



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

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

In Re: 24993042

Date: MAY 05, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a general operations manager in the transportation and logistics industry, seeks classification as an individual of exceptional ability in the sciences, arts, or business. 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).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner qualifies for classification as an individual of exceptional ability. The Director further concluded 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, under section 203(b)(2) of the Act.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).<sup>1</sup> Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification.<sup>2</sup> If

---

<sup>1</sup> If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

<sup>2</sup> U.S. Citizenship and Immigration Services (USCIS) has previously confirmed the applicability of this two-part

a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having a degree of expertise significantly above that ordinarily encountered in the field.

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 USCIS may, as matter of discretion<sup>3</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.

## II. EXCEPTIONAL ABILITY

The first issue we will address is whether the Petitioner establishes his eligibility for classification as an individual of exceptional ability.

The Petitioner has worked as a general and operations manager in the transportation and logistics industry since 2002. The record reflects that he co-founded and served as executive director of two companies in Brazil. In 2019, the Petitioner established a new transportation and logistics company in Florida for which he will serve as director and general operations manager.

The Petitioner asserts that he can meet all six initial evidentiary criteria for classification as an individual of exceptional ability at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F). The Director concluded that he satisfied the initial evidentiary requirements by meeting three of the claimed criteria at 8 C.F.R. § 204.5(k)(3)(ii)(A), (B), and (F). However, the Director determined the record did not demonstrate that the Petitioner has a degree of expertise significantly above that ordinarily encountered in his field.

On appeal, the Petitioner maintains that he meets the three remaining evidentiary criteria at 8 C.F.R. § 204.5(k)(3)(ii)(C), (D) and (E), and that the totality of the evidence establishes that he has achieved the level of expertise required for exceptional ability classification. After reviewing the evidence, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

*An official academic record showing that the individual has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii)(A).*

---

adjudicative approach in the context of individuals of exceptional ability. 6 *USCIS Policy Manual* F.5(B)(2), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5>.

<sup>3</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).

The Director determined that the Petitioner met this criterion based on his submission of “official academic records showing that he has received several certificates from institutions of learning relating to the claimed area of exceptional ability.” Upon review, we agree that the Petitioner meets this criterion based on his certificate of completion for a “Technical Responsible for Freight Transport Companies” course offered by IDTRANSP. The certificate lists the complete course contents, confirms the Petitioner’s attendance and final test grade, and indicates that the certificate is issued under the requirements of [REDACTED]<sup>4</sup>

The Petitioner provided a copy of the referenced ANTT resolution, and the record includes a screenshot from the ANTT website at [www.gov.br](http://www.gov.br), which lists IDTRANSP as one of few entities accredited to deliver the approved course and test for certification as a “Technical Responsible” as mandated by the resolution. The Petitioner also provided a screenshot from the website of IDTRANSP, which indicates that it provides educational support, qualification and professional development for people, companies and entities that operate in the public and private transit, cargo, and passenger transport sectors. Based on the foregoing evidence, the Petitioner met his burden to establish that his certificate meets the plain language of this criterion.

However, we disagree with the Director’s conclusion that the Petitioner provided “several certificates” that meet the requirements of this criterion. In addition to the evidence discussed above, the Petitioner provided five course completion certificates issued to him by two Brazilian entities – [REDACTED]  
[REDACTED] However, the record does not contain sufficient evidence to support the Petitioner’s claim that the certificates alone can be considered an “official academic record” or that the issuing entities are recognized or accredited “institutions of learning” comparable to a “college, university, [or] school” as referenced in the regulation.

*Evidence in the form of letter(s) from current or former employer(s) showing that the individual has at least ten years of full-time experience in the occupation for which he or she is being sought. 8 C.F.R. § 204.5(k)(3)(ii)(B)*

This criterion focuses on evidence of experience in the occupation which a petitioner intends to pursue in the United States. The Petitioner submitted letters documenting his experience as executive director and general operations manager of [REDACTED] (2002 until 2012) and with [REDACTED] (from 2011 until present). These letters were corroborated by other documentation that the Director determined to be comparable evidence that he satisfies the criterion.<sup>5</sup> The record supports the Director’s determination that this criterion was met.

