petitioners must demonstrate that waivers of the U.S.-worker protections are in the national interest. Section 203(b)(2)(B)(i) of the Act; *see also Flores v. Garland*, 72 F.4th 85, 89-90

(5th Cir. 2023) (holding that USCIS decides a national interest waiver request as a matter of discretion).

Neither the Act nor regulations define the term “national interest.” So, we have established a framework for adjudicating these waiver requests. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If otherwise qualified as advanced degree professionals or noncitizens of exceptional ability, petitioners may merit waivers of the job-offer/labor certification requirements if they establish that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well positioned” to advance their intended endeavors; and
- On balance, waivers of the job-offer/labor certification requirements would benefit the United States.

Id.

II. ANALYSIS

The Petitioner, an Egyptian native and citizen, has about 20 years of financial experience in the global oil and gas industry and has worked in several countries, including: Egypt; Sudan; Syria; Iraq; and the United States. He gained about 17 years of experience with a company that provides oilfield services to many of the largest multinational oil and gas exploration and production firms in the world. While this petition was pending, the Petitioner changed employers. Since May 2022, he has worked as a corporate controller in the United States for a Canadian-based oil and gas exploration company.¹

The Petitioner stated that his work has included developing and implementing financial management strategies to maximize revenues and other business investment opportunities. In his current position, he manages a \$300 million budget for the operation of two offshore oil exploration wells in Guyana. He said he plans to “leverage my professional relationships abroad” to encourage foreign investment in the U.S. energy sector. The Petitioner states that oil and gas companies urgently need financial controls because of increased volatility over the past few years in the global energy market.

A. Advanced Degree Professional

The Petitioner submitted evidence that his Egyptian bachelor of commerce degree equates to a U.S. bachelor’s degree in accounting. The record also contains letters confirming his possession of more than five years of progressive, post-baccalaureate experience in the field. We therefore agree with the Director that the Petitioner qualifies for the requested immigrant visa category as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (defining the term “advanced degree” to include a bachelor’s degree followed by at least five years of progressive experience in the specialty).

¹ As previously indicated, the Petitioner seeks to waive the immigrant visa category’s job-offer requirement. *See* section 203(b)(2)(B)(i) of the Act. Thus, although he has a job offer, the petition’s approval does not depend on it.

B. Substantial Merit

We also agree with the Director that the Petitioner's proposed endeavor has substantial merit. Evidence of an undertaking's merit may include proof that the endeavor may have a potentially significant favorable economic impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. But "endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States." *Id.*

The record shows that the Petitioner's work as a financial controller in the oil and gas industry could generate substantial economic benefits for the United States. Also, by supporting development of additional oil and gas resources, his work could help the country achieve its energy security goals. *See, e.g.*, U.S. Dep't of Energy (DOE), "DOE Launches Foundation for Energy Security and Innovation," Feb. 9, 2023, www.energy.gov/articles/doe-launches-foundation-energy-security-and-innovation. The Petitioner therefore has demonstrated that his proposed endeavor has substantial merit.

C. National Importance

In determining whether an undertaking has national importance, USCIS focuses on a petitioner's proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 889. Specifically, the Agency considers an endeavor's "potential prospective impact." *Id.* "An undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* A nationally important endeavor may also have significant potential to employ U.S. workers or provide other positive economic benefits, particularly in an economically depressed area. *Id.* at 890.

The Director found insufficient evidence that the Petitioner's endeavor would substantially affect the oil and gas industry beyond his employer and its clients. The Director found that he did not show that his undertaking has significant potential to employ U.S. workers or provide other positive economic benefits to the country. The Director acknowledged the Petitioner's submission of several recommendation letters on his behalf. But the Director found them to contain conclusory statements, unsupported by documentary evidence.

On appeal, the Petitioner contends that the recommendation letters demonstrate the broad impact his work has on the global oil and gas industry. The letters - mostly from executives of his former employer - state his achievements at that company, including:

- Leading a finance team in implementing an Enterprise Resource Planning (ERP) software system by developing key reports, and identifying and controlling key systems risks;
- Eliminating a business segment's negative inventory of \$111 million;
- Overseeing a business segment's 11% increase (\$78 million) in revenues and \$20 million reduction in cash in net working capital;
- Preparing the financial portion of a successful offer to provide \$80 to \$100 million in oilfield services in Guyana;

- Managing financial aspects of a 2020 divestiture in underperforming business units, increasing profits by 5% (\$6 million to \$8 million);
- Increasing projected 2020 profits by \$20 million by managing inventory write-offs and negotiating price increases with clients; and
- Despite terrorist organizations' control over significant parts of Iraq and Syria, increasing the company's revenues in those countries from 2012 to 2013 by 300% to \$100 million.

