



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

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

In Re: 28467223

Date: NOV. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a project manager, seeks 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. The Director concluded the Petitioner qualified as an advanced degree professional, but further determined that he did not demonstrate his eligibility for a national interest waiver. 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 has national importance. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Since this issue is dispositive, we decline to reach and hereby reserve the remaining issues. *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.²

II. ANALYSIS

The Petitioner, a native and citizen of Columbia, intends to work as a project manager in information technology, particularly in the oil and gas industry. He provided letters from his former Colombian employers in support of the petition reflecting that he worked as a “IM2 Master’s Engineer” with [REDACTED] since March 2021 and previously as a “Project Manager...for [REDACTED] in the Ecossearch platform” with [REDACTED] from November 2010 to August 2020. The Petitioner’s former employer, [REDACTED] stated he was qualified to “contribute to the E&P Exploration and Production Industry in the United States” based on his provision of “end-user support services such as IT support for the specialized areas of Geology, petrophysical geophysics, reservoir engineering and the integration of information for the workflow of the areas of geosciences and petrotechnical applications.”

The Director later issued a request for evidence (RFE) stating that the submitted evidence did not provide sufficient insight into what the Petitioner intended to do as a project manager working in information technology in the United States. More specifically, the Director determined that the Petitioner did not demonstrate his proposed endeavor had national or global implications in his field and requested he submit evidence to establish the national importance of the proposed endeavor, including a detailed description of the proposed endeavor, why it is of national importance, and documentary evidence supporting its national importance. The Director further indicated the Petitioner should provide evidence to establish the endeavor’s potential prospective impact, such as documentation to substantiate how it would have national or global implications in the field, have significant potential to employ U.S. workers or have other substantial economic effects, broadly enhance societal welfare or cultural or artistic enrichment, or impact a matter that a government entity has described as having national importance.

In response, the Petitioner submitted an affidavit stating that he “could contribute with a high level of technological innovation...because of his high level of knowledge in IT [information technology] of

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).

² The Director initially stated in the denial decision that the Petitioner’s proposed endeavor has substantial merit and that the Petitioner is well-positioned to advance the endeavor, but that the Petitioner has not established that the endeavor is of national importance or 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. Later in the decision, the Director stated that they declined to analyze eligibility under the second and third prongs outlined in *Dhanasar* because “it would serve no meaningful purpose.” As previously noted, because the first prong determination is dispositive, we have reserved the remaining issues.

E&P [hydrocarbon exploration], [and] propos[ed] disruptive changes in technological services.” The Petitioner emphasized that he had established a company in the United States to provide specialized information technology support services in the geoscience industry, indicating it would make a substantial contribution to the E&P oil exploration and production industry using “disruptive changes in technology services such as Petrotecnica Cloud on different technologies from companies such as Amazon, Microsoft, and Google.” The Petitioner pointed to positions he held as a national applications manager in outsourcing at [redacted] manager of the [redacted] of the National [redacted] and data management and IT operations manager in the oil and gas sector at [redacted]. He further stated that he held a postgraduate degree in information systems from a university in Columbia. The Petitioner explained his endeavor as follows:

The challenges of a world that is advancing in a generation and use of clean energy, the high pressure of society to make an energy transition with a view to reducing CO2 emissions, greenhouse gases and the path to carbon neutrality, has forced to maintain extractive activity, to have sufficient resources to adapt to this transition, opening path to growth opportunities which implied a change of long-term vision, leading to technical change of specialized applications currently used, thus I will contribute with more than 23 years experience in the energy industry more specifically companies in the Oil & Gas Sector.

The Petitioner stated he would “aid Oil and Gas companies with the application of technologies like cloud computing, data-management, and the industrial internet things” and “help companies within the energy sector reduce emissions and remain competitive as the world transitions towards renewable energy.” The Petitioner pointed to a submitted [redacted] report stating that “many CEOs rightly view digitization as key to unlocking the gains they seek.”

The Petitioner emphasized that his endeavor would have national importance because it would “have a significant impact promoting sustainable energy throughout the United States,” citing an industry report stating that “digital solutions are poised to best address climate action through tackling resilience and adaptive capacity, emissions mitigation and strategic planning.” He further indicated that digital solutions could enhance operational efficiencies and have a direct decarbonization impact, keep people safe, and facilitate accurate reporting features enabling businesses to understand and communicate their sustainability impact. He also cited to a World Economic Forum report opining that digital solutions could reduce global emissions by up to 20% by 2050, serving to promote sustainable energy, an area of national importance communicated by a Biden-Harris administration executive order. The Petitioner explained that he would “promote environmentally and socially responsible solutions in the form of digitization,” and in turn, better energy practices.

