



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

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

In Re: 28810170

Date: NOV. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a supply chain manager, seeks second preference immigrant classification as an individual of exceptional ability. 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. The Director concluded that the Petitioner met at least three of the six regulatory criteria at 8 C.F.R. § 204.5(k)(3)(ii) related to exceptional ability but did not conduct a final merits determination as to whether the Petitioner, by a preponderance of the evidence, demonstrated that he has a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. The Director also determined the Petitioner did not demonstrate that his proposed endeavor would be in the national interest of the United States. The Director further concluded the Petitioner did not establish that he was well positioned to advance his proposed endeavor or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. 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 as the Petitioner did not establish that his proposed endeavor would be in the national interest of the United States. 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*, as well as to whether he meets the requirements for exceptional ability classification. 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).

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 USCIS may, as matter of discretion¹, 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.

II. ANALYSIS

The Petitioner, a native and citizen of Brazil, indicated that he was a professional with exceptional ability holding “recognized expertise in the supply chain sector,” including specialized knowledge in “supply chain management consulting, logistics, project and distribution management, and supplier outsourcing.” The Petitioner stated that he had been employed as a supply chain manager for over fifteen years in Brazil, most recently as a “Procurement, Logistics & Demand Planning Manager” at [redacted] an oil and gas company.

The Petitioner explained his proposed endeavor in the United States as follows:

My overall proposed endeavor in the United States is to offer my expertise to help existing companies in need of management and organization of their logistics and supply chain operation. In this way, my main goal will be to help U.S. entities – ranging from any industry – improve and maintain more efficient and effective supply chains, in order to enhance their market competitiveness, whether nationally or internationally. Increased business transactions will not only provide competitive advantage to the companies I serve, but will also generate direct and indirect jobs for U.S. workers, as well as benefit the national economy.

Further, my knowledge and experience in supply chain management will be very valuable to American companies pursuing the closure of new contracts, and to the development of new business opportunities. My work can significantly help companies expand their business activities across the country, and internationally, allowing them to become more successful and competitive in local and foreign markets.

¹ 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).

The Petitioner further indicated that to advance his proposed endeavor in the United States, he would use his “professional understanding and dexterity in order to advance the U.S. supply chain sector, and in turn, the logistics economy” and “design, implement, and operate distribution and international trade channels ensuring appropriate cost, quality, and safety levels for timely movement of goods and supplies.” The Petitioner asserted that he would work in large U.S. companies, and through his skills provide cost reduction, allowing them to “reallocate their resources to new investments, thus creating new work opportunities, new jobs, salary compensation programs, and new business opportunities.” The Petitioner emphasized that supply chain management is critical to the U.S. economy, and therefore of national importance, totaling \$1.6 trillion of the U.S. gross domestic product in 2018. The Petitioner also stated that his knowledge of Latin America, and Brazil’s infrastructure and business and supply chain environment, would be “essential for the successful movement/expansion of U.S. companies into these growing economic segments.”

In response to the Director request for evidence (RFE), the Petitioner also submitted several support letters from colleagues to highlight the national importance of his endeavor. For instance, the Petitioner provided a letter from a “HSE Manager” from his former foreign employer stating that he had contributed greatly to the success of the organization by “secur[ing] a highly beneficial contract for the company that greatly improved operational efficiency and reduced costs” and noting that he helped a plant achieve 100% compliance with the company’s global vehicle safety. The HSE manager further indicated that he was “confident that [the Petitioner] will continue to make significant contributions to any organization he joins in the future.” In turn, the Petitioner submitted a letter from the owner of a Florida based marble and granite business for whom he had worked from November 2022 to January 2023 attesting to his “ability to recognize and address the underlying issues” and stating that he was “instrumental in implementing several projects that significantly impacted [their] business.” The owner of the marble and granite business further indicated that the Petitioner had installed Quickbooks online to allow for remote access to financial records, implemented a “critical vendors management system” enabling the company to better comply with regulatory requirements, and launched a training system to standardize pricing and allow for more agility in responding to client inquiries. The owner of the marble and granite business asserted that the Petitioner would be “well positioning to benefit any business in the United States.”

Likewise, the Petitioner provided an additional support letter from the owner of a wallcovering company in the United States for whom the Petitioner had delivered consulting services in August 2022. The owner of the U.S. wallpapering company indicated that the Petitioner had implemented “tools and methodologies to improve office efficiency, reduce costs, increase sales, and enhance customer experience” leading to “increased sales by 25% within three months.” The owner also stated that the Petitioner’s “expertise and experience make him an asset to any business in the United States.” In addition, the Petitioner submitted a letter from a “Technology Lifecycle Manager” working for his former foreign employer stating that the Petitioner had “contributed significantly to the company’s success” by contributing to a 30% increase in the on-time delivery of equipment at a plant and 15-20% reduction in transportation costs through price negotiations. The Petitioner’s former colleague asserted that he was confident that the Petitioner “will continue to excel in his future endeavors and make valuable contributions to the United States.”

In denying the petition, the Director stated that the Petitioner did not sufficiently establish that the proposed endeavor was of national importance. The Director determined that the Petitioner did not

submit specific information and evidence to corroborate the prospective impact of his proposed work as a supply chain manager or that it rose to the level of national importance. The Director concluded the Petitioner did not demonstrate that the proposed endeavor would extend beyond the organizations he would work for and impact the industry or field more broadly.

