U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40777692

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 business analyst and trade consultant, 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, 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. *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 foreign equivalent to a U.S. bachelor's degree in foreign trade in Colombia in 2003. Also in Colombia, he worked as an international purchasing manager from 2005 to 2010 and as an import manager from 2010 to 2014. The Petitioner established [redacted] Colombia, in 2014, and since then has worked full time as its manager. The Petitioner last entered the United States as a B-2 nonimmigrant visitor in May 2022. USCIS records show that, at the time he filed the petition in May 2024, the Petitioner was an F-1 nonimmigrant student.

SCOPS concluded that the Petitioner qualifies as a member of the professions with post-baccalaureate experience equivalent to an advanced degree as defined at 8 C.F.R. § 204.5(k)(2). 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 not satisfied the first and third prongs of the *Dhanasar* national interest test.

The Petitioner serves on the board of directors of a Colombian company called [redacted] which developed "an exclusive database in Colombia covering maritime movements" and another "database, which offers information from more than 52 countries." The Petitioner stated that his proposed endeavor is "to develop, implement, and make available a business intelligence [BI] tool focused on foreign trade," using information from those databases that track the shipment of goods. The Petitioner stated that his "service will focus on providing specialized advice in foreign trade, conducting comprehensive analysis of various variables."

The Petitioner added that his service "will provide specific information on maritime movements between Colombia and the United States over the past three years" to "the border control agencies of the United States government," which will give those agencies "the capability to visualize cargoes before their arrival at the destination port."

The Petitioner established a limited liability company for his proposed endeavor. A printout from that company's website states: "Through Power BI,[2] we offer a consultation tool with valuable, reliable, complete and timely information for the intelligence of foreign trade markets." The website indicates that the Petitioner's company would offer a "[m]aritime analysis tool," "[m]arket intelligence," and "[t]ailor-made studies," and "exclusive information based on bills of lading."

A. Substantial Merit and National Importance

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.*

[2] Power BI is a data visualization tool available from Microsoft.

In *Dhanasar*, we 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.

We will not disturb SCOPS' conclusion that the proposed endeavor has substantial merit. SCOPS also concluded that the Petitioner had not fully satisfied the first *Dhanasar* prong because he had not established its national importance. We agree, as explained below.

The Petitioner stated that his proposed endeavor has national importance because "the use of data collection and analysis to track, predict, or identify anomalies, and monitor travel routes and inventory of vessels . . . supports the identification of potential security-related risks and threats, such as smuggling, drug trafficking, or the introduction of illicit products." The Petitioner added that his service would provide "key information for the American maritime industry," because "[s]haring data on shipping routes, cargo manifests, and vessel schedules is key to improving the efficiency of the shipping process."

The Petitioner submitted materials from U.S. government websites, pertaining to maritime security, trafficking, and related subjects. There is also a printout from the website of a British company that provides "data-driven insights and solutions" relating to "maritime intelligence" and a blog post about "The Potential of Data Sharing in the Maritime Industry." The Petitioner asserts that these materials show the importance of the issues that his endeavor seeks to address, but they do not directly address or discuss his specific proposed endeavor itself.

The Petitioner also submitted several letters. The general manager of [redacted] stated:

> [The Petitioner's] knowledge and skills in information analysis and [his] knowledge of our maritime trade databases with Colombia and the United States will allow [him] to detect suspicious behavior in maritime trade and contribute to border security. In addition, we are confident that it will be able to help companies find new business opportunities in the international market.
>
> [redacted] grants [the Petitioner] an exclusive license to commercialize our valuable databases, [redacted] in the United States. This license will allow his company . . . to continue providing international trade consulting services and contribute to the growth of companies, as well as the safety and efficiency of business operations.

