



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 28355056

Date: SEP. 26, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an information technology specialist and entrepreneur, 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). 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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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.

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for 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 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;
- 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. The record reflects that determination.

However, the Director found the record did not establish that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. The Director found that while the Petitioner demonstrated the proposed endeavor has substantial merit, she did not establish that the proposed endeavor is of national importance, as required by the first Dhanasar prong. The Director further found that the Petitioner did not establish that she 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.<sup>2</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. The endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. In determining 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." *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner proposes to work in the United States as the chief executive officer and information technology specialist for her new information management consulting business. The Petitioner's statement describes her proposed endeavor stating, "My proposed endeavor is to build on my extensive experience and expertise in diverse fields of information technology, accounting, [sic] and financial management to analyze business systems-related data to determine where improvement can be made and develop data-backed systems to help organizations make those improvements." Her business plan explains that the business will specialize "in the design and provision of customized Enterprise Resource Planning (ERP) system solutions and support services based on the Oracle ERP financial module software program." (emphasis omitted) for medium-sized U.S. based businesses in California. We agree with the Director that the Petitioner's proposed endeavor has substantial merit.

Even though the Petitioner's proposed endeavor has substantial merit, the Director found that the record did not show that the proposed endeavor is of national importance. The Director concluded the record did not sufficiently demonstrate the Petitioner's claims in her statements and in her business

---

<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).

<sup>2</sup> While we may not discuss every document submitted, we have reviewed and considered each one.

plan that her proposed endeavor will benefit the U.S. economy or advance the global competitiveness of U.S. companies. The Director noted that in determining national importance, we focus on the specific endeavor that the Petitioner intends to undertake, rather than the importance of the industry or profession. See *id.* The Director explained that while recommendation letters show her being a valuable and skilled professional, they did not show that the Petitioner has influenced her field or has had national or global importance to her field beyond the significance on her employers.

The Petitioner argues on appeal that the Director's decision "contains instances of a misunderstanding and misapplication of law that go beyond harmless error and reach the levels of abuse of discretion." The Petitioner contends the Director did not fully examine and consider the totality of the evidence in the record and that she submitted "ample arguments . . . regarding the national importance of the proposed endeavor, with each argument supported by objective, documentary evidence." When determining her proposed endeavor's national importance, the Petitioner argues that the Director should have considered the sufficiency of the objective, documentary evidence submitted with the initial filing and in the reply to the request for evidence, including documentation from "US government and private sector sources speaking to the critical urge to adapt the business organization in the wake of the COVID-19 pandemic, all of which supports the Petitioner's affirmation, being far from mere statements." Upon *de novo* review, we find the record does not demonstrate that the Petitioner's proposed endeavor satisfies the national importance element of *Dhanasar's* first prong, as discussed below.

The Petitioner stresses on appeal that the Director erred in not considering the totality of the evidence in the issuance of the request for evidence notice and the denial decision. She argues the request for evidence notice failed to provide an assessment of the initially submitted evidence, to clearly identify the evidence's deficiencies, and to provide guidance for rectifying any concerns with the submitted documentation. We disagree with the Petitioner's claims relating to the deficiencies of the Director's request for evidence and denial decision.

Although the Director did not provide an analysis of the initial evidence in the request for evidence notice, the notice apprised the Petitioner that the initial evidence did not sufficiently show the national importance of her proposed endeavor and explained the evidence needed to establish its national importance. Also, the Director's decision properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of the evidence. The standard of proof in this proceeding is preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. *Matter of Dhanasar*, 26 I&N Dec. at 889. The record does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the field of information technology, as contemplated by *Dhanasar*: "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* As pointed out by the Director, the evidence does not suggest

that the Petitioner's information management consulting business would impact the information technology field more broadly.

The Petitioner argues that her statements in the record clearly explain her proposed endeavor to utilize "custom-based ERP software systems as a matter having national importance or as the subject of national initiatives, such that its developing and implementation would be nationally important." She describes the importance of businesses to manage their processes by utilizing custom-built software systems to "tackle existing and emerging challenges, increase productivity, manage costs and risks, and drive economic growth." The Petitioner points out that the record includes reports describing the advantages of the Oracle ERP software system for businesses, and the demand for its products has created U.S. jobs, contributed to economic growth, and investment in research and development. She argues that implementing "custom-built ERP software applications would maximize [a] companies' efficiency, generate cost savings solutions and improve operational performance, thereby enhancing its ability to compete in the global market and, consequently, the U.S. economy as a whole."

The record includes the Petitioner's business plan describing the business' environmental, social, and economic benefits to show its national importance. Her business would promote corporate sustainability by offering ERP software systems "while carefully balancing the three main pillars of corporate sustainability: economic, environmental and social . . . ." The business plan proposes using "environmentally friendly methods" when handling computer equipment; socially "treating its employees, prospective clients and other partnering entities in accordance with the highest ethical and operational standards, mirrored through fair employee treatment and effective communication"; and economically it would be a profitable business. The business plan also explains the Petitioner's ownership of the business; the Petitioner's education and work experience; the business' products and services; the significance of the information technology industry; and the business' proposed marketing, staffing, and financial forecasts.

