



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

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

In Re: 26320956

Date: MAY 2, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a computer user support specialist, 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 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, 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. Next, a petitioner must then demonstrate they merit 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<sup>1</sup>, grant a national interest waiver if the petitioner shows:

- 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 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).

## II. ANALYSIS

The Director's decision did not determine whether the Petitioner qualifies as a member of the professions holding an advanced degree or as an individual of exceptional ability. Instead, the Director only addressed the Petitioner's eligibility for a national interest waiver.<sup>2</sup>

The first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner stated:

My proposed endeavor consists in [sic] to continue to advance my career in the United States contributing to direct, produce, create, and make substantial contributions for the improvement of the Information Technology Industry in the United States. As well, [sic] as meeting the needs of a market with a deficiency/shortage of qualified and skilled professionals in this area of Information Technology.

I will provide my expertise and skills in the market and technical aspects of Information Technology. I intend to implement agile methodologies of software analysis and develop strategic plans. Ultimately, I will offer intelligent and innovative solutions techniques aiming at supporting many U.S. businesses by optimizing processes, reducing costs, increasing productivity, enhancing business intelligence, and helping companies operate more efficiently.

....

I intend to help organizations around the country to implement and improve their entire IT system, including analyzing the current system's capabilities, identifying improvements needed in the system, and working towards creating an advanced and secure system for the organizations.

On appeal, the Petitioner argues that his proposed endeavor falls within science, technology, engineering, and mathematics (STEM) fields. Moreover, the Petitioner references the "Information Technology Market Outlook in the US" and the "Perspective of the Information Technology Project Managers Profession in the USA." The record contains background information relating to the software and information technology field, industry reports, and occupational material for computer support specialists. 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. Although the Petitioner established the substantial merit of his proposed endeavor, he did not show its national importance, discussed below.

At the outset, the Petitioner stresses his "expertise and skills." However, the Petitioner's experience and abilities in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will

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<sup>2</sup> Because the Petitioner did not establish eligibility for a national interest waiver on appeal, we need not remand the decision to the Director in order to make a determination on the underlying immigrant classification.

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 stresses the importance of information technology and the computer user support specialist profession, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of helping organizations rather than the importance of information technology and computer user support specialists. 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.

Moreover, with respect to the first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance.<sup>3</sup> Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national importance.<sup>4</sup> On the other hand, while proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance.<sup>5</sup> Thus, simply pursuing an endeavor in a STEM field does not automatically demonstrate eligibility for a national interest waiver. In this case, the Petitioner does not intend to advance STEM technologies and research. Rather, the Petitioner seeks “to help organizations around the country to implement and improve their entire IT system.” Here, the Petitioner has not established how his individual employment would affect information technology employment levels or the U.S. economy more broadly consistent with national importance. It is important to note that the shortage of information technology specialists and related occupations 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.

In addition, 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. The Petitioner did not offer specific information and evidence to corroborate his assertions that the prospective impact of continuing his work to assist organizations rises to the level of national importance. 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 through supporting documentation how his specific computer user support specialist services stand to sufficiently extend beyond his prospective clients or organizations, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show any benefits to the U.S. regional or national economy resulting from his computer user support specialist position 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 her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.<sup>6</sup>

### 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.

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<sup>6</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues in 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).