



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

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

In Re: 26423113

Date: MAY 2, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a computer network manager, seeks classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability in the sciences, arts or business. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established 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. 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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest

waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. 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. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as a plan "to advance his career as a[] Network Manager and by doing so, develop, implement and advise using his in-depth knowledge acquired through years of experience in the field." The Petitioner further stated that he will "make his services available to small and large business belonging to both the private and public sector in the United States." The Petitioner added that his work as a network manager has "the potential to maximize a company's efficiency, productivity and profit" and that "the companies he provides services to will be better positioned to create job opportunities for U.S. employees which in turn will increase the overall tax revenue of the U.S."

In a request for evidence (RFE), the Director informed the Petitioner that he "did not define what [his] specific proposed endeavor is or how it is of substantial merit." The Director also informed the Petitioner that his generalized proposal to provide services in the information technology industry in the United States "is too vague to demonstrate national importance." The Director further concluded that the record, at that time, satisfied none of the *Dhanasar* prongs and the Director requested additional evidence addressing each of the prongs.

In response to the RFE, the Petitioner submitted, in relevant part, a professional plan dated September 2022, after the 2021 petition filing date. In the professional plan, the Petitioner reiterated, "I will continue my activities as a Network Manager, utilizing all of the knowledge I acquired in programs and courses, along with my professional experience, which has contributed to the successful development of my work efficiently, guaranteeing the best results." The Petitioner added, "I also intend to improve my performance by taking new courses according to the demand in the field, which is constantly evolving." The Petitioner summarized his qualifications, described the general responsibilities of computer network managers, including the following bullet-point list:

- Lead projects to transition the scope of customer service, acting to ensure an aligned transition with the customer, anticipating possible problems to ensure execution on time and budget;
- Manage team development, developing teams with high performance through coaching, clear objectives, and metrics, combined with constant feedback;
- Act in the solution of complex problems during critical customer situations;
- Maintain communication with customers and executives during operational issues, escalations, and high-severity chronic issue notifications;
- Lead the assembly of the Global Management Center to support customer network environments;
- Manage and allocate technical teams to projects, seeking the best combination of technical skills, communication, and experience in the industry of the [c]lient to be managed; and
- Meet demands from the areas of network and administrative infrastructure.

The Petitioner added, “I will disseminate my knowledge to other professionals in the field . . . [to] expand the skillset of other professionals in the field, creating a chain of developments that has broad implications at a regional and national level.”

The Director found that the record does not establish that the Petitioner’s “proposed endeavor has national importance beyond the significance it would have for his future employer and/or clients.” The Petitioner further found that “[w]ithout sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from his activities would reach the level of substantial positive economic effects.” The Director concluded that the record does not establish that the proposed endeavor has national importance.

On appeal, the Petitioner references a USCIS policy that “clarifies how the national interest waiver can be used for persons with advanced degrees in STEM fields.” The Petitioner again summarizes his prior employment experience and qualifications, and he asserts that his “past contributions and achievements demonstrate that he has made and continues to make contributions of significant impact.” The Petitioner reiterates the general duties of computer network managers, he references publications regarding information technology in general, a demand for information systems managers, and summarizes “major benefits of a network management system for small businesses.” The Petitioner further asserts that his “contributions to American business will certainly achieve better productivity and profitability levels, generate revenues within the country and enhance job creation and, thus, cause substantial positive economic effects for the nation as a whole.”

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

First, the Petitioner's general reference to USCIS policy regarding STEM fields is misplaced. As in all cases, the record must demonstrate that a STEM endeavor has both substantial merit and national importance. *See* 6 USCIS Policy Manual F.5(D)(2), <https://www.uscis.gov/policymanual>. A STEM endeavor that is not indicative of an impact in the particular field of STEM more broadly would not establish its national importance. *See id.* Specifically, a computer network management endeavor that is not indicative of an impact in the field of computer network management more broadly would not establish its national importance. *See id.* Therefore, whether the proposed endeavor is in a STEM field is not dispositive—the Petitioner must still establish that the proposed endeavor would have an impact in the particular STEM field more broadly or have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *See id.*; *see also Dhanasar*, 26 I&N Dec. at 889-90.

Next, as described in the record, the proposed endeavor appears to benefit the Petitioner's employer and its clients; however, it does not appear to have broader implications or substantial positive economic effects indicative of national importance. *See Dhanasar*, 26 I&N Dec. at 889-90. Specifically, the Petitioner addresses maximizing a company's profit, providing customer service to customers and clients, and similar tasks that benefit an employer and its clients; however, the record does not establish with specific, probative information how the Petitioner's computer network management endeavor would have broader implications beyond his employer's and its clients' profit, customer service, etc. *See id.* Although the Petitioner asserts that his endeavor will “enhance job creation” and that “the companies he provides services to will be better positioned to create job opportunities for U.S. employees,” the record does not establish with probative information the types of jobs his endeavor may create, the number of workers his endeavor may cause to be employed, where those workers will work, and other details that may establish the endeavor has “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *See id.* Additionally, although the Petitioner asserts that he will “disseminate” his knowledge to others in the field to create “a chain of developments that has broad implications at a regional and national level,” the record does not establish how the Petitioner would disseminate his knowledge, the types of recipients of the disseminated knowledge in terms of whether they would be well positioned to utilize the knowledge disseminated to them, where the recipients of the disseminated knowledge would work in terms of the scope of the “chain of developments,” and other details that may establish that the proposed endeavor would have broader implications indicative of national importance. *See id.*

The Petitioner's references to his prior employment experience, qualifications, and “past contributions and achievements” are misplaced in the context of the first *Dhanasar* prong. Although an individual's experience, qualifications, contributions, and achievements are material to the second *Dhanasar* prong—whether an individual is well positioned to advance a proposed endeavor—they are immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91. Relatedly, the Petitioner's references to publications regarding information technology in general, demand for information systems managers, and the benefits of computer network management are misplaced. The referenced generalized articles do not identify the Petitioner or his proposed endeavor, nor do they address how the specific proposed endeavor may have national importance. As discussed above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will

work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“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 that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.