



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

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

In Re: 26982455

Date: MAY 22, 2023

Appeal of Texas Service Center Decision

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

The Petitioner seeks to establish and operate a cleaning business in the United States. She requests classification under the second-preference, immigrant visa category for members of the professions holding advanced degrees and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse the job-offer requirement - and the related need for certification from the U.S. Department of Labor (DOL) - if a petitioner demonstrates that the requirements' waiver would be in the "national interest." Section 203(b)(2)(B)(i) of the Act.

The Acting Director of the Texas Service Center denied the petition. The Director found the Petitioner qualified for the requested immigrant visa category as an advanced degree professional. But the Director concluded that she did not demonstrate that the waiver's approval would be in the national interest. On appeal, the Petitioner contends that her U.S. business would help prevent disease outbreaks, like the recent COVID-19 pandemic.

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 agree with the Director that the Petitioner has not established the "national importance" of her proposed U.S. employment. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate their qualifications for the underlying immigrant visa category, either as an advanced degree professional or a noncitizen of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. The category generally requires a prospective U.S. employer to seek a noncitizen's services and obtain DOL certification to permanently employ them in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). To avoid the job offer/labor certification requirements, a petitioner must demonstrate that waiving these U.S.-worker protections would be in the national interest. Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term “national interest.” But we have established a framework for adjudicating requests for national interest waivers. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If otherwise qualified as an advanced degree professional or noncitizen of exceptional ability, a petitioner may merit a waiver 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 endeavor; and
- On balance, a waiver of the job-offer/labor certification requirements would benefit the United States.

Id.

II. ANALYSIS

The Petitioner, a native and citizen of Brazil, has a bachelor’s degree in business administration and worked as an administrative coordinator in her home country. She describes her proposed U.S. company as a residential cleaning business. But her business plan indicates that the company would also clean schools and other businesses.

A. Advanced Degree Professional

The Petitioner submitted evidence that, after obtaining the foreign equivalent of a U.S. bachelor’s degree, she worked in the business field for more than eight years. The term “advanced degree” includes the foreign equivalent of a U.S. bachelor’s degree followed by at least five years of progressive experience in the specialty. 8 C.F.R. § 204.5(k)(2). The record therefore supports the Director’s finding that the Petitioner qualifies for the requested immigrant visa category as an advanced degree professional.

B. Substantial Merit

A petitioner may demonstrate that their proposed U.S. endeavor has “substantial merit” if, for example, it “has the potential to create a significant economic impact.” *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner’s business plan, if credible, projects that, in its fifth operational year, her proposed company would employ seven people and generate revenues of \$891,103. We therefore agree with the Director that the Petitioner has demonstrated that her proposed U.S. employment has substantial merit.

C. National Importance

When assessing the “national importance” of proposed U.S. employment, USCIS does not consider the significance of a petitioner’s field, industry, or profession. Rather, the Agency focuses on “the specific endeavor that the foreign national proposes to undertake.” *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining whether a proposed endeavor has national importance, we consider the proposal’s “potential prospective impact.” *Id.* “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.* USCIS does not focus on a proposal’s geographical scope. “An 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.

The Director found insufficient evidence that the Petitioner’s proposal to establish and operate a cleaning business has national implications. On appeal, the Petitioner cites government reports and news articles about the recent COVID-19 pandemic. She notes that all the publications discuss preventing future disease outbreaks. The Petitioner contends that her proposed cleaning business has national importance because it would help prevent future disease outbreaks.

We acknowledge the national importance of preventing outbreaks like the COVID-19 pandemic. But we must focus on “the specific endeavor that the foreign national proposes to undertake.” *See Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner has not demonstrated that her specific proposal has national implications. The record does not indicate that the Petitioner’s business would introduce cleaning processes or products that would advance disease prevention. The Petitioner projects that her business would have a positive economic impact. But she has not established the national or regional significance of that impact or its occurrence in an economically depressed area.

In *Dhanasar*, we found a proposal to teach U.S. students in science, technology, engineering, and math (“STEM”) disciplines to lack national importance. *Matter of Dhanasar*, 26 I&N Dec. at 893. We agreed that STEM teaching has substantial merit. *Id.* But we found insufficient evidence that the petitioner’s specific activities would affect STEM education broadly. *Id.* The Petitioner’s endeavor is similar. A cleaning business has substantial merit and would likely help prevent disease. But, without evidence of broader implications for the country or the disease-prevention field, the record does not establish that the Petitioner’s specific proposal rises to the level of national importance. We will therefore affirm the petition’s denial.

Our affirmance resolves the appeal. As the Petitioner has not demonstrated the national importance of her proposed U.S. employment, we need not consider the petition’s other denial grounds and will reserve them for future consideration, if needed. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976). (“[A]gencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”)

III. CONCLUSION

The Petitioner demonstrated her qualifications as an advanced degree professional and the substantial merit of her proposed U.S. employment. The record, however, does not establish her specific endeavor to have national importance.

ORDER: The appeal is dismissed.