U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42068021

Date: APR. 29, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a consultant in the field of occupational health and safety, 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 an individual of exceptional ability, 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 dismiss 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:

[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 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.

Id.

II. ANALYSIS

The issue on appeal 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.[2] Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor under the first prong of the *Dhanasar* analytical framework.

The Petitioner's proposed endeavor is to operate a business providing services related to occupational health and safety to small- and medium-sized enterprises (SMEs). SCOPS determined that the proposed endeavor has substantial merit and national importance. SCOPS concluded, however, that the Petitioner is not well positioned to advance the endeavor and that, on balance, it would not be beneficial to the United States to waive the job offer requirement and, thus, the labor certification. On appeal, the Petitioner asserts that SCOPS did not apply the proper standard of proof, did not give due regard to certain evidence, and erroneously applied the law. Upon review, for the reasons discussed below, we will withdraw SCOPS' determination that the Petitioner demonstrated the national importance of his endeavor. We agree, however, that the Petitioner has not demonstrated that he is well positioned to advance the proposed endeavor.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, substantial merit and national importance, focuses on the specific endeavor that 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. *Id.*

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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." *Id.* In *Matter of 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.

[2] SCOPS concluded that the Petitioner qualifies as an individual of exceptional ability without any analysis. While we reserve the issue of whether the Petitioner qualifies for the underlying EB-2 classification, we note that 8 C.F.R. § 204.5(k)(2) defines exceptional ability in the sciences, arts or business as a degree of expertise *significantly* above that ordinarily encountered in the sciences, arts, or business. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

The Petitioner's proposed endeavor is to operate a company providing occupational training and consultancy services to SMEs. According to his business plan, services offered would include leadership and executive training, behavioral and organizational analysis, corporate sustainability consulting, risk assessment and incident prevention, emergency response and crisis planning, law and regulatory compliance, and behavior-based safety culture development. In response to a request for evidence, he submitted webpages from his company's website that describe his company's vision to "be a trusted partner that helps SMEs grow into thriving, responsible organizations that contribute positively to their communities and environment." His website describes the company's mission to "cultivate sustainable growth in occupational health, safety, and leadership practices, helping SMEs flourish through naturally integrated solutions that honor both people and planet."

To provide context for his proposed endeavor, the Petitioner submitted reports containing information about the occupational health and safety industry, work injuries, business coaching, and management consulting. The Petitioner also submitted an expert opinion letter from *B- D- G-* that discusses why he should be granted a national interest waiver. The letter summarizes information about the Petitioner's company that is also present in his business plan. The letter also includes information about the environmental health and safety training industry, lead exposure and case studies, and statistics on workplace injuries. While this documentation provides an overview of the Petitioner's intentions for his company and about the field in which he intends to work, it does not discuss any broad implications that his business will have for the field or for the SMEs who utilize his services. Topics comprising much of the opinion letter—such as the harms of lead exposure and the "critical role" of health and safety training for businesses and professionals—indicate a reliance on the general importance of health and safety awareness to elevate the significance of the Petitioner's endeavor. However, it is not the overall importance of the industry, field, or profession in which an individual intends to work that we consider in evaluating the endeavor, but the particular venture the individual will undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner similarly appears to have relied on an expansive interpretation of the possibilities of his endeavor when he stated that the economic and social benefits of his services would be "profound." He explained that, by reducing workplace injuries and illnesses, his company would decrease healthcare costs, unburdening the national economy. He further stated that fewer workplace incidents result in lower insurance premiums and reduced medical expenses, freeing up resources that can be reinvested into business growth and development. A safer workplace, he added, leads to increased productivity because employees are more likely to perform at their best when they feel secure and valued. He reasoned that, by providing services leading to these outcomes, his company "enhances overall business operations and contributes to a more robust economy."

