U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42758368

Date: MAY 7, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a treasurer and controller in the construction industry, seeks to qualify the Beneficiary under the 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 the record did not establish the Beneficiary's eligibility for the requested national interest waiver. 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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. NATIONAL INTEREST WAIVER

SCOPS determined that the Beneficiary qualified for the underlying EB-2 classification as a member of the professions holding an advanced degree. We agree with this determination. Therefore, the remaining issue is whether the Petitioner established that the Beneficiary is eligible for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* SCOPS concluded that the Petitioner's proposed endeavor has substantial merit. We agree with this determination, as falls within the range of areas of substantial merit, namely business and entrepreneurialism. *Id.* However, while the Petitioner has established that the Beneficiary's proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner indicates that he planns to "serve in the U.S. within the Construction [sic] industry by working as a Treasurer-Controller [sic], providing comprehensive construction project finance analysis, management, and control services." He states these services include "project expense monitoring, supplier and contractor payments facilitation, construction loans and financial management, project stakeholder collaboration, and regulatory compliance safeguarding."

In support of the petition, the Petitioner emphasized that he had an advanced degree in a Science, Technology, Engineering, and Mathematics (STEM) and that his proposed endeavor related to a field important to U.S. competitiveness, helping the nation stay ahead of strategic competitors in a research and development intensive industry. The Petitioner stated his endeavor would have a positive socioeconomic impact through the "promotion of vertical housing, efficient allocation of resources, adherence to regulatory standards, ensuring sustainability and competitiveness in the global market." The Petitioner explained that his endeavor was of national importance because of his 33 years of experience and his intention to contribute to companies in the American construction industry. He emphasized his employment would address a shortage of STEM professionals, particularly those with his extensive experience at being both a treasurer and controller as well as an entrepreneurial civil engineer.

SCOPS later issued a request for evidence (RFE) indicating that the Petitioner did not demonstrate that his proposed work in the construction industry would extend beyond a prospective U.S. employer and to rise to the level of national importance. SCOPS stated that the Petitioner did not establish that his proposed endeavor would sufficiently affect or advance the construction field more broadly

consistent with national importance. As such, SCOPS requested that the Petitioner submit additional evidence including a more detailed description of his proposed endeavor and why it had national importance, and how it would have national implications within his field, significant potential to employ U.S. workers or have substantial positive economic effects, broadly enhance societal welfare, and/or impact a matter that a government entity described as having national importance.

In response, the Petitioner stated that his proposed endeavor was to establish a civil engineering and residential development company specializing in scalable construction management services and focused on "reducing the housing deficit, maximizing economic stimulus, and adhering to strict regulatory compliance in the residential sector." He indicated that his proposed company would also provide "expert technical and financial management solutions" and initially focus on the construction of 10 residential homes in the [redacted] and [redacted], Florida markets designed for "high replicability and scalability."

The Petitioner asserted that his endeavor is "national in scope" since his profession relates to a matter of paramount national importance and impact, U.S. construction infrastructure. He indicated the endeavor would generate ripple effects upon key commercial and business activities. He further emphasized its direct contribution to critical housing needs, job creation, and the revitalization of underdeveloped regions, aligning with national priorities in urban development, sustainable construction, and private-sector economic growth. The Petitioner stated that his proposed endeavor would bring key benefits to the United States including job creation and capital investment, tax revenue generation, and industry innovation. He further pointed to his "proven expertise in cost control and project optimization" which would be applied to improve construction efficiency and financial performance in Florida's construction sector. In addition, the Petitioner pointed to U.S. Bureau of Labor Statistics (BLS) Occupational Outlook Handbook (OOH) data on financial managers asserting that it reflected high compensation and rapid growth in employment "demonstrating a sustained national demand for professionals with [the Petitioner's] expertise." The Petitioner also provided several articles highlighting the importance of STEM professionals in the United States, emphasizing his foreign degree in civil engineering.

In concluding that the Petitioner did not demonstrate the national importance of the Beneficiary's proposed endeavor, SCOPS again determined the Petitioner did not sufficiently demonstrate that his proposed endeavor would have broad national importance in the construction and civil engineering fields or that it had the significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. Likewise, SCOPS concluded that the Petitioner did not establish that his proposed endeavor would have a potential prospective national impact on a STEM field as claimed, noting that merely working in a STEM field did not demonstrate national importance.

