



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

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

In Re: 29048947

Date: NOV. 30, 2023

Appeal of Texas Service Center Decision

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

The Petitioner is a project manager in the oil and gas industry who seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner qualifies as a member of the professions holding an advanced degree, the record does not establish that he qualifies for a national interest waiver. 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. 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 U.S. Citizenship and Immigration Services (USCIS) may, as 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;

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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).

- 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

We agree with the Director's conclusion that the Petitioner qualifies as a member of the professions holding an advanced degree.<sup>2</sup> Therefore, the issue before us on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Director concluded that while the Petitioner demonstrated the proposed endeavor has substantial merit, he did not establish that the endeavor is of national importance, as required by the first *Dhanasar* prong. The Director also found that the Petitioner did not establish that he is well positioned to advance the proposed endeavor, and 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. Upon de novo review, we agree with the Director's determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest, as the Petitioner has not established that his specific proposed endeavor has national importance.<sup>3</sup>

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. In determining an endeavor's national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake," taking into consideration the proposed endeavor's potential prospective impact.<sup>4</sup> *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

In his initial supporting statement, the Petitioner discussed his education and experience working "in different projects related to the scheduled maintenance of [r]efining of [c]rude [o]il plant shutdowns." Given the Petitioner's prior education and experience, he stated that his proposed endeavor is to "continue working as a Project Manager" in the U.S. oil and gas industry.<sup>5</sup> In response to a request

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<sup>2</sup> To demonstrate he is an advanced degree professional, the Petitioner submitted his degree certificate and corresponding transcript from the Universidad [REDACTED]. He also provided an employment verification letter from the human resources office of [REDACTED], stating that he was employed at that organization's [REDACTED] in the position of "Major Mechanical Technician" from January 2006 until September 2015. The record demonstrates that the Petitioner holds the foreign equivalent of a U.S. bachelor's degree and at least five years of progressive experience in his specialty. See 8 C.F.R. § 204.5(k)(3).

<sup>3</sup> While we may not discuss every document submitted, we have reviewed and considered each one.

<sup>4</sup> An endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. *Matter of Dhanasar*, 26 I&N Dec. at 889.

<sup>5</sup> The record contains an employment offer letter offering the Petitioner a full-time position at [REDACTED] where his duties would include preparing proposals, changing order forms, purchasing materials, securing subcontractors, and directing field personnel "on all project issues."

for evidence (RFE), the Petitioner elaborated further on his endeavor, stating that he seeks to develop “an innovative maintenance plan based on Reliability-Centered Maintenance (RCM) using Artificial Intelligence (AI) and incorporating Root Cause Analysis (RCA) for critical equipment in a refinery for the national interest and U.S. competitive riser [sic] in the oil and gas sector, as well as participating in the research projects existing actually in the U.S. in this field.”

As supporting evidence, the Petitioner provided a study discussing the impact of digitization on manufacturing and articles discussing Chevron’s and Shell oil companies’ respective uses of AI. The Petitioner did not explain the relevance of either the study or the articles, none of which specifically discussed the Petitioner’s endeavor or mentioned his use of RCM and RCA methodologies as part of an oil refinery maintenance plan.

Although the Petitioner provided five other articles asserting that they support his claim concerning the national importance of his endeavor, he did not substantiate this assertion with further explanation. As with the previously mentioned study and two articles on AI, none of the five articles mentioned the Petitioner’s specific endeavor. While two of the articles focus on the use of AI, neither discussed the use of AI in the context of oil refinery maintenance. Of the remaining articles, one focused on “Smart Manufacturing” and listed programs and research on this topic; another discussed research projects headed by the U.S. Department of Energy; and the third article discussed a health management project headed by the National Aeronautics and Space Administration. In sum, the submitted articles made no mention of the Petitioner’s endeavor to use AI in conjunction with RCM and RCA methodologies to improve maintenance shutdowns within the context of oil refineries. As such, there is no evidence that these articles support the Petitioner’s claim that his proposed endeavor has national importance.

In addition, the Petitioner provided a professional plan that further discusses the proposed endeavor and its objective to “facilitate timely maintenance intervention, reduce unexpected downtime, and minimize the financial impact of unit failures.” The plan does not specify what portion of the Petitioner’s time would be devoted to research, nor does it offer a blueprint for disseminating any research findings throughout the oil and gas industry. Rather, the professional plan offers vague claims about the Petitioner’s intent to “[c]ollaborate with ongoing research projects in the United States” and “[s]hare knowledge and expertise gained through hands-on experience.” The plan does not, however, specify any research projects or state precisely how the Petitioner plans to “share his knowledge and expertise.” Moreover, because the Petitioner has indicated that his proposed endeavor will involve working for a U.S. oil company, it is unclear how the prospective impact of the Petitioner’s work, research or otherwise, would extend beyond the prospective employer and rise to a level that would be commensurate with having national importance.

In denying the petition, the Director determined that the prospective impact of the Petitioner’s endeavor “would be localized to prospective employers and customers,” noting that the Petitioner did not explain how his work as a project manager would broadly impact his field. The Director also found that the Petitioner did not show that his endeavor would offer substantial economic benefits to the region where it operates or to the nation. And although the Director acknowledged the Petitioner’s submission of an updated personal statement where he elaborated on his future plans, the Director pointed to the lack of evidence supporting those plans.

On appeal, the Petitioner further describes his endeavor's objective to combine RCM, RCA, and AI to develop "an advanced predictive maintenance plan to reduce unplanned outages that affect production, largely due to mechanical failures that are not part of a company's scheduled maintenance." The Petitioner highlights the importance of maintenance management and contends that his endeavor to use RCM, RCA, and AI to create a maintenance management plan will result in "substantial positive economic effects," such as reduced crude oil production prices and increased profits for companies that produce crude oil. However, the Petitioner does not explain how his plan would more broadly impact the oil refinery industry or the nation, as claimed. And while the Petitioner explains the benefits of preventing an unplanned shutdown at an oil refinery, he does not discuss a means for broadly disseminating his maintenance plan within the oil and gas industry. As such, the Petitioner has not established that the benefits of his plan would extend beyond his prospective employer, thus resulting in a "substantial positive economic effect" that would be commensurate with national importance. *Matter of Dhanasar*, 26 I&N Dec. at 890.

Likewise, the Petitioner's claim that his proposed endeavor has national or even global implications for his field is also unsubstantiated. In support of this claim, the Petitioner contends that his proposed endeavor will: 1) "contribute to technological advancement in the refinery industry and in the economic sectors" that rely on refinery products; 2) "boost regional economic development and diversify local economies"; and 3) support refineries in the oil and gas industry. However, as already discussed, the Petitioner does not explain how he will distribute his plan to refineries within the oil and gas industry. Although the Petitioner asserts that his endeavor "will get the interest of potential customers, users, investors, or other relevant entities," neither his previously submitted professional plan nor his statements on appeal provide a specific blueprint for plan distribution on a broader scale.

For the reasons stated above, we conclude that the Petitioner has not demonstrated the national importance of her proposed endeavor, and thus he has not established eligibility under the first prong of the *Dhanasar* framework. Because the Petitioner has not established that his proposed endeavor meets the national importance requirement of the first prong, we need not address and hereby reserve our opinion regarding whether he has established eligibility under the second and third prongs of the *Dhanasar* analytical framework. 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 alternate issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

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

**ORDER:** The appeal is dismissed.