*A license to practice the profession or certification for a particular profession or occupation. 8 C.F.R. § 204.5(k)(3)(ii)(C)*

In support of this criterion, the Petitioner submitted the above-referenced certificate indicating his completion of the “Technical Responsible for Freight Transport Companies” course with IDTRANSP. The Petitioner explained that his Brazilian company is registered as a Road Cargo Transport Company

---

<sup>4</sup> ANTT refers to the Brazilian Agencia Nacional de Transportes Terrestres (National Agency of Terrestrial Transport).

<sup>5</sup> The Director considered comparable evidence under 8 C.F.R. § 204.5(k)(iii) due to the Petitioner’s ownership interest in the two companies in question. Specifically, the Director determined that the letters alone were not sufficient because the Petitioner would be considered the “employer” of the individuals who attested to his experience in the occupation.

(RNTRC) under Brazilian law and that such registration requires the company to have a designated individual with the “Technical Responsible” certification, a role that was created by federal legislation.

The Petitioner also submitted various government-issued licenses and registrations held by the Petitioner’s company, [REDACTED] that authorize its engagement in certain cargo transport activities in Brazil. The Petitioner explained that the submitted licenses and registration certificates are “not a requirement for being a General Operations Manager” in his field, but that they are pertinent to his position and distinguish him from others in the industry.

The Director determined that the Petitioner did not demonstrate that he meets this criterion based on the submitted evidence or that he has or requires a license or certification needed to practice his intended profession or occupation in the United States. We agree with the Director’s conclusion.

First, we emphasize that only one of the submitted certifications was issued to the Petitioner himself. The licenses and certifications issued to the Petitioner’s Brazilian company, which authorize it to engage in specific cargo transport activities, cannot be considered licenses or certifications required for the Petitioner to practice his occupation as a general operations manager.

In addition, while the “Technical Responsible” certification was issued to the Petitioner based on his successful completion of the approved course, he concedes that the certification is not specifically required for him to practice his profession or occupation. The evidence supports a determination that the Petitioner’s company is required to have a designated “Technical Responsible” or “Technical Manager” on its staff as a condition of its registration with RNTRC, but not that this role must be filled by its general operations manager. The Petitioner received his certificate in November 2018, but the record includes a company license indicating that another individual [REDACTED] served as the designated “Technical Manager” as of May 2017. The Petitioner has not overcome the Director’s determination that he did submit evidence satisfying the plain language of this criterion.

*Evidence that the individual has commanded a salary, or other remuneration for services, which demonstrates exceptional ability 8 C.F.R. § 204.5(k)(3)(ii)(D)*

In support of this criterion, the Petitioner initially submitted a letter from his accountant stating that he earned “annual wage compensation” ranging between R\$215,600 and R\$234,500 as executive director and general operations manager of [REDACTED] between 2016 and 2020.<sup>6</sup> The accountant’s letter also included a list of the Petitioner’s “main responsibilities” in this position. This evidence was accompanied by a salary survey for the position of “operations and transport manager” in Brazil, obtained from the website [REDACTED]. This survey indicates that those workers employed by major organizations in 2021 earned an average wage of R\$49,930 nationwide with a highest reported salary of R\$128,382.

In response to a subsequent notice of intent to deny (NOID), the Petitioner provided a new letter from his accountant providing his annual compensation dating back to 2011, additional evidence of his earnings, and an updated 2022 salary survey from [REDACTED]. Finally, on appeal, the Petitioner

---

<sup>6</sup> The Petitioner submitted this evidence in response to the Director’s request for evidence (RFE). The Petitioner did not submit evidence in support of this criterion at the time of filing.

submits new translations of previously submitted evidence and an “inflation adjusted calculation” of his earnings. He maintains that the evidence establishes that his earnings exceed those of his “high earning peers.”

The evidence submitted is sufficient to establish that the Petitioner’s earnings have been high compared to wages for “operations and transport managers” reported in the submitted Brazilian salary survey. However, the Petitioner has not been compensated as an “operations and transport manager” and the record does not establish that his prior positions have been limited to performing the duties referenced in the salary survey. Rather, his earnings reflect his employment as the executive director and general operations manager of a road cargo transport company in which he is also the owner and chief executive officer.<sup>7</sup> The Petitioner has not provided any comparative data for chief executive officer salaries in Brazil and therefore has not met his burden to establish that his salary or other remuneration demonstrates his exceptional ability when compared to other similarly employed workers. Accordingly, the record does not establish that he meets this criterion.