On appeal, the Petitioner asserts that SCOPS did not sufficiently consider that his proposed endeavor was a "replicable model" that would extend beyond the initial 10-home pilot phase. The Petitioner points to economic and employment projections he asserts would result from his housing pilot project contending that these are "precisely the type of substantial positive economic effects contemplated by *Dhanasar*." He also emphasizes that SCOPS ignored the "ripple effects" of his economic projections. The Petitioner indicates that SCOPS improperly required that there be an impact on the nation as a whole and did sufficiently consider the economic impact on a region, particularly since his proposed endeavor is "structured for replication."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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 submitted two materially different proposed endeavors from the petition to the RFE, leaving substantial question as to the actual nature of his proposed endeavor. For instance, in support of the petition, the Petitioner indicated that he would "prospect to work in different companies operating in the Construction [sic] industry," noting that he was "a perfect candidate to fill one of the thousands of vacancies open in the American Construction Industry [sic]." He further indicated that he would take on the role of controller-treasurer in his own construction company "in the medium term." However, in response to the RFE, the Petitioner provided a materially different proposed endeavor that did not discuss his immediate employment with other U.S.-based construction companies but submitted a plan to form his own company and build 10 homes in Florida as part of a pilot project.

Although we acknowledge that a Petitioner will likely modify their proposed endeavor slightly when responding to an RFE, the material difference between his two endeavors leaves initial question as to his actual intentions in the United States. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). A petitioner may not make material changes to a petition that has already been filed in an effort to make a deficient petition conform to USCIS requirements. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998).

The Petitioner further did not sufficiently support that his business plans, namely the housing pilot project and claimed replicable housing model, would likely have a potential prospective national impact. On appeal, the Petitioner points to employment and financial projections related to his proposed pilot project and asserts these reflect a national level impact, including around $2.11 million in local income, 32 total jobs (direct and indirect), and approximately $220,000 in taxes and fees generated. However, the Petitioner did not sufficiently explain or substantiate how these numbers represent a potential prospective *national* [emphasis added] impact, particularly in an industry he stated involves more than 4 million businesses, 10 million workers, and $2.9 trillion in revenue.

The Petitioner also did not submit support for his employment and financial projections or sufficiently specific business plan demonstrating how he would execute on his asserted 10 home pilot project, such as the type of homes that would be constructed, where and when they would be built, amongst other probative details. Likewise, the Petitioner states that his pilot project would have "high replicability and scalability" and involve "expert technical and financial management solutions," but the replicability and scalability as well as the nature of his expert services were not specifically explained. He also vaguely indicated that his asserted pilot project would be implemented in two different markets without providing specific plans related to each area. The Petitioner further regularly discussed

innovative cost control methods and "strict regulatory compliance," but again did not sufficiently articulate the nature of these services.

In fact, when discussing the claimed replicability and scalability of the Petitioner's project plan, he mainly emphasized his expertise and over 30 years of experience in acting as a treasurer and controller in the construction industry in Brzail. However, while it is true that a petitioner's expertise and record of success in previous positions are considerations under *Dhanasar*'s second prong, the second prong does not evaluate the prospective impact of an endeavor, but instead "shifts the focus from the proposed endeavor to the foreign national." *Id.* As such, while a Petitioner's background may be helpful in describing the nature of their field and prior work, it is not sufficient to establish the national importance of their proposed endeavor. As discussed, the Petitioner did not properly articulate and document his proposed business plans to properly substantiate its asserted national impact.

Further, the Petitioner provided a wide array of potential prospective national impacts on differing, large economic and societal issues. The Petitioner is required to demonstrate that the Beneficiary's proposed endeavor will have national or even global implications within a particular field or the significant potential to broadly enhance societal welfare or the advancement of valuable technology or a field of study. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https: //www.uscis.gov/policy-manual. However, the Petitioner provided insufficient detail and documentation to substantiate that his proposed endeavor would have this wide-ranging impact on U.S. society. For instance, the Petitioner emphasized that his proposed endeavor would impact the housing deficit, promotion of "vertical housing," "efficient allocation of resources," adherence to regulatory standards, and sustainability and competitiveness in the *global* [emphasis added] market. Similarly, he discussed national level impacts on "underdeveloped regions," "urban development," and "sustainable construction."

