U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41813299

Date: MAR. 9, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a nonprofit public utility provider, seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary, an electrical engineer, 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 record did not establish that a waiver of the job offer requirement is 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 their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS determined that the Beneficiary qualifies for the EB-2 classification as an advanced degree professional, based upon obtaining a master of science degree in electrical engineering. SCOPS denied the petition, however, finding that the Petitioner did not establish the Beneficiary's eligibility under any of the three prongs of the *Dhanasar* analytical framework. Based on our de novo review of the record, we agree with SCOPS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, we conclude that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor as required by the first *Dhanasar* prong.

The Petitioner initially stated that the Beneficiary's proposed endeavor "focuses on ensuring the cybersecurity of [the Petitioner's] Supervisory Control and Data Acquisition (SCADA), Energy Management System (EMS), and associated infrastructure (e.g., computers, servers, network storage equipment, network switches, firewalls, and operator workstations) located in [the Petitioner's] Control Centers and Electrical Substations, as part of the Transmission System Operation group." In response to SCOPS' request for evidence (RFE), the Petitioner clarified that the proposed endeavor is to "provide cybersecurity monitoring for [the Petitioner's] Operational Technology (OT) environment, which includes the [EMS] and networked devices comprising the Substation Wide Area Network (SubWAN)." The Petitioner states that the endeavor involves using security information and event management (SIEM) to detect and prevent cybersecurity threats.

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

On appeal, the Petitioner asserts that SCOPS erred by characterizing the endeavor as only serving the specific needs of the employer, and by disregarding the evidence submitted in response to the RFE. The Petitioner claims that its transmission lines, substations, and distribution facilities are a significant portion of the North American Bulk Power System (BPS) and as such are nationally important. Further, the Petitioner maintains that cybersecurity vulnerabilities to the power generation and distribution system are a significant national security risk and that SCADA systems, such as the one that the Beneficiary works on, are critical to addressing this cybersecurity risk.

On de novo review and for the reasons discussed below, we agree with SCOPS that the Petitioner has not established the national importance of the Beneficiary's proposed endeavor. First, we acknowledge the evidence in the record of the electric power grid as critical U.S. infrastructure and of the importance of protecting the power grid against cybersecurity threats. We further acknowledge that the Petitioner is a significant public utility provider in the United States. We do not dispute the

evidence in the record establishing these claims. Nevertheless, in determining whether a proposed endeavor has national importance, 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 foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the record lacks sufficient probative, credible evidence demonstrating the potential prospective impact of the Beneficiary's specific endeavor as an employee of the Petitioner.

Instead of demonstrating the potential prospective impact of the proposed endeavor, the Petitioner primarily focuses on the activities and responsibilities of the organization. The Petitioner submitted reports related to the technical standards and regulatory compliance requirements that it is subject to as an energy provider. For example, the Petitioner provided a copy of a report from the North American Electric Reliability Corporation titled [redacted]" The Petitioner also submitted multiple articles and reports about the economic impact of power outages. For example, the record contains articles on the cost of controlled blackouts in Kansas that were instituted as a result of cold weather and reports on the February 2021 severe weather event known as winter storm Uri which caused numerous outages and failures across Texas and the region. The record contains substantial evidence related to the power grid as critical U.S. infrastructure, the regional importance of the Texas energy grid, and the Petitioner's obligations and responsibilities as a public utility to provide reliable service and to protect against potential disruptions to service, including cybersecurity threats. The Petitioner asserts that, because the Beneficiary's role relates to advancing the Petitioner's cybersecurity efforts, this evidence shows the national importance of the proposed endeavor.

However, the evidence in the record related to the Petitioner's services, its standards and compliance requirements, and its market share is not sufficient to demonstrate that the Beneficiary's specific endeavor is of national importance. *See id.* The Petitioner states that the Beneficiary's job title is senior SIEM engineer and provided a list of technical job duties such as planning, designing, maintaining, and configuring SIEM systems and ensuring compliance with local, state, and federal reliability and cybersecurity standards. The Petitioner states that the Beneficiary will "work with key…stakeholders," and "partner with [the Petitioner's] Cybersecurity Engineering team" in her work. Additionally, based on the Petitioner's initial description of the proposed endeavor, the Beneficiary's role may be within its "transmission system operation group." But the record is not sufficiently clear as to how the Beneficiary's specific role relates to the Petitioner's overall cybersecurity management efforts and does not provide other details that would be necessary to determine whether the Beneficiary's endeavor rises to the level of national importance.

The information the record does not establish, for example, where within the company this role is situated. The Petitioner provided its [redacted]" The plan provides an overview of the Petitioner's overall regulatory reliability compliance program, its objectives, and its organizational structure. This document identifies positions within the organization that are responsible for regulatory compliance and some of the relevant organizational structure of the Petitioner. But the Beneficiary's position is not part of the organizational structure provided, nor does the document reference the proposed endeavor, or SIEM or SCADA systems. We are unable to ascertain, from this evidence and the Petitioner's position description, how the proposed endeavor fits within the Petitioner's overall regulatory compliance efforts.

The Petitioner also submitted evidence that cybersecurity occupations are critical occupations, that there is a shortage of workers in the occupation, and that the occupation is expected to continue to grow. The Petitioner provided evidence related to the importance of science, technology, engineering and mathematics (STEM) workers, and particularly immigrants or foreign workers with STEM skills. However, the alleged shortage of occupations or occupational skills does not render the Beneficiary's proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Finally, we conclude that the fact that the proposed endeavor relates to a focused critical and emerging technology (CET) does not demonstrate that the endeavor is nationally important. The Petitioner maintains that the endeavor relates cybersecurity, which has been recognized by the U.S. National Science and Technology Council as a CET. While USCIS recognizes specific evidentiary considerations relating to STEM degrees and fields, particularly CETs, "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *See generally* 6 *USCIS Policy Manual*, at F.5(D)(4), www.uscis.gov/policy-manual. Here, as discussed above, rather than demonstrating the national importance of the specific endeavor, the Petitioner primarily emphasizes the national importance of a reliable and secure power grid, and the Petitioner's responsibility as a utility provider in maintaining that reliability and security. The importance of the Petitioner's operations does not necessarily establish the national importance of its employee's proposed endeavor. The record here does not sufficiently demonstrate how the Beneficiary's specific endeavor relates to the Petitioner's overall efforts as an organization to maintain its standards for reliability and to protect against cybersecurity threats. We are therefore unable to ascertain whether the endeavor has the potential to broadly impact these efforts, the Petitioner's ability to maintain its required security standards, or to impact the U.S. power grid or its cybersecurity.

The Petitioner's claims on appeal do not overcome the basis for SCOPS' findings as they relate to the national importance of the proposed endeavor. Moreover, upon de novo review, we agree that the Petitioner has not established the national importance of the proposed endeavor. Because the Petitioner has not established the national importance requirement of the first prong of the *Dhanasar* framework, it has not demonstrated that the Beneficiary is eligible for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding whether the record satisfies the second or third *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 requirement of the first prong of *Dhanasar*. We therefore conclude that the Petitioner has not established that the Beneficiary is eligible for or otherwise merits a national interest waiver 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.