U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38891465

Date: JUNE 20, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a logistics manager, 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. SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. However, SCOPS concluded that the record does not establish that a waiver of the job offer requirement, and thus of a 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:

- 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 the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. However, for the reasons discussed below, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong. *See id.*

The Petitioner described the endeavor as a plan to manage her own startup logistics consulting and services company based in Florida. She elaborated that her company would:

> provide a comprehensive solution that allows U.S. merchants who need to perform import and export processes to have a single point of contact to solve their international logistics needs efficiently and economically in time and cost, also allowing them to visualize the process from end to end, without having to interact with the multiple actors involved in the logistics chain (suppliers, production/distribution centers, warehouses, freight forwarders, land carriers or airlines, customs agents and distributors).

The Petitioner also submitted a business plan for her startup logistics consulting and services company. The plan states that the company would develop a "proposed solution[,] customized for each client, regardless of its size or business sector, or the type or category of goods it sells," which ultimately would "consist of using a process organized by [a proprietary logistics dashboard software application]." Essentially, the plan indicates that the Petitioner's company would provide logistics software for its clients to centralize logistics information for them.

The business plan provides limited information regarding where the company's employees would work. The plan asserts that the Petitioner would work as the startup logistics consulting and services company's logistics manager, performing a combination of logistics and managerial duties. The plan also indicates the company would hire one administrative assistant in the first, third, and fifth year of operations, respectively, and two logisticians in each of the first five years of operations, for a total of four workers in the first year of operations, increasing to a total of 14 in the fifth year of operations. The plan also states that, within the first five years of operations, the company would "reach[] out to other cities in the U.S.," including [redacted] Illinois; [redacted] California; [redacted] Texas; [redacted] Georgia; and some unspecified location in New Jersey, "or wherever the international logistics needs of her U.S. clients are located." However, the plan does not clarify whether "reaching out" will entail operating new staffed worksites in those locations, remotely providing services to clients in those locations, or some other type of operational posture. The plan also does not elaborate on any particular location(s) in those general metropolitan areas in which the company would operate. Relatedly, the plan does not clarify which of the 14 employees would work in the company's various locations by the fifth year of operations, if not in the headquarters office.

In addition to omitting details about the particular locations to which the company would expand, the plan also does not indicate the location in Florida in which it would be headquartered. However, the Petitioner submitted the company's articles of organization, filed with the State of Florida, Department of State, which indicate the company's principal address would be in an office building located in [redacted], Florida.

Beyond the vague information regarding the location(s) where the company would operate and where its employees would work, the business plan provides arbitrary, unsubstantiated financial information. For example, the plan anticipates sales totaling $396,720 in the first year of operations, increasing to sales totaling $1,429,727 in the fifth year of operations. However, neither the plan nor the remainder of the record clarify why the company would generate such specific revenue amounts in any given year, or why its revenue would increase to such specific amounts year over year. For example, the plan does not elaborate on what the company would charge its clients for its goods or services, and the number of clients the company anticipates servicing in any given year, to substantiate its revenue calculations.

As another example of arbitrary and unsubstantiated financial information, the plan states the company's rent costs would increase from $18,664 in the first year of operations to $79,400 in the fifth year of operations. However, neither the plan nor the remainder of the record clarify why the initial rent costs would be multiplied by approximately 4.25 despite the company intending to operate in apparently at least five more locations, beyond its operations from the headquarters office in the first year of operations. In turn, if the company intends to provide remote services to clients in new locations while operating physically out of its headquarters, neither the plan nor the remainder of the record establish why its rent costs would increase at such a rate, rather than a more typical, incremental annual increase. As another, related example, the plan indicates that the company's utilities expenses would increase from $2,261 in the first year of operations to $8,149 in the fifth year of operations. However, neither the plan nor the remainder of the record clarify how the company's initial utilities expenses would be multiplied by approximately 3.6 despite the company's plan to operate in six different states by the fifth year of operations—if not continuing to operate entirely at its headquarters.

The unsubstantiated, arbitrary, and generally vague issues addressed above cast doubt on the reliability and sufficiency of the business plan, particularly its financial estimations. The financial estimations in the business plan are material because they relate to the scope of the proposed endeavor, the company's ability to employ U.S. workers, and the extent to which the endeavor may have positive economic effects, which are factors in determining whether a proposed endeavor may have national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. This doubt further undermines the reliability and sufficiency of the remainder of the record. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (providing that doubt cast on any aspect of a petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition).