*Evidence of membership in professional associations.* 8 C.F.R. § 204.5(k)(3)(ii)(E)

In support of this criterion, the Petitioner initially submitted a letter from SETRANS, a union of freight transportation companies in the ABC region of [REDACTED]. The letter confirms that [REDACTED] is registered as a freight carrier with the ANTT and that the Petitioner is the technical officer of the company. However, he did not explain how his company’s membership in a regional industry organization meets the plain language of this regulatory criterion.

In response to the Director’s RFE, the Petitioner submitted an “Associate Certificate” from the Association of Entrepreneurs from the Southern Region and Mercosur (ASSMERCOSUL) indicating that he has been an associate member of this entity since February 2017. The association’s representative states that it has “strict criteria to gather only outstanding professionals with notorious success in their area of expertise.” The Petitioner also provided a “declaration” from SEST SENAT, which describes this “associative institution” as one which provides “services in the areas of professional development, social assistance, leisure and culture.” The letter states that the Petitioner “has been an associate member since January 3, 2014 and technical responsible for his company, which is “registered and up to date with their contributions” and “qualified to use all services and benefits.”

The Director acknowledged this evidence but advised the Petitioner in the NOID that the evidence does not demonstrate this membership in “professional associations.” The Director advised the Petitioner that he could provide evidence that a bachelor’s degree is required for entry into the associations. In response, the Petitioner asserted that “a bachelor’s degree is not mandatory to the ones who intend to perform as General and Operations Manager” and that many achieve success in his field without attaining such degree.

---

<sup>7</sup> On the Form ETA 750, Part B, Application for Alien Labor Certification, submitted with this petition, the Petitioner indicated that he was the CEO of both Brazilian entities and responsible for their “administrative and executive management.”

The Petitioner also submitted supplemental declarations from ASSMERCOSUL and SEST SENAT. ASSMERCOSUL's commercial director states that according to the association's bylaws a prospective member must have "professional experience of at least five years" and "certificates related to the area in which the member performs his professional activity." The director for SEST SENAT, states that to become a member, the Petitioner provided "proof of his experience in his professional area" which included "course certificates in transportation and logistics" and articles of incorporation for his two transport companies. The Director determined that the evidence provided in response to the NOID was insufficient to meet this criterion.

On appeal, the Petitioner asserts that the Director improperly opposed a requirement that he must establish his membership in an association that requires a bachelor's degree, noting that "many relevant and esteemed professions do not require a baccalaureate degree." He also submits additional information about SEST SENAT from its website at [sestsenat.org.br](http://sestsenat.org.br). According to this information, the services provided by SEST SENAT are "for everyone, whether you work in the transportation industry or not" and there are different registration processes "depending on the circumstances of the applicant." The newly submitted evidence does not provide further support for the Petitioner's claim that SEST SENAT is a membership-granting professional association. The record is similarly lacking supporting evidence related to the membership requirements for ASSMERCOSUL.

While we acknowledge the Petitioner's assertions on appeal, this criterion requires evidence of membership in a *professional* association, and the regulation at 8 C.F.R. § 204.5(k)(2) defines "profession" as any occupation having a minimum requirement of a United States bachelor's degree or foreign equivalent for entry into the occupation. The record does not show that the Petitioner possesses the equivalent of a United States bachelor's degree, or that SEST SENAT or ASSMERCOSUL requires its members or registrants to hold the equivalent of a bachelor's degree. Since it has not been established that either entity requires its members to be professionals as defined in the regulations, they do not qualify as professional associations. Further, even if we agreed with the Petitioner that some exception could be made for occupations that do not require a bachelor's degree, he has not submitted sufficient objective evidence regarding these organizations and their membership requirements to establish that he can meet this criterion through comparable evidence under 8 C.F.R. § 204.5(k)(iii). Accordingly, we agree with the Director that the Petitioner did not satisfy this criterion.

*Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.*  
8 C.F.R. § 204.5(k)(3)(ii)(F).