Officials of freight and import/export companies described the Petitioner's proposed endeavor in broadly similar terms. An official of one company stated that the Petitioner's tool "could help us identify new potential customers . . . [and] track industry trends," as well as "assist us in identifying potential new markets for our services" and "enable us to conduct competitive analysis to identify opportunities." An official from another such company stated: "Having daily and updated information on cargo manifests and BIs from Colombia to the United States would be of immense value to our

operations. It would enable us to make informed and strategic decisions, keeping us aware of the latest import trends and patterns," and "would be a powerful market analysis tool." An official from a third company stated: "The insights provided by the international trade information tool promise to be an invaluable source for discovering new horizons. We are confident that it will enable us to identify new opportunities, markets, and strategic partnerships that can catalyze our growth and success."

In a request for evidence (RFE), SCOPS stated that the Petitioner had not established that the proposed endeavor would have a significant impact beyond his own business and its customers. SCOPS also stated that the Petitioner did not submit "a detailed business plan or sufficient information to demonstrate that his company's future staffing levels and business activity stand to provide substantial economic benefits."

In response, the Petitioner submitted a four-page business plan in which the Petitioner "estimated that over 100 high-value direct jobs will be created within the first three years." The Petitioner did not provide specific information regarding the anticipated positions, but offered the general assertion that "[d]evelopment and maintenance of the platform will require teams in" "Software Engineering and Development," "Data Analysis and Management," "Cybersecurity," and "Project Management and Strategic Consulting." The only cited source for this estimate is an online article about artificial intelligence that the Petitioner identified but did not submit.

The Petitioner stated that his "platform . . . allows users to trace cargo in detail . . . and filter historical and live data to identify irregular trade behavior." The Petitioner asserted that, with his platform, "U.S. ports can better prepare for incoming shipments from critical ports in Latin America with high traffic volumes, flag high-risk containers for inspection, and take preventative measures to reduce potential security threats." He added that his "proposed activity is intentionally structured as a dual-impact platform-serving both public security agencies and the broader private trade ecosystem-with a clear and scalable national application."

The Petitioner stated that his platform includes a "federal-use module . . . exclusively [for] U.S. government agencies," a "trade intelligence module . . . tailored to U.S. private sector firms," and an "academic module [that] facilitates access to verified shipping data for universities." The Petitioner asserted that his "platform plays a pivotal role in" "improv[ing] the ability to monitor cargo flows."

The Petitioner did not establish how the activities described above would have sufficiently broad implications to establish national importance.

A printout from the Petitioner's website includes this passage: [redacted]." Existing regulations already require inbound cargo ships to provide information about the cargo and foreign ports that the cargo ship will visit before arriving in the United States. *See, e.g.*, 19 C.F.R. § 4.7a. The Petitioner asserted that his platform would allow federal agencies to detect "irregularities" and "anomalies," but he has not explained in greater detail how his data platform would deter illegal trade or aid in its detection. The Petitioner appears instead to rely on the general proposition that enforcement actions would be more effective with more, and better-organized, data.

SCOPS concluded that, while the Petitioner's proposed platform may compile useful information for individual clients and university research teams, the Petitioner has not established its national importance. SCOPS also acknowledged the "staffing and revenue projections" in the business plan, but concluded that the plan "does not offer any details showing their basis or an explanation as to how they will be realized."

On appeal, the Petitioner asserts that SCOPS improperly "require[d] detailed revenue/job projections," and that "*Dhanasar* does not require such economic modeling where national security and trade transparency impacts are independently sufficient." SCOPS, however, did not rely solely on the lack of detail concerning revenue and job creation; that was only one element that SCOPS considered.

The Petitioner asserts that he submitted "a detailed business plan" that "projects the creation of over 100 high-specialization jobs within the first three years." The lack of detail in the business plan is relevant to the question of whether the job creation figures are plausible, realistic, and well-founded. While job creation is a relevant factor under *Dhanasar*, the Petitioner cannot meet his burden of proof without evidence to corroborate the claimed figures. We will revisit the business plan further below, in the context of the second *Dhanasar* prong.

The Petitioner also states that his "proposed endeavor is designed to strengthen one of the largest and most strategically vital sectors of the U.S. economy: the trade and logistics ecosystem," which employs "more than 28.6 million workers." However, the overall size of that sector of the economy does not convey proportional importance to the Petitioner's specific proposed endeavor.