The Petitioner further stated that his proposed endeavor would have significant potential to employ U.S. workers and preserve and transition jobs in the oil and gas sector, discussing an expert opinion submitted by [redacted] an Associate Professor of Computer Science & Information Systems at [redacted] University. [redacted] stated that the Petitioner’s endeavor would “help businesses and companies in achieving the implementation of new technologies through digital transformation and innovation” offering consulting services that will help organizations “increase their productivity, apart from saving money, becoming more agile and operating more efficiently.”

In denying the petition, the Director acknowledged the Petitioner established that his proposed endeavor had substantial merit but concluded he did not demonstrate that the endeavor was of national importance. The Director stated the Petitioner did not provide evidence to substantiate that his endeavor would potentially impact the consulting information technology industry at a national level. The Director concluded the Petitioner had submitted no evidence to demonstrate how the endeavor would extend beyond his organization and his clients to impact the field more broadly. Likewise, the Director determined the Petitioner did not establish that the endeavor would have significant potential to employ U.S. workers or reach the level of having substantial positive economic effects.

On appeal, the Petitioner asserts the Director incorrectly concluded that he had not provided evidence to demonstrate how his proposed endeavor would extend beyond his organization, emphasizing articles he submitted in response to the RFE. For instance, the Petitioner contends that the Director did not sufficiently consider a provided [redacted] report titled “Harnessing volatility: Technology transformation in the oil and gas” ([redacted] Report) and a World Economic Forum article titled “Digital solutions can reduce global carbon emissions by up to 20% (World Economic Forum Article).” The Petitioner emphasizes that these articles demonstrate how his endeavor would help the United States reduce carbon emissions, thereby having national and global implications. He further points to an article from “The Break Through Institute” called “Oil and Gas Assets” (Break Through Institute Oil and Gas Assets Article) asserting that this reflects the potential for the Petitioner’s endeavor to employ U.S. workers and create substantial economic benefit. The Petitioner states that his implementation of digital solutions would enable oil and gas companies to reduce emissions, aligning with a President Biden executive order titled “Catalyzing America’s Clean Energy Economy Through Federal Sustainability” (President Biden Executive Order).

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.

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. As discussed, the Petitioner points to a submitted [redacted] Report and contends this demonstrates that the Petitioner’s endeavor will allow the United States oil and gas industry to reduce carbon emissions. Upon review, the [redacted] Report discusses how digital technologies could help oil and gas industry executives cut costs, boost output, and reduce carbon emissions. The report discusses five high level ideas on how digitization could aid in this effort. For instance, the report states that according to [redacted] research, 70% of digitization projects have not moved beyond the pilot phase or are “stuck in the pipeline.” Similarly, the [redacted] Report indicates that oil and gas executives should be “clear about the business problems they wish to address and the results they want to achieve,” noting that “digital methods are proving to be among the most powerful and cost-effective ways to reduce the industry’s carbon footprint.” Even if we accept the general observations discussed in the [redacted] Report, it is not clear how this general overview of digitization in the oil and gas industry relates directly to the

Petitioner's endeavor and its potential prospective impact on the oil and gas industry on a national level. For example, the Petitioner did not articulate or document what technologies or digitization methods he would implement to lead to carbon emissions reduction, what oil and gas companies or executives he would work with, or how his work would likely lead to a reduction in carbon emissions on a national level.

To further illustrate, the [REDACTED] Report provides examples of how other oil and gas companies and executives explored implementing digitization to bring about efficiencies in their companies. The report explained how one refinery and petrochemical company implemented an artificial intelligence system to predict the best operating conditions in real time, another energy company built an application that reinforcing the adoption of new practices by its frontline operators, and an Asian oil company setting out a three-year technology road map designed to support the deployment of more than 40 digital technologies use cases unlocking over \$175 million in new value. In contrast, the Petitioner does not provide anything close to this level of detail to sufficiently understand the digitization methods he would be implementing, what companies he would be working with; and in turn, what specific proposed value and impact on the oil and gas, and carbon emissions, would result from his work. Although this article sets forth several theoretical ways in which digitization could assist oil and gas companies with improving their efficiencies and potentially carbon emissions, it does little to demonstrate the ways in which the Petitioner's specific proposed endeavor would lead to improvements in efficiencies and oil and gas companies or a reduction in carbon emissions on a national or global scale.

Similarly, the Petitioner further asserts that the World Economic Forum Article "corroborates the national and global implications of the endeavor." The article states that digital technologies could reduce carbon emissions by 20% by 2050, by 4-10% by 2030, and that "data transparency, digital talent and partnership will be key ingredients to technology adoption at scale." However, again, it is not clear how this article relates directly to demonstrating that the Petitioner's proposed endeavor would likely have a potential prospective impact at the national level. For instance, as noted, it is not clear what specific technologies the Petitioner would implement, at which companies the technology would be implemented, at what scale, and how this would lead to a potential reduction in carbon emissions at a national or global level. Although the article reflects that digitization may be an intriguing future method to bring about changes in efficiency in the oil and gas industry, and in turn potentially reduce carbon emissions, it provides little specificity as to how this would be accomplished. Further, the Petitioner does not sufficiently articulate how his endeavor would have a potential prospective impact at a national level and lead to innovation in the oil and gas industry and a reduction in carbon emissions.

