



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

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

In Re: 33225279

Date: SEP. 09, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an account specialist and insurance agent, 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 Texas Service Center denied the petition, concluding that the record 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 pursuant to 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

If a petitioner establishes eligibility for the underlying EB-2 classification as an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business, they must then demonstrate 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;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

*Id.*

## II. NATIONAL INTEREST WAIVER

The Petitioner proposes employment as an account specialist in an insurance agency. The Petitioner claims that, upon receipt of permanent resident status, she also intends to obtain her e-file license to provide additional accounting services. The Petitioner intends to organize and lead accounting-related workshops and seminars and disseminate accounting knowledge through her social media.

### A. Substantial Merit and National Importance

The first prong of the *Dhanasar* framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of 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. *Id.* at 889.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the work. *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 Director determined the Petitioner's proposed endeavor had materially changed from accounting specialist as described in her initial filing to insurance agent, e-file provider, and educator as stated in her response to a request for evidence (RFE). As the Director found the Petitioner no longer intended to pursue her initial endeavor, and she could not work as an e-file provider until gaining permanent residence or citizenship, the Director determined the Petitioner had not established the national importance of her endeavor. In addition, the Director determined the expert opinion letters submitted on the Petitioner's behalf were not sufficient to show her endeavor would have broad implications in the field, substantial positive economic effects in the region, would broadly enhance societal welfare, or would impact a matter that is the subject of a national initiative.

On appeal, the Petitioner asserts the Director erred in determining she changed her proposed endeavor. The Petitioner acknowledges she is no longer working for the same employer as the time of filing but asserts she has only added details of her account specialist endeavor before the Director, including advancing her endeavor in the field of accounting as an account specialist and insurance agent, future e-file provider, and accounting educator to companies and through social media. However, even if we accept the Petitioner's endeavor, as articulated through her RFE response and appeal, we find the endeavor has substantial merit, but the Petitioner has not demonstrated it rises to the level of national importance.

The Petitioner contends the Director erroneously found she did not benefit the field more broadly, even while the Director acknowledged assertions in her letters of support that the Petitioner improved knowledge in accounting. Similarly, the Petitioner asserts sharing her accounting knowledge through social media or in trainings with her fellow employees at Promise Land Insurance contributes to a rise in the levels of knowledge, employee expertise, and client assistance. On appeal, the Petitioner also asserts she has a goal of contributing to the “financial literacy” and “access of underrepresented communities, such as Hispanic communities.” We do not find error in the Director’s finding. Namely, the Petitioner has not demonstrated her contributions to the improvement of accounting knowledge and diversity has wider impact beyond her coworkers and clients, and at a level commensurate with national importance. In addition, the Petitioner has not shown that sharing accounting knowledge through her social media has broader implications for the field of accounting. *Dhanasar* explains that STEM teaching will not necessarily impact the field of STEM teaching more broadly, in a manner which rises to the level of national importance. See *Matter of Dhanasar* at 893. Like teaching, in which the benefits generally affect the students taught, the services and training the Petitioner plans to provide benefit her employer, clients, and social media viewers.

The Petitioner contests the Director’s analysis of the record, contending a stricter standard of proof was applied to her expert opinion letters than the appropriate preponderance of the evidence standard. The Petitioner also claims the Director failed to consider her letters of recommendation, letters from clients, and employment verification letters in determining whether her proposed endeavor is of national importance, instead relying solely upon the personal statement she submitted in her RFE response. However, our review of the record reflects the Director considered the relevant evidence under the appropriate preponderance of the evidence standard. As discussed above, the Director explicitly considered letters of support in the record for the Petitioner, finding these “letters indicate that [the Petitioner] performed well on the job, benefited her employers, and their customers, and updated/improved knowledge in the accounting area. . . .” We also note the Director indicated that the petition and all supporting evidence were reviewed prior to their denial decision. The Director properly considered the Petitioner’s employment verification letters and letters of support related to her “various professions in accounting,” and correctly noted they relate to the second prong of the *Dhanasar* framework. *Dhanasar*, 26 I&N Dec. at 890. The second prong of the *Dhanasar* analysis examines whether the petitioner is well positioned to advance the proposed endeavor and shifts the focus from the proposed endeavor to the individual. *Id.* In addition, the submitted expert opinion letter generally asserts the Petitioner’s accounting specialist role will bolster the economy, financial integrity, and financial literacy within communities. This letter and additional letters of support do not specify and establish how exactly the Petitioner’s individual work will result in broader implications for her field. Similarly, the expert opinion letter indicates the Petitioner’s own employment as an accounting specialist has “significant potential to employ U.S. workers and has other substantial positive economic effect,” due to a growing need for accountants. However, this statement is related to the importance of the general field of accounting and not the Petitioner’s specific proposed endeavor to work as an account specialist. Further, the alleged shortage of occupations or occupational skills does not render the 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. The Petitioner does not otherwise explain how the record shows that her proposed endeavor has a significant potential to employ U.S. workers or will have substantial positive economic effect. Overall, the Petitioner has not demonstrated how her endeavor sufficient extends beyond her employer, clients, and any social media viewers to impact the

field or U.S. economy more broadly, at a level commensurate with national importance. She therefore has not satisfied prong one of the *Dhanasar* framework to establish eligibility for a national interest waiver.

#### B. Additional *Dhanasar* Prong

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve her arguments relating to the Director's adverse determinations of her 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 the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.