However, the Petitioner has not provided corroborating evidence to support her claims that her business' activities stand to provide substantial economic, environmental, and societal benefits to California or the United States. The Petitioner's claims that her information management consulting business will benefit the U.S. economy, environment, and society has not been established through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate her endeavor has the potential to provide economic, environmental, and societal benefits. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376. Also, without sufficient documentary evidence that her proposed job duties as the chief executive officer and information technology specialist for her business would impact the information management consulting industry more broadly, rather than benefiting her consulting business and her proposed clients, the Petitioner has not demonstrated by a preponderance of the evidence that her proposed endeavor is of national importance.

For instance, the business plan projects that in five years the consulting business will hire 11 direct employees, pay wages of almost one million dollars, and generate over two hundred thousand dollars in taxes. However, the record does not sufficiently detail the basis for its financial and staffing projections, or adequately explain how these projections will be realized. While the Petitioner expresses her desire to contribute to the United States, she has not established with specific, probative evidence that his endeavor will have broader implications in his field, will have significant potential

to employ U.S. workers, or will have other substantial positive economic effects in California or the United States. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *id.* Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 11 direct jobs, paying wages of almost one million dollars, and generating over two hundred thousand dollars in tax revenue over a five-year period rises to the level of national importance.

The business plan also explains the business's dedication to transferring skills and knowledge by hiring experienced U.S. workers to train and guide recent graduates. 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. Similarly, the Petitioner and her employees transferring their knowledge to less experienced employees does not rise to the level of national importance as it would not impact the field more broadly.

The Petitioner argues on appeal that the national importance of her proposed endeavor is evidenced in industry reports and articles. The reports and articles relate to the ERP software system and its importance to small and medium-sized businesses; custom software development; the Oracle corporation; the growth of software developer jobs in the United States; the labor shortage of qualified software developers; the COVID-19 disease; the expansion of her employer's business; and the role of business system analysts. We recognize the importance of the information management and the software development industries, and related careers; however, merely working in the information management and software development fields or starting an information management consulting business to support these industries is insufficient to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." See *id.* at 889.

In *Dhanasar*, we 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 industry reports and articles submitted do not discuss any of the Petitioner's claimed economic, environmental, and societal impacts specifically attributable to the Petitioner's proposed endeavor.

The Petitioner argues that her proposed endeavor to create, develop, and implement ERP software systems is of national importance since finance technologies has been designated as an area of particular importance to the national security of the United States by the National Science and Technology Council in its Critical and Emerging Technologies List Update dated February 2022. The Petitioner asserts that creating, developing, and implementing ERP software systems falls under the financial technologies subfields of distributed ledger technologies, digital assets, digital payment technologies, and digital identity infrastructure. However, outside of the Petitioner's general assertions, the record does not show that the Petitioner's information management consulting business focusing on the implementation of ERP software systems is related to or falls under the financial technology subfields.

We recognize the importance of the science, technology, engineering, and mathematics (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.”<sup>3</sup> “With respect to the first [Dhanasar] prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance. Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, . . . have sufficiently broad potential implications to demonstrate national importance.”<sup>4</sup> However, the Petitioner has not established that her proposed endeavor aims to advance STEM technologies or research. Also, the record does not show that her proposed endeavor would have an impact in a STEM field more broadly to establish its national importance.

The record includes recommendation letters from colleagues, former employers, and her clients. The letters mainly discuss the Petitioner’s work experience, her knowledge of software system implementation for businesses’ financial and accounting operations, and her professionalism working with them. The letters convey her software system and accounting expertise and the importance of her work to specific projects which helped her employers and clients overcome technology and financial operation challenges. For instance, letters from the Petitioner’s former colleagues emphasize the Petitioner’s technical expertise in the Oracle software systems and her successful implementation of new software systems for clients. Letters from other colleagues similarly attest to the Petitioner’s software system and accounting knowledge and her importance to improving the financial operations for her employers and clients. However, these documents relate to the second prong of the Dhanasar framework. See *Matter of Dhanasar*, 26 I&N Dec. at 890. We acknowledge that the Petitioner provided valuable software system implementation and accounting services for her employers and clients in the past. However, as indicated by the Director, the Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of her proposed endeavor will rise to the level of national importance, rather than only impacting her clients. The letters do not demonstrate that the Petitioner’s work will have national or global implications in the field of information management.

The Petitioner does not demonstrate that her proposed endeavor extends beyond her business and her future clients to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, she has not demonstrated that the work she proposes to undertake as the chief executive officer and information technology specialist of her proposed information management consulting business offers original innovations that contribute to advancements in the information management industry or otherwise has broader implications for her field. The economic, environmental, societal, and national security benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed business’ information management consulting work and the claimed results.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner’s proposed endeavor as required by the first prong of the Dhanasar precedent decision, she has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate

---

<sup>3</sup> See generally 6 USCIS Policy Manual F.5(D)(2), <https://www.uscis.gov/policymanual>.

<sup>4</sup> See generally 6 USCIS Policy Manual, *supra*, at F.5(D)(2).

arguments regarding her eligibility under the second and third prongs. 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 record does not establish that the Petitioner has met the requisite first prong of the Dhanasar analytical framework, we find that the Petitioner is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER:     The appeal is dismissed.