



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

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

In Re: 26400269

Date: NOV. 28, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an information technology (IT) project manager, seeks classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability in the sciences, arts or business. *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 Petitioner qualified for classification as a member of the professions holding an advanced degree but did not establish that a waiver of the required job offer, and thus of the labor certification, would be 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.

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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest

waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as a plan "to advance his career as an IT Project Manager and by doing so, implement systems and processes and provide real-time integration to companies of different sizes and segments, as well as implement agile methodologies and information security strategies, develop strategic plans, and oversee systems architecture." The Petitioner further stated that he will "make his services available to both the private and public sector in the United States." The Petitioner added that his work as an IT project manager will "achieve not only potential but certain significant economic impacts in the United States, as well as increase individual and collective welfare, whilst significantly minimizing errors, risks and related cybersecurity threats."

In a request for evidence (RFE), the Director informed the Petitioner that its description of the proposal to provide services in the information technology industry in the United States does not establish national importance. In response to the RFE, the Petitioner submitted, in relevant part, a professional plan dated August 2022, which was prepared after the January 2022 petition filing date. In that professional plan, the Petitioner reiterated, "I will continue my activities as an IT Project Manager, utilizing all of the knowledge I acquired in programs and courses, along with my professional experience, which has contributed to the successful development of my work efficiently, guaranteeing the best results." The Petitioner added, "I also intend to improve my performance by taking new courses according to the demand in the field, which is constantly evolving." The Petitioner summarized his qualifications and described the general responsibilities he will perform as an IT project manager. The Petitioner also stated that his efforts will potentially impact the United States by:

- Optimizing processes, reducing costs, increasing productivity, enhancing business intelligence, and helping companies operate more efficiently;
- Enhancing and expanding America's IT Project Manager workforce;
- Advancing innovations to serve the IT Project Management field better;

- Contributing toward the advance and optimization of the U.S. IT Project management infrastructure;
- Generating revenue;
- Stimulating the U.S. economy;
- Generating business growth; and
- Increasing business solutions and portfolios.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner reiterates previous statements made in the initial petition and in response to the RFE. The Petitioner asserts that his work will have "palpable broader implications, as it results in implementing strategic planning and management within complex IT projects, with the potential to have positive cascading effects disseminating to other economic fields." The Petitioner again summarizes his prior employment experience and qualifications, and he asserts that his past contributions and achievements demonstrate that he has made and continues to make contributions of significant impact. The Petitioner reiterates the general duties he has and will perform as an IT project manager, and he indicates a demand for information systems managers. The Petitioner further asserts that his contributions to American business will include managing cyber defense and data protection strategies and systems to safeguard the IT structures and data of U.S. companies. In addition, he will help "IT Professionals and American businesses foster innovation in business and reach financial success."

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

As described in the record, the proposed endeavor appears to benefit the Petitioner's employer and its clients; however, it does not appear to have broader implications or substantial positive economic effects indicative of national importance. *See Dhanasar*, 26 I&N Dec. at 889-90. Specifically, the Petitioner addresses maximizing a company's profit, providing systems to safeguard company's IT structure and data, and similar tasks that benefit an employer and its clients; however, the record does not establish with specific, probative information how the Petitioner's information technology project management endeavor would have broader implications beyond his employer's and its clients' profit, customer service, and data security, etc. *See id.* Although the Petitioner asserts that his endeavor will enhance job creation and that the companies he provides services to will be better positioned to create job opportunities for U.S. employees, the record does not establish with probative information the types of jobs his endeavor may create, the number of workers his endeavor may cause to be employed, where those workers will work, and other details that may establish the endeavor has "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *See id.* Additionally, although the Petitioner asserts that with his "leading roles for large corporations, along with his ability to manage, train and support IT professionals, will not only help fill the IT demand and talent shortage in the country, but will also

improve business operations, enhance efficiency and generate growth,” the record does not establish how the Petitioner would manage and train IT professionals and how the improvements he plans to make for these large companies establish that the proposed endeavor would have broader implications indicative of national importance. *See id.*

The Petitioner’s references to his prior employment experience, qualifications, and past contributions and achievements are misplaced in the context of the first *Dhanasar* prong. Although an individual’s experience, qualifications, contributions, and achievements are material to the second *Dhanasar* prong—whether an individual is well positioned to advance a proposed endeavor—they are immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91. Relatedly, the Petitioner’s references to the demand for information systems managers, and the benefits of information technology management are misplaced. As discussed above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *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

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

ORDER: The appeal is dismissed.