U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40777640

Date: JAN. 28, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a construction project manager, seeks classification as a member of the professions holding an advanced degree. *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. 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.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. The matter is now before us on appeal under 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 a national interest waiver, a petitioner must first show eligibility for the underlying EB-2 visa classification, as either an advanced degree professional or an alien of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. If a petitioner establishes eligibility for the underlying EB-2 classification, he or she must then establish that he or she merits 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 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;
- The alien is well positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

[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).

II. ANALYSIS

The Petitioner earned a bachelor's degree in architecture in India in 2004. In 2013, [redacted] awarded him a master's degree in civil engineering, specializing in construction management. Since then, the Petitioner has worked in the United States as a project engineer or project manager in H-1B nonimmigrant status, most recently for [redacted] since 2024.

The record demonstrates that the Petitioner qualifies as a member of the professions and that he holds 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 a labor certification, would be in the national interest. SCOPS determined that the Petitioner had established the substantial merit of the proposed endeavor, but otherwise had not satisfied the requirements of the *Dhanasar* national interest test.

The Petitioner's initial submission did not describe his proposed endeavor beyond providing information about upcoming or proposed [redacted] projects. In response to a request for evidence (RFE), the Petitioner stated that his "proposed endeavor is to lead the planning, coordination, and execution of infrastructure and public development projects that support the modernization of U.S. transportation, institutional, and civic infrastructure. The focus will be on sustainable design, climate resilience, and structural safety, especially in aging and high-risk regions." The Petitioner indicated that the "scope of work" of the proposed endeavor would encompass five elements:

- Lead construction project teams in public and quasi-public developments (e.g., DOT, public schools, rail stations, cultural institutions);
- Incorporate innovative technologies (e.g., modular steel systems, BIM [building information] modeling, energy-saving methods);
- Manage stakeholder coordination between design teams, contractors, public officials, and suppliers;
- Supervise field operations, timelines, and regulatory compliance; [and]
- Improve cost control and project delivery through value engineering.

The Petitioner stated that he would "[c]ontinue collaboration with [redacted] "[e]xplore partnerships with public sector agencies . . . and design-build firms," and "[e]ngage with nonprofits and housing authorities for community-based projects." The Petitioner provided a three-stage timeline for the proposed endeavor:

> **Year 1-2**: Continue managing major infrastructure projects and documenting outcomes;
> **Year 3-5**: Scale scope to multistate projects; integrate new sustainability protocols; [and]
> **Year 6-10**: Mentor junior project managers; contribute to national design standards and knowledge-sharing platforms.

The Petitioner asserted that the national importance of the proposed endeavor lay in "safer, more resilient, and efficient infrastructure"; "[j]ob creation and economic stimulation in high-need regions"; "[c]limate-conscious development"; and "[r]eplicable construction methodologies that can influence broader industry practices." But in terms of specific details, the Petitioner returned to discussion of

specific construction projects. The Petitioner has not detailed any "new sustainability protocols" that he developed or provided any details about how he would "contribute to national design standards."

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the alien 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. *Matter of Dhanasar*, 26 I&N Dec. at 889.

Reports and articles in the record discuss construction, the steel industry, and some of the software tools the Petitioner uses in his work, but these materials do not specifically describe the Petitioner's proposed endeavor or its potential impact. Rather, these materials amount to background information about the general subject. The Petitioner, however, must establish the national importance of the specific proposed endeavor; it cannot suffice for the Petitioner to establish the overall importance of a particular subject, occupation, or field. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See, generally,* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual.

In determining national importance, the relevant question is not the importance of the industry or profession in which the alien will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Matter of 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.

The Petitioner explained why he believes his proposed endeavor satisfies the first prong of the Dhanasar national interest test, citing various statistics about construction and infrastructure and stating:

> The efforts of [the Petitioner], as an engineer and construction manager, can significantly impact the infrastructure landscape of the United States, particularly in the realms of urban and economic growth. . . . [The Petitioner's] innovative approach to construction and project management supports the growth of different industries, from transportation to defense to manufacturing, ensuring the nation's systems are better equipped to face emerging challenges.
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> . . . As a construction manager, [the Petitioner's] work contributes to large-scale infrastructure projects, such as bridges, roads, and public facilities, in addition to buildings which serve to reinforce America's moral cores like churches, temples, and synagogues. His ability to streamline construction processes through the integration of new technologies, materials, and project management strategies results in faster, cost-effective builds that enhance the efficiency of critical infrastructure systems.