The Director determined that the Petitioner met this criterion based on evidence of his receipt of awards, his submission of recommendation letters from peers, and "other supporting, miscellaneous documents." For the reasons discussed below, we will withdraw the Director's determination.

The Petitioner submitted evidence that he received a "Quality Brazil 2018 Award" in the "international freight forwarder, transport and logistics segment," from the "International Quality Company." The Petitioner provided a screenshot from the awarding entity's website ([premioquality.com](http://premioquality.com)) indicating that the main objective of the Quality Award in Brazil is "to refer to the organizations and professionals who are dedicated to highlighting the quality of their products and services, with the mission of seeking

excellence and recognition of the market.” The description refers to the Quality Award as a “fundamental tool to disseminate for the quality of our organizations and professionals and highlighting successful cases.” It appears that companies and individuals wishing to participate and be considered for the award must complete a “subscription form” and send it to the sponsoring organization. The evidence indicates that the organization “performs analysis through questionnaires submitted to qualified professionals to evaluate the quality of products and services offered” and that its certificates serve as “recognition of the quality of products and services.” No additional information is provided about requirements for participation and how registered participants are evaluated and selected to receive the award.

Based on the limited information provided regarding the awarding entity’s criteria and evaluation methods, the record does not establish that the Quality Brazil Award is evidence of recognition for the Petitioner’s specific “achievements and significant contributions to the industry or field” as required by the plain language of the regulation.

The Petitioner also provided a certificate indicating his receipt of a “Marketing and Business Trophy” for “Successful Entrepreneurs” from ASSMERCOSUL in November 2018. This certificate was accompanied by a “Declaration of Merit” from ASSMERCOSUL confirming the Petitioner’s receipt of the award. The certificate indicates that the award was based on “prominence in his area of expertise, differential and high knowledge of technical standards and procedures in national and international road transport and cabotage of Chemicals, Petrochemicals, Explosives, Flammables and Corrosives, Oxidants and Gases, effectively contributing to social and economic development in the provision of services, in commerce and industry.”

The Petitioner provided a screenshot from the website [premiomarketingnegocios.com.br](http://premiomarketingnegocios.com.br), which appears to be a sponsor of this award. This evidence provides information regarding the prize and its benefits, and states that it has been awarded by ASSMERCOSUL for 27 years. It describes the award as “one of the most important tools and a great opportunity to add value to your company’s marketing.” The sponsoring entity further describes the award as “the most important award of national recognition to entrepreneurs from various segments of the economy and other classes that have effectively excelled in their activities.” However, the evidence does not explain how a company or individual may participate in the awards program or the criteria used to select winners, such that we could conclude that the award signifies that the Petitioner was recognized for specific “achievements and significant contributions” to his industry or field.

The Petitioner also submitted a “Certificate of Quality Leader” issued to him in November 2018. The certificate indicates on its face that it was issued by the “International Quality Service” in [redacted] Italy but the Petitioner submitted photographs of him receiving the award in Brazil, with captions indicating the award is “organized by the Quality Award Brazil Association and analyzed by Total Quality Control & Service.” The record did not include supporting evidence regarding this award, the International Quality Service, or the Quality Award Brazil Association. Finally, the Petitioner provided two “Certificates of Merit” issued to him by [redacted] in 2015 and 2018, recognizing him as an “Excellent Entrepreneur of the Year” but the record does not contain additional information regarding the award, its purpose, or the issuing entity.

Overall, while the Petitioner has documented his receipt of awards and certificates, there is insufficient evidence to support a conclusion that he received the awards as recognition for his achievements and significant contributions to his industry or field, as required by the plain language of the regulation.

The Petitioner also submitted recommendation letters from business associates and partners describing his involvement in logistics and cargo transportation projects for clients in Brazil. For example, the president of [redacted] states that he partnered with the Petitioner's company starting in 2009 and praises the Petitioner's "commercial and operational skills" and "high level of expertise in international logistics." He states that the Petitioner "made significant contributions during the partnership of several transport and logistics projects" and specifically describes his work managing transport logistics for a client with two factories in [redacted]. The author states that in this and other projects, the Petitioner achieved "successful and excellent results that reinforce his professional qualifications" and that he "has always shown significance to our field being sometimes the sole contributor for new ideas and innovative methods of doing business." However, he does not elaborate on the Petitioner's "innovative methods" or describe any significant contributions to their shared field or industry that had implications beyond a specific client project.