The Petitioner states: "Independent studies cited in [response to] the RFE confirm that [the Petitioner's] platform will reduce logistics costs by 12% and improve cargo transit times by 10%." The RFE response cited those claimed statistics with a reference to a study of "[d]igitization in maritime transport," with the web address of a blog post on the website of SPLogistics. The Petitioner did not submit a copy of that post. Therefore, the Petitioner has not established that the blog post contains the information claimed, or that it relates specifically to his data platform rather than to digitization more broadly. Because the Petitioner has not submitted the claimed evidence, it is not in the record and we cannot evaluate whether it supports his claim. He has not met his burden of proof.

The Petitioner states that, by making his platform available to universities, "the platform enhances long-term workforce development by . . . support[ing] applied research and student training." The Petitioner has not shown that his platform would have an impact on education beyond the students who would use it. In *Dhanasar*, we acknowledged that petitioner's planned teaching activities but concluded that he had not established a broader impact on education. *See Matter of Dhanasar*, 26 I&N Dec. at 893. Furthermore, even this level of benefit appears to be speculative. The record shows that the Petitioner contacted two universities in spring 2025 about participating in "a pilot project . . . exploring whether the platform could be of academic value to universities and their students." The record does not show that the pilot project actually occurred, or that it established the platform's value.

The Petitioner asserts that his "endeavor addresses nationally significant trade and security concerns." At issue is not the overall importance of those issues, but rather the national importance of the Petitioner's specific proposed endeavor with respect to those issues. The importance of maritime security does not necessarily mean that the Petitioner's data platform will have nationally important

impact and implications. While the Petitioner asserts that he will make his platform available to U.S. government agencies, we will address the question of whether those agencies have shown any interest in using the platform in the context of the second Dhanasar prong.

As with the economic figures discussed above, the Petitioner has provided general information about national security, trade monitoring, and related issues, and then asserted without sufficient elaboration and corroboration that his proposed endeavor will have a significant impact on those areas of concern.

Letters may be persuasive when they are from experts in the person's field who have first-hand knowledge of the person's achievements, describe those achievements, provide specific examples of how the person is well positioned to advance the person's endeavor, and are supported by other independent evidence. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual. The letters the Petitioner has submitted in this case do not meet this standard. The submitted letters state in very general terms that the Petitioner's platform is an important contribution, but the letters lack both detail and corroboration. For example, one of the letters, from "a professional with experience in international trade," refers to "the impact [the Petitioner's platform] is already having on the analysis of Colombian maritime trade," but provides no details about that impact and cites no objective sources.

As noted above, there are existing methods and systems that track and report international cargo shipments, as required by law. The Petitioner has not shown how his proposed platform would represent enough of an improvement to warrant a waiver of the labor certification and job offer requirements that, by statute and regulation, ordinarily apply to professionals in his field.

For the above reasons, we agree that the Petitioner has not established the national importance of his proposed endeavor.

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the alien. To determine whether an alien 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

SCOPS concluded that the Petitioner had established that he is well positioned to advance the proposed endeavor. We disagree, and will withdraw this conclusion.

In his response to the RFE, the Petitioner asserted that his "platform is not a conceptual proposal; it is operational and is currently being piloted with academic and private sector collaborators." But the Petitioner did not submit evidence of ongoing operations to demonstrate any progress toward achieving the proposed endeavor. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(3). We note that the Petitioner himself claims no background or training in using artificial intelligence to establish a data platform of the type described in the proposed endeavor, and the record contains no

evidence that he has employed anyone else to set up and maintain such a system. The statement in the RFE response brief is not, itself, evidence that the "platform . . . is operational."[3]

In the denial notice, SCOPS stated: "The business plan submitted in response to the RFE makes various staffing and revenue projections, however, it does not offer any details showing their basis or an explanation as to how they will be realized. Therefore, it is not probative." SCOPS stated this conclusion in the context of the first *Dhanasar* prong, but we consider this information to be relevant to the second prong as well.

