



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

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

In Re: 28511817

Date: OCT. 10, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a supply chain specialist, 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 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition. The Director determined that the record established the Petitioner's eligibility for the underlying EB-2 classification but did not establish that a discretionary 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. Section 203(b)(2) 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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

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 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 Director determined that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree and the record supports this conclusion.² Therefore, the sole issue before us is whether the record establishes that a discretionary waiver of the job offer requirement, and thus of a labor certification, would be in the national interest.

Prior to his entry to the United States in 2021, the Petitioner gained approximately seven years of professional experience in the supply chain field in purchasing, logistics, inventory management, quality engineering, and internal auditing roles. He submitted two personal statements indicating his intent to apply his expertise in this field “to assist companies in the United States.” Initially, he stated:

First, I intend to begin working as an employee at one of several companies in the United States which I have targeted which would have a need for my services. Secondly, long-term, I plan to share my knowledge and expertise with individuals who are newly entering the workplace. My plan is to create an outsourcing company that will recruit and train employees to become expert anti-fraud professionals and place them in supply-chain companies that are in need of these services.

Subsequently, in response to the Director’s request for evidence (RFE), the Petitioner submitted a “proposed endeavor statement,” indicating:

My proposed endeavor is to build on my extensive experience in supply chain activities to develop strategies, measures, and controls to detect and mitigate fraud in US companies supply chains. All my experience and skills can be applied to any type of company in any economic sector.

Specifically, my proposed endeavor will be advanced through my work as an internal auditor and supply chain expert [and] will reduce instances of fraud and increase the overall revenue of the US. My endeavor will be promulgated to my peers and others in the field as a whole by and through my participation in conferences and other industry events. I will also create unique methods to detect, control and eliminate of [sic] all types of fraud in each aspect of supply chain management.

In a separate personal statement submitted in response to the RFE, the Petitioner indicated that he would “develop fraud detection education programming so that organizations can train others to prevent and detect supply chain financial fraud.”

² The Petitioner provided an official academic record from the Colombian university that issued his undergraduate degree and an evaluation of his academic credentials indicating that he holds the foreign equivalent of a U.S. bachelor’s degree in international business. He also submitted letters from prior employers documenting that he has more than five years of post-baccalaureate work experience in the supply chain field. *See* 8 C.F.R. § 204.5(k)(2) (defining “advanced degree”).

Although the Director found substantial merit in the proposed endeavor, they concluded the Petitioner did not establish that his proposed endeavor has national importance, that he is well-positioned to advance the proposed endeavor, and that, on balance, waiving the job offer requirement would be beneficial to the United States.

On appeal, the Petitioner asserts that the Director overlooked credible and probative evidence, misapplied the legal standards for adjudication of a national interest waiver petition, and inflated the standard of review above the preponderance of the evidence standard. For the reasons provided below, we conclude that the Petitioner has not established the national importance of his proposed endeavor and therefore is not eligible for a national interest waiver as a matter of discretion. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The first prong of the *Dhanasar* framework, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. 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.

The record contains media, government and industry reports that emphasize the importance of the supply chain across industries, the impact of the global supply chain on the economic health of the United States, the prevalence of supply chain fraud and its potential to result in financial and reputational harm to businesses, and the challenges facing companies seeking to combat these vulnerabilities in the increasingly complex modern supply chain. The submitted evidence also identifies internal supply chain audits as one proven method for individual companies to evaluate and improve the flexibility and efficiency of their supply chains. Based on this evidence, the record supports the Director's determination that the Petitioner's proposed endeavor to assist U.S. companies in detecting and preventing fraud and other supply chain inefficiencies has substantial merit.

However, 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" and its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. Therefore, while recognize the value of optimizing supply chain management as a means of achieving competitiveness and profitability in the business sector, the Petitioner's intent to work in this field alone is not sufficient to establish the national importance of his proposed endeavor. In *Dhanasar*, we emphasized that "we look for broader implications" of the specific 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." 26 I&N Dec. at 889. 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 states that his endeavor to work for U.S. companies as a supply chain expert and internal auditor "will reduce instances of fraud and increase the overall revenue of the US," but he does not point to any corroborating evidence to support his general claim that his intended activities would have significant positive effects on "overall revenue" in the United States. Further, he did not further elaborate on how his proposed endeavor to work as a supply chain expert and internal auditor for a

U.S. company will have significant potential to employ U.S. workers or will otherwise offer substantial economic benefits. Nor did the Petitioner offer evidence that the area where he will provide his services is economically depressed. The record contains insufficient evidence to demonstrate that his proposed endeavor would employ a significant population of workers, offer a target region or its population a substantial economic benefit through employment levels, business activity or tax revenue, or would substantially impact job creation and economic growth, either regionally or nationally.