On appeal, the Petitioner largely reiterates his prior assertions, again stating that his proposed endeavor would “provided companies in the U.S. with expert advice and guidance regarding supply chain activities” ensuring the “direct and timely movement of goods and supplies in any industry that requires [his] unique set of skills.” The Petitioner contends that his services will “have a profound impact on the U.S. business sphere, positioning the nation as a prominent hub within the global economy” and facilitate the growth and success of American companies. The Petitioner further states that his proficient management of supply chains for “large-scale projects across various industries” will enable companies to “thrive and expand on local and national levels.” He also asserts that his provision of supply chain services will “provide valuable business solutions,” “facilitate the growth and expansion of companies,” “lead to improved investment patterns,” generate “sustained productivity for U.S. businesses,” and “stimulate U.S. trade relations with foreign markets.”

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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. Here, the Director concluded that the Petitioner sufficiently demonstrated that his proposed endeavor had substantial merit but determined that he had not established its national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. 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.

The Petitioner asserts that his proposed endeavor in the United States is to offer expertise to help existing companies in need of management and organization of their logistics and supply chain operation. To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of his work. The Petitioner provided evidence reflecting the potential general importance of supply chain operations but did not submit sufficient evidence to demonstrate that the potential prospective impact of his work would have national or even global implications within his field.

For instance, the Petitioner stated that the U.S. logistics industry accounted for \$1.6 trillion, or 8% of the U.S. gross domestic product, and employed approximately 44 million individuals. In contrast, the Petitioner provided two support letters on appeal reflecting that he has provided professional services to apparent small businesses, a U.S.-based granite and marble business from November 2022 to January 2023, and management consulting services to a U.S. wallcovering company in August 2022.

For instance, as discussed, the owner of the marble and granite business indicated that the Petitioner had installed Quickbooks online to allow for remote access to financial records and implemented a “critical vendors management system” enabling the company to better comply with regulatory requirements, amongst providing other professional services. Although the services the Petitioner provided previously are not fully determinative of those he would provide in the future, these are likely reflective of the impact his services would have in the United States. However, the Petitioner has not disclosed the size of the U.S. companies to which he had already provided services, or explained how this reflects a potential national or global impact. Given this, it is difficult to discern how the Petitioner’s provision of supply chain professional services would have a national impact on an industry that, according to him, accounts for approximately \$1.6 trillion of the U.S. economy and employs over 44 million individuals.

Further, the Petitioner submitted evidence discussing the importance of supply chain operations generally, but submitted little evidence to substantiate that his proposed endeavor will have a national or global impact. For example, the four support letters provided by the Petitioner in response to the RFE do not discuss how his proposed work would have a national impact, but only indicate that he is a competent professional that can be relied upon, stating that has “expertise and experience make him an asset to any business in the United States” and that he “he will continue to excel in his future endeavors and make valuable contributions to the United States.” First, the Petitioner’s expertise and experience is not relevant to establishing whether his proposed endeavor is of national importance, but whether he is well positioned to advance the endeavor. *See Dhanasar*, 26 I&N Dec. 884, 892-93. Further, as with other evidence provided on the record, the support letters do not detail with specificity how his work would have a national impact, other than indicating that he was a competent professional while employed with his former foreign employer and that he provided effective services to two clients in the United States. The Petitioner provided broad assertions regarding the impact of his services indicating that it would result in “multimillion dollar projects,” “high volume,” “improved investment patterns,” “potential new market areas,” “new international partnerships,” and even “raise the standard of living.” However, the Petitioner provided little explanation or supporting evidence to corroborate that his services would be provided to large corporations as claimed, as likely necessary to have an impact on national-level supply chains to achieve changes in investment patterns, national markets, international partnerships, or the U.S. standard of living, as asserted. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Similarly on appeal, the Petitioner contends that his services will “have a profound impact on the U.S. business sphere, positioning the nation as a prominent hub within the global economy” and facilitate the growth and success of American companies. However, he submits little explanation or documentary support as to how his provision of services would impact the global economy or cause American companies to grow on a national scale. Likewise, the Petitioner further states that his proficient management of supply chains for “large-scale projects across various industries” will enable companies to “thrive and expand on local and national levels.” Again, the Petitioner provided minimal evidence to support a conclusion that his work will be on a large scale as necessary to effectuate a national impact, in fact, he does not even specify in what industry he would provide his services. The Petitioner also asserts that his services will “stimulate U.S. trade relations with foreign markets,” including Latin America. However, the Petitioner provides little detail or evidentiary support for how

his services will facilitate trade between U.S. and foreign companies, or generate U.S. business in Latin America, beyond vaguely indicating that he worked for many years in Brazil. *Id.*

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. *Dhanasar*, 26 I&N Dec. at 893. Here, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele, such as those reflected in the two support letters provided from his current U.S. clients. The Petitioner has not sufficiently demonstrated by a preponderance of the evidence that his proposed endeavor would have a broad influence commensurate with national importance.

The Petitioner has also not demonstrated that the endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. The Petitioner asserted that his services would "provide valuable business solutions," "facilitate the growth and expansion of companies," "lead to improved investment patterns," and generate "sustained productivity for U.S. businesses." The Petitioner's submits extensive claims as to the impact his supply chain professional services would have on the economy, but again did not support this impact with objective documentary evidence. The Petitioner provided several industry articles in response to the RFE, but these discuss the general importance of supply chain operations and do little to substantiate that his services would have a substantial national impact on supply chain operations. The Petitioner does not establish the benefits to the regional or national economy that would result from his undertaking such that it reaches the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. In addition, the Petitioner did not offer sufficient evidence to demonstrate by a preponderance of the evidence that the areas where he would operate are economically depressed, he would employ a significant population of workers in these areas, or his endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.