Another business partner indicates that his former employer [redacted] partnered with the Petitioner's company for a project that involved maritime transport, road transport and door-to-door logistics of products and raw materials to [redacted] Brazil's plants and factories in the state of [redacted]. He asserts the project required the Petitioner's "technical know-how, operational expertise and commercial competence with international logistics knowledge" and that he "stood out for his body of work" during this complex operation. The author further states that the Petitioner "has always been recognized for his significance in the field" because he possesses "a unique niche of qualifications and certifications" that qualify his company "for all types of transport at a national level."

These and other letters praise the Petitioner's business skills and professional expertise, provide detailed explanations of his contributions to specific client projects, and are complimentary of the wide-ranging capabilities of the Petitioner's company. While some of the letters generally state that the Petitioner applies unique methods in his work or that his work is otherwise "significant," they do not contain sufficient detail or explanation to establish his recognition for achievements and significant contributions to the industry or field. The testimonial evidence does not show that the Petitioner's work has had an impact beyond his employers, partners, clientele, and their specific projects at a level indicative of achievements and significant contributions to the industry or field.

In addition to the awards and reference letters, the Petitioner provided a letter confirming that he was invited to deliver a lecture on [redacted] at "an event" organized by [redacted] Communication and Events in August 2016, but he did not submit any additional evidence related to this event or its organizer in support of a claim that his appearance demonstrates recognition of his achievements and significant contributions to his industry and otherwise meets the requirements of the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F). Finally, the Petitioner submitted several articles published in Brazilian media in late 2018 and early 2019. This evidence indicates that the Petitioner was asked to provide his perspective on topical issues in his field, such as a resolution passed by ANTT that established new prices for cargo freight, and a law intended to curb cargo theft and improve security for road transport, among other topics. While such evidence demonstrates recognition of the Petitioner's expertise from these publications, it does not signify recognition for



achievements and significant contributions to his field or industry, or recognition from “peers, governmental entities, or professional or business organizations.”

Based on the foregoing discussion, we will withdraw the Director’s determination that the Petitioner satisfied this criterion.

## B. Final Merits Determination

The Petitioner has established that he meets only two of the evidentiary criteria at 8 C.F.R. § 204.5(k)(3)(ii). Accordingly, we need not provide a final merits determination. Further, we note that the Petitioner only briefly addresses the Director’s final merits determination on appeal, emphasizing that he is a “recognized influencer” in his field and an “extraordinary professional” based on his 20 years of experience. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established that he possesses the degree of expertise required for this classification.

## III. NATIONAL INTEREST WAIVER

The remaining issue addressed by the Director is whether the Petitioner is eligible for, and merits as a matter of discretion, a waiver of the EB-2 classification’s job offer requirement, and thus of a labor certification.

In denying the petition, the Director addressed all three prongs of the *Dhanasar* analytical framework and concluded that the Petitioner met only the second prong, which requires a demonstration that the individual is well-positioned to advance the proposed endeavor. On appeal, the Petitioner maintains that he meets all three prongs and is otherwise eligible for a national interest waiver as a matter of discretion. For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

### A. The Proposed Endeavor

At the time of filing in April 2019, the Petitioner provided a “Professional Plan & Statement” describing his proposed endeavor as follows:

My career plan in the United States is to continue working as a General and Operations Manager, to advise U.S. companies on how to properly plan, direct, and coordinate the operations of public or private sector organizations. I intend to continue using my vast expertise and knowledge . . . to provide expert business services to U.S. companies and corporations alike.

In response to the Director’s request for evidence (RFE), the Petitioner submitted a business plan, dated July 2021, for [REDACTED] a Florida corporation he established in [REDACTED] 2019

with the intention of serving as its general operations manager.<sup>8</sup> The business plan indicates that the company will provide logistics services such as transportation management, warehouse, and import/export assistance to companies operating in the chemical, petrochemical and petroleum industries, as well as logistics consulting services to agriculture companies. It further defines the company's "main targets" as companies trading within the United States as well as companies engaged in cross-border trade between the United States and Brazil.