The Petitioner, however, has not provided sufficient evidence to demonstrate that his company's services would result in the far-reaching outcomes he envisions. The record includes numerous general references to consultancy and training services in areas related to occupational health and safety. The record also indicates, using generalized terms, that his company will provide consultancy and training to help SMEs grow their businesses. The Petitioner intends to "design organic growth strategies" and "strengthen organizational culture" by providing "behavioral and organizational analysis, corporate sustainability" and "risk assessment and incident prevention" training. But he has not provided details concerning training programs that his company would offer. He has not clarified how his consultancy or training offerings would have a broader impact on occupational health and safety education or business growth

for SMEs. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

In *Matter of 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. Here, the Petitioner has not explained how his proposed endeavor to offer consultancy services would have a broader impact beyond the businesses utilizing those services. The Petitioner's contentions concerning the purported national importance of his proposed endeavor rely on the general importance of health and safety in workspaces and the interests of SME parties in business growth. Again, it is not the overall importance of the industry, field, or profession in which an individual intends to work, but the particular endeavor on which an individual intends to embark that we consider in evaluating whether it is of national importance. *Id.* at 889.

Further, the Petitioner has not explained how he would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Matter of Dhanasar*. *Id.* at 890. He provided a business plan showing that his company will employ 22 employees by its fifth year of operation, generating over $2.21 million in payroll expenses and more than $300,000 in income tax revenue. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized. In addition, while he stated that the locations of his company would help fuel small business growth in historically underutilized business zones, the record does not include evidence of a potential nexus between his proposed endeavor and those areas, beyond his intention to utilize office space in those areas. The Petitioner has not provided independent evidence or otherwise explained how his business would create jobs at a level that would have a significant impact in a region or have a prospective national impact on a specific field. Again, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. It is not clear how a business of the size and scope described in the business plan would have national or global implications. The Petitioner has not provided sufficient evidence to show that he would employ a significant population of workers in a particular region, nor has he shown that his proposed endeavor would offer substantial economic benefits through employment levels, business activity, or tax revenue. As such, the record does not demonstrate that the prospective benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by the precedent decision. *See Matter of Dhanasar*, 26 I&N Dec. at 890.

The record does not establish the national importance of the proposed endeavor, as required by the first prong of *Matter of Dhanasar*. We withdraw SCOPS' conclusion to the contrary.

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual 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* at 890.

The Petitioner submitted a business plan that provides an overview of his endeavor to offer consultancy services and training to SMEs relating to occupational health and safety and business growth. As discussed previously, the business plan does not demonstrate the Petitioner's assertions concerning his endeavor's national importance because claims within it are not supported by probative evidence. Similarly, the business plan does not demonstrate that the Petitioner is well positioned to advance his endeavor because it does not provide details regarding his plans for future activities.

For example, the business plan provides a generic approach that could apply to almost any new business offering services related to safety consultancy and training. The plan describes positions in vague terms, including specialists "responsible for conducting comprehensive needs assessments" who would "play a key role in conducting safety audits and inspections, identifying potential hazards, and recommending corrective actions to mitigate risks." Technicians would be "responsible for maintaining accurate records of safety and compliance activities," and they would implement "safety initiatives and monitor compliance efforts."

In addition to staffing, the business plan provides a generic description of the company's services. For example, it would develop and customize service offerings to address the unique needs of the clients. It would launch a pilot program to test its services with select clients and evaluate the outcomes, refining its offerings as needed. Using insights gathered from the pilot program, the company would expand its client base and then "focus on monitoring . . . and providing ongoing support" for its clients before planning its expansion to additional locations.

Further, following expansion planning, the company would engage with the local community and participate in "networking opportunities to raise awareness" of the company's services and to "build relationships with key stakeholders . . . ." It would then focus on its "commitment to continuous improvement and innovation" to "leverag[e] new technologies," eventually conducting a strategic review by "evaluating [its] achievements, identifying areas for growth, and setting strategic priorities for the coming year."

