U.S. Citizenship and Immigration Services

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

In Re: 37382066

Date: APR. 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a mechanical engineer and postdoctoral researcher, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he 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 pursuant to 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 sustain the appeal.

## I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that 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 the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- The individual is well positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

*Id.*

## II. ANALYSIS

The Petitioner proposes to continue his postdocotral research at the [redacted]. SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The sole issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

At the time of filing, the Petitioner was employed as a [redacted] postdoctoral fellow conducting research in "atomic-scale engineering for solid oxide fuel cells" and employing "the atomic layer deposition technique to introduce meticulously tailored catalysts on state-of-the-art electrode in order to design, synthesize, process, and characterize high-performance and durable electrolyte and electrode materials for reversible fuel cell operations." With regard to his proposed endeavor, the Petitioner states that he intends to continue his research in investigating "catalysis to establish a strong scientific groundwork for the design of surface-decorated catalysts in order to strengthen solid oxide fuel cells, electrolysis cells, and lithium-ion batteries." For the reasons discussed below, we conclude the Petitioner has established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

### A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. 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. *Id.* We withdraw SCOPS' determination that the Petitioner did not establish his proposed endeavor's national importance under *Dhanasar's* first prong. As evidence that his proposed research in the field of mechanical engineering has substantial merit and national importance, the Petitioner presented evidence including a personal statement describing the proposed endeavor and his future plans for it, peer-reviewed journal articles, book chapter first-authored by the Petitioner, Google Scholar citation record, and industry reports and articles. The Petitioner also provided probative letters of support from experts in the field describing the Petitioner's past research and significant contributions to the field, his proposed endeavor, and its potential prospective impact in the field of mechanical engineering. Moreover, the Petitioner presented evidence indicating the dissemination of his research to others in the field through scientific journals and conference presentations, and that his endeavor has the potential to advance a critical and emerging technology field. USCIS recognizes the importance of progress in science, technology, engineering, and mathematics, especially in focused critical and emerging technologies important to U.S. competitiveness or national security. *See generally* 6 *USCIS Policy Manual,* F.5(D)(2),

[2] The Petitioner earned a Ph.D. in mechanical engineering from the [redacted] in 2023.

https://www.uscis.gov/policymanual. As the Petitioner has demonstrated both the substantial merit and national importance of his proposed research, he has established that he meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. at 890. To determine whether a petitioner is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

We also withdraw SCOPS' conclusion that the Petitioner did not establish he meets *Dhanasar's* second prong. The second prong shifts the focus from the proposed endeavor to the Petitioner. Here, the Petitioner's record includes his curriculum vitae, academic records (including his Ph.D. in mechanical engineering), published and presented work, peer review activity, and documentation of numerous articles that cited to his research findings. As corroborating documentation regarding his work's significance, the Petitioner provided evidence showing that his published work has been frequently cited by independent researchers, and that the rate at which his work has been cited is high relative to others in the field. The Petitioner also submitted documentation showing his significant involvement in research projects funded by grants from the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, and the Korea Institute of Industrial Technology. His experience as a researcher in the field of mechanical engineering, published articles, citation evidence, and progress in his field position him well to advance his proposed endeavor. As we stated in *Dhanasar*, "endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States." *Id.* at 889. We must consider the totality of the circumstances and whether the record as a whole demonstrates that the Petitioner is well positioned to advance the proposed endeavor. *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(1). Accordingly, the Petitioner has demonstrated that he satisfies the second prong of the *Dhanasar* framework.

C. Whether on Balance a Waiver is Beneficial

Furthermore, we withdraw SCOPS' determination that the Petitioner did not establish he meets *Dhanasar's* third prong. The third prong requires a petitioner to demonstrate 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. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

When evaluating the third prong and whether the United States may benefit from the individual's entry, regardless of whether other U.S. workers are available, USCIS considers the following combination of facts contained in the record to be a strong positive factor: possession of an advanced STEM degree, engagement in work furthering a STEM area important to U.S. competitiveness, and that the individual is well positioned to advance the proposed STEM endeavor of national importance. *See generally USCIS Policy Manual, supra,* at F.5(D)(2). In addition, the Petitioner has published research and peer review of his work; the knowledge and skills in his proposed endeavor; a plan with progress to further his proposed STEM endeavor; and the interest and support of national and international academic members in his field. The Petitioner possesses the academic credentials, experience, and expertise in the mechanical engineering field to continue his research on "investigating catalysis to establish a strong scientific groundwork for the design of surface-decorated catalysts in order to strengthen the electrochemical performance of solid oxide fuel cells, electrolysis cells, and lithium-ion batteries." In addition, the Petitioner has documented his past successes in advancing research in the mechanical engineering field. Based on the Petitioner's track record of successful research and the significance of his proposed work, we conclude that he offers contributions of such value that, on balance, they would benefit the United States even assuming that other qualified U.S. workers are available. The Petitioner therefore satisfies the third prong of the *Dhanasar* framework.

## III. CONCLUSION

The Petitioner has met the requisite three prongs set forth in the *Dhanasar* analytical framework. We conclude that he has established he is eligible for and otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is sustained.