



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

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

In Re: 28127625

Date: AUG. 31, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an accountant, seeks classification under the employment-based, second-preference (EB-2) immigrant visa category as a member of the professions holding an “advanced degree” and a waiver of the category’s job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse a job offer - and thus a certification from the U.S. Department of Labor (DOL) - if a petitioner demonstrates that a waiver would be “in the national interest.” *Id.*

The Director of the Nebraska Service Center denied the petition. The Director found the Petitioner qualified as an advanced degree professional and that his proposed U.S. endeavor has “substantial merit.” But the Director concluded that the Petitioner ultimately did not demonstrate the merits of a national interest waiver in this matter. On appeal, the Petitioner contends that the Director overlooked evidence.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he has not established the claimed “national importance” of his proposed endeavor. We will therefore dismiss the appeal.<sup>1</sup>

## I. LAW

To establish eligibility for a national interest waiver, petitioners must first demonstrate their qualifications for the requested EB-2 immigrant visa category - either as advanced degree professionals or noncitizens of “exceptional ability” in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect the jobs of U.S. workers, this visa category generally requires prospective employers to seek noncitizens’ services and obtain DOL certifications to permanently employ the beneficiaries in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). To avoid these job offer/labor certification requirements, petitioners must demonstrate that waivers of the U.S.-worker protections are in the national interest. Section 203(b)(2)(B)(i) of the Act.

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<sup>1</sup> We also deny the Petitioner’s request for oral argument. *See* 8 C.F.R. § 103.3(b). We do not find additional argument necessary to resolve the appeal. *Id.*

Neither the Act nor regulations define the term “national interest.” So, we have established a framework for adjudicating these waiver requests. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If otherwise qualified as advanced degree professionals or noncitizens of exceptional ability, petitioners may merit discretionary waivers of the job-offer/labor certification requirements if they establish that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well positioned” to advance their intended endeavors; and
- On balance, waivers of the job-offer/labor certification requirements would benefit the United States.

*Id.*

## II. ANALYSIS

The Petitioner, an Indian native and Canadian citizen, seeks to start his own consulting firm in the United States. The firm would provide accounting, audit, tax, and advisory services to self-employers, professionals, and small businesses.

The record shows that the Petitioner has a master of business administration (MBA) degree and a U.S. license as a certified public accountant. In India, he worked about 20 years in various banking management positions. While in nonimmigrant work visa status, he has since acquired about 20 years of experience as an accountant in the United States.

### A. Advanced Degree Professional

The Petitioner submitted evidence that his 1994 MBA from a Canadian university equates to a U.S. MBA. We therefore affirm the Director’s finding that the Petitioner qualifies for EB-2 classification as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (defining the term “advanced degree” to include “any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate”).

### B. Substantial Merit

We also agree with the Director that the Petitioner’s proposed endeavor has substantial merit. The record shows that his consultancy could generate substantial U.S. economic benefits, including spurring growth of small businesses, on whom the country largely relies to create jobs. *See Matter of Dhanasar*, 26 I&N Dec. at 889 (holding that evidence of an endeavor’s “potential to create a significant economic impact” may demonstrate the undertaking’s substantial merit).

### C. National Importance

The Director found insufficient evidence to demonstrate that the Petitioner’s proposed U.S. endeavor has national importance. The Director stated:

You have not established how a single accountant will have national or global implications within the field, will have significant potential to employ U.S. workers, will broadly enhance societal welfare or will impact a matter that the government has deemed as having national importance.

On appeal, the Petitioner contends that his evidence shows the national, economic importance of U.S. small businesses, which reportedly account for 44% of the country's economic activity and create two-thirds of its new jobs. He also notes that South Asians, like him, manage many U.S. small businesses and need professionals with his background to help grow their companies. As a noncitizen, he says he understands their "special needs and requirements" and is "in an ideal position to guide them."

The Petitioner states:

No individual accountant - or for that matter a large accounting firm - will have 'national or global implications within the field.' However, individuals like me together with large accounting firms, have a role to play in serving the community. It is akin to the contribution of small businesses alongside large corporations. A drop of water by itself is insignificant but when it joins billions and trillions of other drops, it becomes [an] ocean!

But, in determining whether a proposed endeavor has national importance, USCIS must focus on a petitioner's intended undertaking, specifically its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. "An 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.* Also, a nationally important endeavor may have significant potential to employ U.S. workers or generate other positive economic benefits, particularly in an economically depressed area. *Id.* at 890.

We agree with the Petitioner that providing accounting services to U.S. small businesses is meritorious. But he has not demonstrated that his *specific* endeavor would have national implications economically or within the accounting field. On appeal, he estimates that it would cost \$120,000 to establish his consulting firm. But the record lacks details about the proposed firm's scope, such as its projected revenues, number of employees, or whether it would benefit an economically depressed area. The record also lacks evidence that the firm would provide improvements or advances within the accounting field, and, by the Petitioner's own admission, "[n]o individual accountant . . . will have 'national or global implications within the field.'" The Petitioner therefore has not demonstrated the claimed "national importance" of his proposed endeavor.

The Director also found insufficient evidence that the Petitioner was well-positioned to advance his endeavor or that a waiver of U.S.-worker protections would ultimately benefit the country. But our decision regarding his proposal's lack of national importance resolves this appeal. We therefore decline to reach and hereby reserve his appellate arguments regarding his qualifications to advance the endeavor and the purported benefits of a waiver to the United States. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues unnecessary to their ultimate decisions); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA

2015) (declining to reach alternate, appellate issues where an applicant did not otherwise qualify for relief).

### III. CONCLUSION

The Petitioner has not demonstrated that his proposed U.S. endeavor has national importance. We will therefore affirm the petition's denial.

**ORDER:** The appeal is dismissed.