



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

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

In Re: 33962427

Date: SEPT. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an electrical engineer, 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 the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but 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

To qualify for EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) 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:

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

- 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.

*Id.*

## II. ANALYSIS

In her Professional Plan submitted in response to the Director's request for evidence (RFE), the Petitioner stated her proposed endeavor is to work as an electrical engineer on sustainable and intelligent energy generation, telecommunications systems, and lighting systems. The Petitioner explained she would implement specific energy generation, transmission, and distribution (GTD), internet of things (IoT), global system for mobile communications (GSM), universal mobile telecommunications system (UMTS), and long-term evolution (LTE). The Petitioner also stated she would provide workshops, lectures, and courses to students and professionals.

The Petitioner submitted evidence that she holds the equivalent of a United States bachelor's degree in electrical engineering and over five years of progressive experience in engineering. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

### A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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. *Id.* The Director determined the Petitioner established the substantial merit of her proposed endeavor. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that her proposed endeavor would have a broader impact on the U.S. economy or her field at a level commensurate with national importance.

On appeal, the Petitioner asserts the Director erred because her proposed endeavor has profound implications on both national and global scales. The Petitioner claims her proposed endeavor has national economic implications because by driving advancements in the electric power industry, she supports the creation of jobs and fosters economic growth. The Petitioner also claims that through her work in IoT, industrial software and telecommunications systems she enhances productivity, reduces costs, and boosts the competitiveness of American companies. The Petitioner further asserts her proposed endeavor has significant economic implications because the electric power industry is a

major economic driver and by making advancements in this sector, the Petitioner supports the creation of jobs and fosters economic growth. The Petitioner does not indicate, however, that her proposed endeavor would directly employ any United States workers or that any economic benefits would extend beyond her future employers or clients to constitute substantial positive economic effects indicative of national importance. *See id.* at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

In her Professional Plan submitted in response to the RFE, the Petitioner stated her proposed endeavor has significant potential to employ United States workers because there will be a growing demand for skilled workers on sustainable energy projects, her work on integrating telecommunications with IoT will contribute to the demand for information technology professionals, and her work on sustainable practices and technologies will drive the growth of renewable energy manufacturing industries and generate jobs across the supply chain. The Petitioner's Professional Plans do not indicate that she would directly employ any United States workers and they do not demonstrate that her proposed endeavor would have positive economic effects reaching beyond her future employers or clients to impact her field more broadly. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner further asserts her proposed endeavor has national importance because it significantly impacts societal welfare and cultural enrichment through sustainable energy systems and reducing energy-related costs. The Petitioner also claims her proposed endeavor aligns with national initiatives on sustainable energy, reducing dependency on fossil fuels, reducing energy consumption and greenhouse gas emissions, and combating climate change. The Petitioner further claims her proposed endeavor will help position the United States as a leader in clean energy and technological innovation, and help American companies enhance their global competitiveness. We do not discount the importance of sustainable and clean energy, technological innovation, combating climate change, and reducing energy consumption and greenhouse gas emissions. However, our assessment of national importance does not focus on the importance of issues affecting an industry or our nation in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* Here, the Petitioner did not submit supporting evidence to demonstrate the potential prospective impact of her specific proposed endeavor. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

In response to the RFE, the Petitioner submitted a letter from M-A-D-B-<sup>2</sup> who praised the Petitioner's contributions to the Union of Engineers in the State of Sao Paulo, Brazil and commended her experience and skills. M-A-D-B- describes the Petitioner as "an exceptional professional in her field" with "a unique ability to drive the development of engineering and the market as a whole, bringing the best solutions when faced with a challenge, always with promptness, efficiency, zeal, commitment to determine concrete results, and the potential to generate considerable and consistent revenues, which makes her a true model in the segment." While M-A-D-B- attests to the Petitioner's experience and qualifications, she does not address the Petitioner's proposed endeavor or indicate that it has national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

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<sup>2</sup> We use initials to protect the privacy of the referenced individual.

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. *Id.* at 893. Here, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond her future employers, clients or students to impact her field more broadly in a manner indicative of national importance. The Petitioner has not established that her proposed endeavor has significant potential to employ United States workers, would have other substantial positive economic effects, or would otherwise impact her field more broadly on a level commensurate with national importance.

### C. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination 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

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

**ORDER:** The appeal is dismissed.