## B. Substantial Merit and National Importance

To satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that his proposed endeavor has both substantial merit and national importance. This prong of the *Dhanasar* framework focuses on the specific endeavor that the individual 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. The record supports the Director's determination that the Petitioner's proposed endeavor to assist companies with optimizing their supply chain and logistics operations has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.<sup>9</sup> The business plan for the Petitioner's Florida corporation includes industry and market analyses, business strategies, financial forecasts, a description of company management and personnel, and a summary of the company's expected "national level impact." According to the business plan, the company will "contribute to the country" by generating direct and indirect jobs, purchasing products and services from suppliers, paying taxes, and allowing the Petitioner to transfer his knowledge to individuals in the United States. In addition, the business plan indicates that the company's presence in the market will "help drive innovation and diversity of logistics services" by increasing competition in the industry, and "assist in increasing the efficiency of the Third-Party Logistics Industry in the U.S." In this regard, it emphasizes that this industry is "a significant and stable contributor to the U.S. economy as an employer and economic growth stimulator," and as such, the company "will contribute to America's overall prosperity."

The business plan forecasts first year revenues of over \$520,000, increasing to approximately \$1.25 million in year five, with expected profits of \$173,000. In addition, the included personnel plan projects that, by year five, the company will employ the Petitioner as general operations manager, along with eight additional employees, with total payroll expenses of \$404,000. The business plan also includes the company's projected payroll and income tax payments and predicts that the business could generate 25 indirect jobs, based on national job multipliers published by the Economic Policy Institute.

---

<sup>8</sup> After reviewing the RFE response, the Director issued a NOID acknowledging the business plan for [REDACTED]. [REDACTED] The Director, citing *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998), emphasized that the business plan post-dates the filing of the petition and "is inadmissible." However, given evidence that the Petitioner established this U.S. company prior to the filing of the petition, we will consider the submitted business plan in evaluating the proposed endeavor.

<sup>9</sup> While we do not discuss each piece of evidence individually, we have reviewed and considered all evidence submitted in support of the Petitioner's claim that the proposed endeavor has both substantial merit and national importance.

In support of his claim that he can satisfy the first prong of the *Dhanasar* analytical framework, the Petitioner provided copies of articles from business and industry publications discussing the operations management field, the increasing labor and talent shortages in the supply chain and logistics field, and how the success of many businesses is linked to supply chain performance. The Petitioner also provided expert opinion letters from two U.S. university professors who address his eligibility for a national interest waiver under the three prongs of the *Dhanasar* framework.

In addition, the Petitioner submitted a supplemental statement in response to a NOID in which he addresses the national importance of his proposed endeavor. He maintains that “the best (if not unique) way to estimate the prospective impact of my work is by evaluating my past achievements.” The Petitioner refers to “profuse evidence” of such achievements and provided an overview of specific logistics activities and projects carried out by his Brazilian companies. The Petitioner states that his proposed endeavor will provide business solutions “to improve companies’ operations in a range beyond the local community offering substantial economic benefits to the region where I operate or even to the nation as a whole, in a ripple effect.” He further describes himself as an “agent of transformation” whose contributions “will offer Florida – and the entire country – substantial economic benefit through my business activity since I will help businesses prosper and optimize processes in an area that is crucial to the U.S. economy.”

The Director determined that the record consisted primarily of broad assertions regarding Petitioner’s professional skills, past achievements, and the industry in which he intends to operate, but lacked evidence corroborating how the specific proposed endeavor would have broader implications in the field commensurate with national importance. On appeal, the Petitioner maintains that the Director “did not consider how my endeavor will have broader implications on the business and logistics fields, positively impact an economically depressed area and enhance societal welfare.” Similar to his statement submitted in response to the NOID, he emphasizes his past success in the field, noting that he is positioned to lead projects that will “better Corporate American infrastructure” and “thus enhance the economy as a whole.” The Petitioner contends that “even a superficial reading of my professional history reveals that past achievements do authorize concluding that my proposed work has also significant prospective impact.”

When evaluating national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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.