The Petitioner also submitted publications providing generalized information regarding logistics and commerce.

SCOPS determined that "the substantial merit criterion has been met," as required in part by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. However, SCOPS concluded that the record "is insufficient to establish that the [P]etitioner's proposed endeavor will impact the field

more broadly at a level sufficient to meet the *Dhanasar* framework." SCOPS acknowledged the Petitioner's business plan; however, SCOPS observed that the record does not establish the endeavor "has wider implications in the field . . . beyond the company's clients and future employees, rising to the level of national importance." SCOPS further noted that the record "does not show the proposed endeavor has significant potential to employ U.S. workers," referencing the first *Dhanasar* prong. *See id.* SCOPS also concluded that, although the criterion under the second *Dhanasar* prong "has been met," the record does not satisfy the third *Dhanasar* prong. *See id.*

Because we determine that the record does not establish whether the proposed endeavor may have national importance, which is dispositive, we reserve our opinion regarding whether the proposed endeavor has substantial merit, as required in part by the first *Dhanasar* prong, and whether the record satisfies the second and third *Dhanasar* prongs. *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); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

On appeal, the Petitioner asserts that her "proposed endeavor has significant national significance [sic] for the United States, as my company . . . will focus on reducing the high cost of logistics operations for U.S. small and medium businesses." She reiterates generalized information regarding logistics and commerce, and she repeats information in the record regarding the proprietary logistics dashboard software application her startup logistics consulting and services company would provide its clients. She further states on appeal that the proposed endeavor generally "will contribute significantly to strengthening the global competitiveness of the U.S. economy, improving supply chain efficiency, and facilitating international trade, which has a positive impact on the country's economic and trade security."

In determining national importance under the first *Dhanasar* prong, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90.

We first note that the publications in the record providing generalized information regarding logistics and commerce do not discuss the Petitioner, the specific endeavor she proposes to undertake, and how the specific endeavor may have the type of broader implications contemplated by the first *Dhanasar* prong. For example, the publications providing generalized information do not address how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of logistics, or any other field, such as those resulting from certain improved manufacturing processes. *See id.* As another example, the publications providing generalized information do not discuss how the specific endeavor the Petitioner proposes to undertake may have significant potential to employ U.S. workers or have other substantial positive economic effects. *See*

id. Because the publications in the record providing generalized information regarding logistics and commerce do not inform how the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong, we need not address them further.

We next note, again, that the business plan and, thus, the remainder of the record, bears minimal reliability and sufficiency for the reasons discussed above. *See Matter of Ho*, 19 I&N Dec. at 591, *supra*. To the extent that the business plan and the remainder of the record may be deemed reliable and sufficient, they establish that the Petitioner's company will provide the proprietary logistics dashboard software application, noted above, to its clients. Therefore, the proposed endeavor appears to benefit the Petitioner's company and its clients. However, the record does not establish how the proposed endeavor of providing particular clients with a proprietary logistics dashboard software application may have national or even global implications within the field of logistics, or any other field, such as those resulting from certain improved manufacturing processes. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Instead, the proposed endeavor appears to be similar to other logistics consulting and services companies already providing similar proprietary logistics dashboard software applications to their respective clients.

In turn, as addressed above, the record does not clarify whether the company's 14 total workers by the fifth year of operations would all work at the same location in [redacted] Florida, or also in the five potential offices located in [redacted] Illinois; [redacted] California; [redacted] Texas; [redacted] Georgia; and some unspecified location in New Jersey. Without even establishing the location(s) where the potential employees would work, the record does not articulate the significance of employing those 14 workers in the occupational categories noted above in any given location, in order to determine whether such employment demonstrates significant potential to employ U.S. workers or other substantial positive economic effects in any particular location. *See id.* We further note, again, that the business plan's financial information is arbitrary and unsubstantiated and, thus, unreliable and insufficient; therefore, the record does not establish in general the proposed endeavor's potential economic effects. *See id.*; *see also Matter of Ho*, 19 I&N Dec. at 591, *supra*.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.