The business plan gestures to vague intentions of how the company will prepare to enter the market, but it does not detail any specific training or product offerings. It states that the company will provide "workshops, seminars, and one-on-one coaching sessions" that will be "customized" to align with clients' "strategic goals." It includes a list of revenue streams through services such as "Leadership & Executive Training" and "Corporate Sustainability," and depicts values for each based on anticipated numbers of service units provided per year. The business plan, however, does not include an objective source or basis for its sales forecasts.

In assessing the Petitioner's positioning to advance the endeavor, we observe that the business plan does not address certain logistical considerations. For example, it states that market research "will involve engaging with local businesses, industry associations, and regulatory bodies to gather insights and build relationships." Absent from this anticipated collaboration or cooperation are details concerning what entities the company would contact or how connecting with them would be beneficial for the business. And the business plan does not explain how the company would access or influence

these entities to realize the Petitioner's vision of an enterprise that "stands out as a beacon of innovation and excellence in occupational safety and health . . . ."

Further, the Petitioner has not clarified how or whether he will advance his endeavor to manage a consulting company while simultaneously managing [redacted] which he stated he has owned since [redacted] of 2023. In this role, he explained, he manages luxury design projects. He leads project execution, ensures compliance with safety standards, and manages teams and supply chains, and he has completed commercial and residential projects in Massachusetts, Florida, and South Carolina. It is not clear how or whether he would continue carrying out his duties in this role while also leading a consulting company offering services that will have a broad impact on the field of occupational health and safety or have implications for SME business growth at a level commensurate with national importance. The record does not establish progress to support the Petitioner's expansive endeavor.

The USCIS Policy Manual provides specific evidentiary considerations for entrepreneurs, such as evidence indicating that the individual has knowledge, skills, or experience that would significantly advance the proposed endeavor.[3] The Petitioner described himself as a "Business Administrator expert" who "is set to impact the U.S. economy by serving the states of Massachusetts, Florida, and Texas" and who is "uniquely capable of seizing market and investment opportunities." The record, however, highlights his education and experience working in the field of occupational safety. He submitted evidence of his foreign technical education degree, his licensure, and his completion of training related to workplace safety. In addition, he submitted evidence demonstrating that he has experience working as a safety technician with several employers for which he developed safety initiatives and provided training. Letters of support attest to the Petitioner's past employment in the field and his knowledge and skills. This documentation, however, is not corroborated by evidence that the Petitioner is well positioned to operate a consultancy company offering services at the scale he has described. It is not clear how his education and experience demonstrate expertise as either a business administrator or entrepreneur.

We also consider evidence of an individual's ownership and role in a U.S.-based entity. The record includes formation records for his limited liability company in Massachusetts, and the Petitioner points to webpages from his company's website as demonstrating its active commercial presence. Like the business plan, however, these webpages include only generalized references to his company's services; they do not contain information about specific services provided or specific accomplishments that would indicate progress towards the Petitioner's endeavor. This documentation is not sufficient to demonstrate that he is well positioned to advance his endeavor.

Considerations for entrepreneurs also include evidence of outside investments in the endeavor, awards or grants received to pursue the endeavor, intellectual property significant to the field or the endeavor, and published materials about the endeavor or the entrepreneur. The record does not include such evidence. The record includes letters from business entities expressing interest in the Petitioner's company's services, but they are not accompanied by any evidence of commitment, and it is not clear what significance this interest has in demonstrating that the Petitioner is well positioned to advance an endeavor to the level of impact described in the record.

[3] *See generally* 6 *USCIS Policy Manual* at F.5(D)(6), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.

The record does not establish the Petitioner's progress towards achieving the endeavor of the broad scope he has described. The record does not establish that he is well positioned to advance his proposed endeavor, as required by the second prong of *Matter of Dhanasar*.

The record does not establish the national importance of the proposed endeavor or that the Petitioner is well positioned to advance the endeavor, as required by the first and second prongs of *Matter of Dhanasar*. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not demonstrated the national importance of the proposed endeavor or that he is well positioned to advance the endeavor. As the Petitioner has not met the requisite first and second prongs of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.