Here, to a significant extent, the Petitioner’s business plan and personal statements, and other supporting evidence (such as articles and industry reports) focus on the importance of the Petitioner’s industry and profession. Evidence that relates to the importance of the logistics and supply chain management industry, and to the increasing demand and need for persons who possess expertise in these fields tend to support the Petitioner’s claim that his endeavor has substantial merit. However,

such evidence does not establish how the Petitioner's specific proposed endeavor stands to impact the broader field or otherwise establish its national importance.

In his personal statements, the Petitioner has placed considerable emphasis on his prior success as a general and operations manager in Brazil. The record contains ample supporting documentation of his experience including letters from business partners and colleagues and evidence that he has received some recognition in his field. While important, the Petitioner's expertise acquired through his employment relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar*'s first prong. A determination regarding the claimed national importance of a specific proposed endeavor cannot be inferred based on the Petitioner's past achievements, just as it cannot be inferred based on general claims about the importance of a given field or industry.

With respect to the submitted expert opinion letters the Petitioner provided, we observe that USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, see also *Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

Here, much of the content of the expert opinion letters is lacking relevance to the issue at hand. Specifically, these letters, like the evidence discussed above, focus on the importance of the Petitioner's industry, occupation, and past professional achievements, rather than addressing how the specific proposed endeavor would satisfy the national importance element of the first prong of the *Dhanasar* framework. The writers offer little or no analysis of the specific proposed endeavor and its prospective substantial economic impact and do not otherwise address the implications of the proposed endeavor on the larger field of logistics and supply chain consulting.

The initial expert opinion letter the Petitioner provided, authored by a professor at [redacted] College, states that the Petitioner would work in "an area" of national importance but does not directly address the Petitioner's specific proposed endeavor (i.e., his role as founder and general and operations manager of [redacted]). The second expert opinion letter, from a professor at [redacted] University, summarizes the financial and personnel projections provided in the submitted business plan for the Petitioner's new company. He further cites to several industry reports regarding the logistics and supply chain sector and labor shortages in the field. He states that the Petitioner, through his company, "would contribute to the third-party logistics industry." However, he does not indicate how the business plan supports a determination that the proposed endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, or how it has national implications within the field. Rather, most of the letter's discussion of the first prong of the *Dhanasar* analysis focuses on the national importance of the industry in which the Petitioner intends to operate.

Turning to the submitted business plan, although it reflects that the Petitioner's company will hire up to eight workers within five years, the record does not contain sufficient evidence to demonstrate that the

area where it will operate is economically depressed, that it would employ a significant population of workers in the area, or that the specific proposed endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, trade, or related tax revenue. On appeal, the Petitioner states that his endeavor “will positively impact an economically depressed area” in reference to the State of Florida. However, he does not elaborate on or offer further support for this claim; in fact, he emphasizes that Florida has “the fourth-largest economy in the United States” and an “enormous quantity” of companies offering services in the logistics and supply chain field.

The record does not support that the creation of eight additional jobs in this sector or the expected tax revenue generated by the company will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework. The Petitioner asserts that impact of the company’s activities will result in “ripple effects” that “will offer Florida – and the entire country – substantial economic benefit.” He has also stated that the proposed endeavor will “create the opportunity to raise the standard of living for the United States and the world” and that his work is “a key factor in creating a healthy economy.” However, the burden is on the Petitioner to establish that the economic effects of his proposed endeavor are “substantial.” He did not provide specific plans, projections of indirect economic benefits, or other sufficient evidence to explain how his specific company activities will have broader implications in the field that rise to the level of national importance or that the company’s activities would impact the field beyond the company and its clients. As such, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner’s proposed endeavor would reach the level of “substantial positive economic effects” as contemplated by *Dhanasar*.

For the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

### III. CONCLUSION

The Petitioner has not established that he is eligible for classification as an individual of exceptional ability or provided evidence that he can satisfy the first prong of the *Dhanasar* analytical framework applicable to national interest waiver petitions. Because the identified bases for denial are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve any appellate arguments regarding whether the Petitioner has met the third prong of the *Dhanasar* analytical framework and merits a national interest waiver as a matter of discretion. *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).

As the Petitioner has not established his eligibility for the requested EB-2 classification or that he meets the first prong of the *Dhanasar* framework, we conclude that he has not established he is eligible for a national interest waiver. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.