We acknowledge that the Petitioner's proposed activities could result in increased efficiency and cost savings for individual companies that employ him, which may have some indirect economic benefits. However, the record does not support a determination that any indirect benefits to the U.S. regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. See *id.* at 890. He has not shown the impact of his proposed endeavor stands to sufficiently extend beyond his employer to contribute to or impact the broader field, job creation, or the U.S. economy at a level commensurate with national importance. Similarly, although the Petitioner submitted a media article which discusses the ongoing demand in the industry for persons who possess similar skills, training, and experience, the record does not establish that his employment as a supply chain specialist for a U.S. company would meaningfully impact this demand or alleviate any shortage of workers.

On appeal, the Petitioner contends that the Director placed undue focus on whether his proposed endeavor would have "substantial positive economic effects," noting that job creation and other direct economic impacts, as well as the geographical breadth of the proposed activities, are not the only factors that should be considered in weighing the national importance of the proposed endeavor. We agree and have also considered whether the Petitioner's proposed endeavor will have broader implications in his field or industry.

We determined in *Dhanasar* 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. 26 I&N Dec. at 893. Here, the Petitioner, in his personal statements, has broadly stated his intent to disseminate his expertise in his field through attendance at industry conferences and through development of "fraud detection education programming." He also initially identified a long-term plan to create an outsourcing company that would train employees to become anti-fraud professionals in the supply chain sector but did not include this plan in his subsequent "proposed endeavor statement." Regardless, he did not sufficiently elaborate on his plans to provide education and training in his field, or otherwise show how his specific endeavor would provide a platform for the introduction of fraud detection techniques or methodologies applicable to the broader supply chain sector. Therefore, he did not meet his burden to demonstrate that his proposed endeavor would influence or have implications for the broader field or industry at a level commensurate with national importance.

The Petitioner further asserts on appeal that the Director failed to consider that his proposed endeavor will have an impact on matters that are the subject of national initiatives by the U.S. government. He points to previously submitted evidence, including a White House Executive Order on America's Supply Chains issued in February 2021, and follow-up White House initiatives addressing the security of America's supply chain and the improvement of the supply chain data flow.

U.S. Citizenship and Immigration Services (USCIS) will consider evidence demonstrating how a specific proposed endeavor impacts a matter that a government entity has described as having national importance or a matter that is the subject of national initiatives. Again, in determining national importance, the relevant question is not the importance of the industry 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.

While the initiatives introduced by the Biden administration in 2021 and 2022 stress the importance of strengthening and improving the resilience of America’s supply chains, many of the initiatives are aimed at the federal government; the evidence does not specifically show the government’s interest in the Petitioner’s proposed endeavor or similar endeavors. The Petitioner maintains that his proposed endeavor addresses several of the priorities highlighted in the submitted government initiatives. However, the fact that a petitioner is qualified for and may accept a position in an industry or sector that is the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. The Petitioner must still demonstrate the potential prospective impact of his specific endeavor in that area of national importance, and he has not met that burden.

Finally, to illustrate the potential impact of his proposed endeavor, the Petitioner pointed to his past employment experience and qualifications in the supply chain and internal auditing fields. We reviewed his statements and the letters of recommendation from his employers and other professional contacts. The authors of the letters praise the Petitioner’s abilities and subject-matter expertise as a supply chain professional and recount instances in which he has detected fraud and other inefficiencies in the supply chain to the benefit of his individual employers. While the authors express their high opinion of the Petitioner and his work, they do not discuss his specific proposed endeavor or explain why it has national importance. As such, the letters are not probative of the Petitioner’s eligibility under the first prong of *Dhanasar*. Furthermore, we note that the Petitioner’s knowledge, skills, education, and experience are considerations under *Dhanasar*’s second prong, which “shifts the focus from the proposed endeavor to the foreign national.” 26 I&N Dec at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of his proposed work.

Overall, the Petitioner’s evidence establishes how his endeavor would positively impact his future employers, but the evidence does not persuasively establish how his endeavor will have a broader impact consistent with national importance. Accordingly, the Petitioner has not established that his proposed endeavor meets the first prong of the *Dhanasar* framework, and he is therefore not eligible for a national interest waiver as a matter of discretion.

Because the identified reasons for dismissal are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning his eligibility under the second and third prongs of the *Dhanasar* framework. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “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 he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.