The business plan includes some information about the platform and its intended users, but it provides few specific details and does not cite sources for those details. The "Pricing" section is 12 words long and does not specify any prices. There are revenue projections for the first three years of operation, but no details about this revenue other than the phrases "[c]orporate subscriptions" and "[c]onsulting and custom studies." The document is missing much of the information that would typically be part of a comprehensive business plan.[4]

The regulations and *Dhanasar* do not require submission of a business plan, but if a petitioner's proposed endeavor involves starting a business in the United States, business plans or other similar descriptions of the endeavor should be supported by other independent evidence. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(3).

Because the Petitioner has chosen to submit a business plan, its lack of specific detail is material to the question of how much preparation has gone into the proposed endeavor. The proposed endeavor in this matter involves the creation of a new business, and the burden of proof is on the Petitioner to provide enough information to show that he is well positioned to advance that endeavor.

Also, the petitioner must meet all eligibility requirements at the time of filing the petition. 8 C.F.R. § 103.2(b)(1). USCIS cannot properly approve the petition at a future date after the petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

The business plan cites background information published in 2025, meaning that the plan, as submitted, did not exist at the time the Petitioner filed the petition in May 2024. Therefore, the plan does not establish the level of planning and preparation that had occurred prior to the filing date. The Petitioner's registration of a limited liability company in [redacted] 2023 is not sufficient in this regard; it establishes that the company exists, but does not show that the company is in a position to carry out the activities of the proposed endeavor. Likewise, the existence of a company website does not establish that the company is carrying out the activities of the proposed endeavor, or is fully prepared to do so.

Another factor to consider is "the interest or support garnered by the person from potential customers, users, investors, or other relevant entities or persons." *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(3). The record shows that in April 2025, the Petitioner was attempting to recruit universities to

[3] *See Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief . . . are not evidence and thus are not entitled to any evidentiary weight").

[4] *See, e.g.*, *Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998). *Ho* deals with a different immigrant classification, but its description of a business plan is relevant here because "[c]reating a comprehensive business plan as described [in the precedent decision] is normal practice for any businessman seeking to operate a viable business." *Id.*

participate in "a pilot project." The tentative nature of the documented communications do not indicate that the Petitioner was well positioned to advance the proposed endeavor at the time of filing, nearly a year earlier.

The Petitioner submitted letters from individuals in the shipping industry who praised the concept of the platform, but those individuals did not state that their businesses are in fact using the platform.

The Petitioner has emphasized that his platform is potentially of use to the federal government. Sustained interest from government entities can be a favorable factor under the second *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 893. But the Petitioner has not shown such interest from government entities.

The Petitioner's response to the RFE included email printouts showing that the Petitioner reached out to U.S. Customs and Border Protection (CBP); the Drug Enforcement Administration (DEA); and the Latin American office of the American Association of Port Authorities (AAPA Latam). The dates of the message show that the contacts occurred after SCOPS issued the RFE in April 2025, nearly a year after the petition's May 2024 filing date.

Even then, the correspondence does not show that any of these agencies and entities are using the Petitioner's platform or have taken concrete steps to do so. The only correspondence from CBP is a message thanking the Petitioner "for signing up with CBP Business Connection." An email from the DEA states: "Your request may be of interest to DEA and we will keep it on file for a future Industry Day event, where all interested companies will have an opportunity to attend and present information on potential offerings." AAPA Latam's response to the Petitioner is in Spanish, and the Petitioner did not provide a certified English translation as required by 8 C.F.R. § 103.2(b)(3). The Petitioner did not submit any evidence showing that this initial correspondence led to any further action by any of the agencies that the Petitioner had contacted.

For the above reasons, we will withdraw SCOPS' determination that the Petitioner has established that he is well positioned to advance his proposed endeavor.

In light of the above conclusions, the Petitioner has not met his burden of proof to show that he satisfies the first and second prongs of the *Dhanasar* national interest test. Detailed discussion of the remaining third prong 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* prong. *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

We agree with SCOPS that the Petitioner has not established the national importance of the proposed endeavor. We further conclude that the Petitioner has not shown that he is well positioned to advance 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.