The Petitioner contends on appeal that the provided Break Through Institute Oil and Gas Assets Article shows how the Petitioner's proposed endeavor "has the potential to employ U.S. workers and [have] other substantial economic benefits," noting that the article reflects that "digital solutions directly allow for job preservation, and U.S. competitiveness as the global economy transitions to sustainable energy." The submitted article discusses broad industry issues facing the oil and gas industry and aggregately assesses the potential impact resulting from the implementation of clean energy solutions. Again, the Break Through Institute Oil and Gas Assets Article generally analyzes the potential for digital solutions to preserve U.S. jobs in the oil and gas industry, but there is little indication or evidentiary support as to how the Petitioner's specific endeavor would have significant potential to

employ U.S. workers or have other substantial positive economic effects, such as creating jobs in economically depressed areas. The Petitioner provides little detail on the potential economic impacts of his proposed U.S. business, including how many individuals it would likely employ, how much revenue it would generate, what specific impacts it would have on the U.S. economy, and what parts of the country it would impact.

The Petitioner also points to the President Biden Executive Order reflecting the U.S. government's interest in promoting clean energy industries, including an effort to reduce carbon emissions in the oil and gas industry. The Petitioner states on appeal that this order "evidence[s] [the Petitioner's] implementation to digital solutions [that] will enable Oil and Gas companies to reduce emissions [sic]." However, yet again, the Petitioner did not specifically articulate the digital solutions he would implement, what companies he would work and at what scale, and how this would have a national impact on reducing carbon emissions in the oil and gas industry. We acknowledge that the Petitioner's proposed endeavor appears generally consistent with President Biden's proposed initiative, but he does not sufficiently articulate or document how his proposed endeavor would have a potential prospective impact on a national level to effectuate the President's order.

The Petitioner further emphasizes his over 20 years of experience and knowledge in digital solutions within the oil and gas industry to highlight the national importance of his proposed endeavor, pointing to the prior positions he held in this industry in Colombia. However, the Petitioner's experience and knowledge in and of itself is not relevant to demonstrating its national importance, but whether he is well positioned to advance the endeavor. *See Dhanasar*, 26 I&N Dec. 884, 892-93. Therefore, we do not find the emphasis on his skills and experience on appeal convincing in establishing the national importance of his proposed endeavor.

Lastly, the Petitioner also asserts on appeal that his proposed endeavor would be of national importance in promoting U.S. competitiveness in the STEM fields, including emphasizing that the endeavor relates to those topics of national importance delineated by the National Science and Technology Council (NSTC). The Petitioner claims that his proposed endeavor would have implications in two advanced computing subfields, namely data management and cloud computing in the oil and gas industry. USCIS recognizes the importance of progress in STEM fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies, or other STEM areas important to U.S. competitiveness or national security. We may find that a STEM area is important to competitiveness or security in a variety of circumstances, for example, when the evidence in the record demonstrates that an endeavor will help the United States remain ahead of strategic competitors or current and potential adversaries, or relates to a field, including those that are research and development-intensive industries, where appropriate activity and investment, both early and later in the development cycle, may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners. *See generally 6 USCIS Policy Manual F.5(D)(2)*, <https://www.uscis.gov/policymanual>.

However, the Petitioner here only vaguely asserts that the proposed endeavor would have an impact on data management and cloud computing, but as we have discussed at length, it does not sufficiently articulate how his work will specifically impact these fields on a national level and does not sufficiently detail the technologies he would work with. Further, the Petitioner did not explain or document how his proposed endeavor would help the United States stay ahead of strategic competitors

or adversaries or maintain technology leadership or peer status among allies and partners. For these reasons, the Petitioner did not demonstrate the national importance of his proposed endeavor based on its focus in STEM fields.

The Petitioner's statements reflect a vague intention to provide digitization services in the oil and gas industry and he widely contends that information technology services could impact the efficiency of these companies, as well as potentially carbon emissions. However, the Petitioner has not offered sufficient information and evidence to demonstrate that the prospective impact of his information technology services and company or that it 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. *Dhanasar*, 26 I&N Dec. at 893. As noted by the Director, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele, which was not made sufficiently clear through his assertion and the submitted evidence. As such, the Petitioner has not demonstrated that his proposed endeavor would have a broad influence commensurate with national importance.

Because the documentation in the record does not establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver.

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.