The letters state that the Petitioner's achievements had global implications in the industry because his employer's clients included many of the largest oil and gas exploration and production companies in the world. By reducing his employer's costs, he purportedly reduced its clients' costs of finding and producing oil and gas worldwide.

As the Director found, however, the record lacks corroborating evidence that the money the Petitioner saved his employer reduced its clients' costs. Also, the record identifies his new employer as an oil and gas exploration company, not an oilfield services firm like his former employer with many multinational customers. Thus, the record does not indicate that his financial control work for his new employer will affect the oil and gas industry as broadly as his activities with his former employer. Also, the record indicates the Petitioner's management of a \$1.2 billion budget with his former employer but only a \$300 million budget with the new company. Thus, the Petitioner has not shown that he will save his new employer as much money as he saved his former one, also potentially reducing his work's impact on the industry.

Further, the Petitioner contends that his employer will use the money he saves it to create U.S. jobs and invest in energy research and development. But the record lacks sufficient evidence that his former or new employer used, or would likely use, money he saves them to create U.S. jobs or increase research and development funding. For example, the 2022 annual report of the Petitioner's former employer states that its revenues increased 23% that year but that the company used the additional monies to increase its dividend, resume its share buyback program, and reduce its debt. U.S. Sec. & Exchange Comm'n, "[REDACTED] Company Filings," [www.sec.gov/\[REDACTED\]companysearch](http://www.sec.gov/[REDACTED]companysearch).² The 2022 audited financial statements of his new employer indicate that the company has a history of annual losses, generates no revenues, and has a working capital deficit of \$2.6 million and an accumulated deficit of more than \$320 million. *See* Toronto Stock Exchange, "Listed Company Directory," www.tsx.com/listings/listing-with-us/listed-company-directory. As a result, the auditor stated that the company's continuing operations depend on its ability to secure additional financing and that "a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern." *Id.* Thus, the record does not demonstrate that the Petitioner's former or new employer used, or will likely use, money that he saves them to create U.S. jobs or increase

² Recent news articles indicate that several large oil and gas companies used record 2022 profits to reward their shareholders by increasing dividends and buying back stock shares. *See* Clifford Krauss, "What Exxon and Chevron Are Doing With Those Big Profits," N.Y. Times (Feb. 1, 2023), [https://www.nytimes.com/2023/02/01/business/energy-environment/exxon-chevron-oil-gas-profit.html#:~:text=Instead%2C%20executives%20said%20they%20were,billion%20repurchase%20plan%20in%20December;see%20also%20Reuters,Factbox:Bumperprofitsfuel%20surge%20in%20dividends,buybacks%20at%20oil%20firms,Jan.31,2023,https://www.reuters.com/business/energy/bumper-profits-fuel-surge-dividends-buybacks-oil-firms-2023-01-31/#:~:text=Jan%202031%20\(Reuters\)%20%2D%20Energy,higher%20dividends%20and%20share%20buybacks](https://www.nytimes.com/2023/02/01/business/energy-environment/exxon-chevron-oil-gas-profit.html#:~:text=Instead%2C%20executives%20said%20they%20were,billion%20repurchase%20plan%20in%20December;see%20also%20Reuters,Factbox:Bumperprofitsfuel%20surge%20in%20dividends,buybacks%20at%20oil%20firms,Jan.31,2023,https://www.reuters.com/business/energy/bumper-profits-fuel-surge-dividends-buybacks-oil-firms-2023-01-31/#:~:text=Jan%202031%20(Reuters)%20%2D%20Energy,higher%20dividends%20and%20share%20buybacks).

research and development funding. The Petitioner therefore has not sufficiently established that his proposed endeavor has national importance.

Our decision regarding the national importance of the Petitioner's proposed work resolves this appeal. We therefore decline to reach and hereby reserve his appellate arguments regarding his qualifications for advancing his proposed endeavor and whether waiving U.S.-worker protections would benefit the United States.³ See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues unnecessary to their ultimate decisions); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant did not otherwise qualify for relief).

III. CONCLUSION

The Petitioner has not demonstrated that his proposed endeavor has national importance. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.

³ The Director did not find whether the Petitioner is well-positioned to advance his endeavor.