



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

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

In Re: 30626398

Date: MAY 2, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner had not established eligibility for the underlying immigrant classification and for 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, petitioners must 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. In addition, petitioners must show the merit of a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,¹ grant a national interest waiver if:

- The proposed endeavor has both substantial merit and national importance,
- The individual is well-positioned to advance the proposed endeavor, and
- On balance, waiving the job offer requirement would benefit the United States.

¹ See also *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

II. ANALYSIS

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. In Part 6 (Basic Information About the Proposed Employment) of Form I-140, Immigrant Petition for Alien Workers, the Petitioner listed the job title as “IT PROJECT MANAGER” and provided the nontechnical job description as “Assist the improvement of the development and management of enterprises resource planning an IT.” In addition, the Petitioner submitted a statement indicating:

. . . [M]y overall proposed endeavor in the United States is to offer my expertise to contribute to fill the gap of IT skilled professionals in the country and bring innovative results to local and national companies, organizations and individuals improving both their social and monetary interests. I will do this by continuing to stayup [sic] to date on the field, providing my IT expert services, and introducing and developing quality IT systems, as well as IT infrastructure, tailored to diverse industries that will lead to the generation of more direct and indirect jobs, coupled with valuable contributions to the IT field, which is a high-growth industry in the U.S.

In response to the Director’s request for evidence, the Petitioner provided an updated statement reflecting:

As previously explained, my proposed endeavor is to advance my career in the United States by working in the high-growth field of Information and Technology (IT) as an IT Project Manager, or similar position, where I will work on the Enterprise Resource Planning (ERP) and IT infrastructure projects.

. . . .

I will perform essential work for the business industry by designing and assisting the implementation of IT solutions that respond to companies’ communications, controls, management of activities, and interaction with the market in which they work.

I intend to use my skills and knowledge in my field to:

- Work for and with American companies that wish to stay a step ahead of their competition and have a better system of reaching out to customers at a national and international level.
- Increase productivity and profitability with the proper use of IT tools that they have no idea exists or that can be treated and adapted to their requests.
- Provide companies in the U.S. a competitive edge that allows them to excel in their business endeavors.

On appeal, the Petitioner maintains that his “role as a Project Manager in this process is crucial, and his work has a profound impact on the success of the ERP implementation.”

As it relates to substantial merit, the endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. The Director found the Petitioner established the substantial merit of his proposed endeavor.

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 specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner emphasizes the importance of the IT project manager position and references the submission of “Industry Reports and Articles” on a wide range of topics, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of providing his particular IT project managerial services.² 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 Petitioner also contends that his proposed endeavor can “help[] to alleviate IT professional shortages impacting the industry.” However, the alleged shortage of occupations or occupational skills does not render his proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Moreover, the Petitioner stresses his “expertise” and “education, skill and proficiency.” However, the Petitioner’s knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar*’s first prong.

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. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how his IT project managerial services largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. The record does not show through supporting documentation how his endeavor sufficiently extends beyond his prospective employers or clients, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not demonstrate how his IT project managerial position has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although his statements make broad, general claims, such as his employment “allows businesses to produce more goods and services per unit of input” and “provide[s] a boost in

² The Petitioner’s arguments and evidence relate to the substantial merit aspect of the proposed endeavor rather than the national importance part.

employment and discretionary income in the communities in which they operate and tax increase for governments,” the Petitioner did not include specific, detailed information projecting employment figures, goods produced, or revenue generated directly credited from his IT project managerial position. Without evidence regarding any projected U.S. economic impact or job creation attributable to his particular future work, the record does not show any benefits to the U.S. regional or national economy resulting from his services would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. We also reserve a determination on the Petitioner’s eligibility for the underlying immigrant classification.³

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

³ 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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).