The Petitioner submitted background information about subjects such modular steel construction, energy efficiency, and BIM, which is used in construction planning. The Petitioner asserted that his "work integrates new technologies, including AutoCAD and Tekla EPM, software which facilitates and expedites the process of construction management." The Petitioner has not claimed or established that he invented or innovated these technologies. Absent evidence to that effect, the Petitioner has not established that his use of those modeling technologies reaches the level of national importance. The overall importance of a given method or technology helps to establish the substantial merit of the proposed endeavor, but does not necessarily give national importance to every individual endeavor that uses that method or technology.

Therefore, to establish eligibility, it cannot suffice for the Petitioner to show that he intends to use important methods. He must establish that he will put them to use in an endeavor that, itself, has national importance.

The Petitioner submitted several letters in support of the petition. The owner and president of [redacted] stated that the Petitioner had "worked . . . on several impactful projects" and "occupies an indispensable role in seeing that our endeavors are completed in a timely and high-quality manner," which "allows us to maintain [redacted] reputation as a renowned and reliable steel fabricator."

[redacted] owner also stated that the Petitioner's position at [redacted] relates to "national security" because of the military and economic significance of "[t]he ability to produce steel domestically" and reduce "dependence on foreign steel supplies." He did not explain how the Petitioner's work with [redacted] relates to the domestic steel supply. His description of the company's work reflects fabrication of products made from steel and other metals, rather than mining or refining the raw materials. He stated: "Some of the services we provide include structural steel and miscellaneous metal, custom architectural metalwork, custom gates and restoration, hand forged metalwork, and pre-engineered metal buildings."

In a second letter, submitted in response to the RFE, [redacted] owner described three then-current or upcoming projects, and asserted that the customers' activities show the national importance of the proposed endeavor. Specifically, the Petitioner "is overseeing the renovation and structural modernization" of a college student building, and education stimulates economic growth. The Petitioner is "working on structural reinforcement" for the roof of a naval contractor's building, which "ultimately bolsters our defense systems." And the Petitioner is "negotiating with a general contractor for a new rail facility" at a commuter rail station, and "railroads . . . [are] avenues through which bulk goods are shipped and supply chains are strengthened, thus to strengthen the railroads is to strengthen the power of the markets as well as the United States' economy on the whole."

The owner concluded: "Given the broad scope of the industries that are positively impacted by [the Petitioner's] work on these initiatives, I believe it is appropriate to consider his work of national importance." Letters from other past and present colleagues include similar assertions. But the argument is not persuasive. The claimed links between the Petitioner's construction work and the activities undertaken by clients are too tenuous and indirect to establish the national importance of the Petitioner's proposed endeavor.

SCOPS denied the petition, concluding that the Petitioner had not shown that his "specific proposed endeavor would have any implications beyond the business, its employees and clients, and any individuals and entities with whom he would work, to impact the field, industry, or the economy more broadly at a level commensurate with national importance."

On appeal, the Petitioner submits new letters from [redacted] officials, attesting to the Petitioner's skills, and background information about U.S. infrastructure and the steel industry. These materials do not address the national importance of the Petitioner's specific proposed endeavor, and therefore they are not material to the appeal with regard to the first *Dhanasar* prong.

The Petitioner asserts on appeal that his work "ensures public safety by modernizing infrastructure and increasing resilience to natural disasters." The Petitioner did not explain how this work produces these effects beyond the specific buildings where his work takes place. General arguments about infrastructure modernization speak to substantial merit, which SCOPS granted.

The Petitioner also asserts that he "has created and maintained jobs by creating the space wherein business and education are conducted." The Petitioner does not submit evidence showing that his proposed endeavor has created, or can be reasonably expected to create, sufficient employment to establish national importance. Statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight. *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998). Here, the Petitioner offers a variation of a prior argument, essentially claiming that, by participating in the construction of structures for commercial, educational, and non-profit use, the Petitioner is in some significant way responsible for the activities undertaken within those structures. This argument is not persuasive because the claimed impact is indirect and tenuous.

The Petitioner maintains that "his contributions go beyond localized impact, influencing broader national economic and policy goals." The Petitioner cites evidentiary sources regarding those goals, such as infrastructure modernization, but he has not established that his proposed endeavor would advance those goals more broadly, beyond the specific projects he would undertake. The importance of a given industry does not establish the national importance of a specific proposed endeavor within that industry.

We agree with SCOPS' conclusion that the Petitioner has not established the national importance of his proposed endeavor. In light of the above conclusions, the Petitioner has not met his burden of proof to show that he fully satisfies the first prong of the *Dhanasar* national interest test. Detailed discussion of the remaining prongs cannot change the outcome of this appeal. Because the Petitioner has not otherwise established eligibility for the classification sought, we need not reach, and therefore reserve, the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not established the national importance of the proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

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.