The Petitioner's wide-ranging assertions as to potential prospective national impact crossing numerous economic and societal issues leaves substantial question as to whether the Beneficiary's proposed endeavor would have a significant impact on any of them. Without more specific probative evidence, it is uncertain that the Beneficiary's proposed work with his company would have a potential prospective national level impact on the large construction industry and its practices, the national housing shortage in the United States as well as various other significant national level issues, such as sustainability and "global competitiveness." The Petitioner also regularly refers to "vertical housing" as a key aspect of the potential national implications of his proposed endeavor but leaves this concept unexplained. General alignment with, or a mere potential contribution, to matters of national-level interest does not establish that a proposed endeavor is of national importance. Likewise, the importance of a particular profession or a shortage of professionals in that field does not demonstrate national importance. The proposed endeavor must have broad and significant national implications. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

As a comparison, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar*, 26 I&N Dec. at 891-92. In addition, he submitted evidence

reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and provided substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding from a government entity for his research. *Id.*

Here, the Petitioner's assertions of potential prospective national importance are insufficiently non-specific and not properly supported. There is also little indication that there is specific interest from the U.S. government regarding the advancement of the Petitioner's work or that his company would contribute significantly to the nation's ability to compete internationally in the field of construction, as claimed. The Petitioner suggested that there were over 4 million businesses in the construction industry and did not sufficiently describe how his combination of "technical leadership" and "treasury/controller" functions would give his company a "competitive advantage." He also discussed "disciplined financial governance and engineering execution to reduce waste, lower risk, and accelerate housing delivery," yet it is not clear how his methods stand apart in such a large industry and it is reasonable to assume other construction companies employ experienced financial professionals. The specific nature of the Petitioner's methods and their innovative nature is left largely unexplained.

In sum, it appears unlikely that the Beneficiary's proposed endeavor would have a potential prospective national impact on the various major economic and societal issues claimed given the lack of supporting evidence to substantiate that his work would have significant potential to broadly enhance the advancement of methods or technology in his field. Again, the Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 582, 591-92.

SCOPS further concluded that the Petitioner did not sufficiently demonstrate how his proposed endeavor would extend beyond his company to effectuate a national-level impact. Benefits to a specific company alone, even a company with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance. It is noteworthy that the Petitioner does not directly address this material issue discussed by SCOPS on appeal. At issue is whether the petitioner can demonstrate that his individual endeavor stands to have broader implications, such as for a field, a region, or the public at large. For instance, an individual developing particular methods or technology for use or sale by a given company may not be able to establish national importance based on evidence that this technology will have benefits for the company or its clients alone. To establish broader public or commercial implications at a level consistent with national importance for the field or industry, the petitioner could demonstrate, through the submission of relevant evidence, widespread interest in adoption or licensing of the technology, a novel and important manufacturing or operational process, or how the technology stands to impact the development of similar technology by other companies. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https: //www.uscis.gov/policy-manual. The substantive nature of the Petitioner's planned employment is directly relevant to considering his eligibility under *Dhanasar's* first prong.

The Petitioner did not sufficiently clarify how the Beneficiary's proposed employment with his company would allow his asserted innovations in construction and its related financial aspects to disseminate beyond the scope of his company, leaving question as to its potential prospective national

impact. The Petitioner gave little explanation and support as to how his work would extend beyond him and his company and have a potential prospective national impact. For instance, as the Petitioner claims he would be working with his private company, it is not apparent how his claimed innovations would be made publicly available rather than maintained as proprietary information. The record does not establish how the Beneficiary's proposed endeavor will have broader implications rising to the level of national importance.

Lastly, the Petitioner also suggested certain national-level economic impacts resulting from his proposed endeavor, referring to his proposed endeavor having "ripple effects upon key commercial and business activities." However, the provided evidence does not demonstrate that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Dhansar* at 890. The Petitioner provided little detail or support for its economic and employment projections he asserted would result from his proposed ten home pilot project and he did not submit clear business plans or timelines for this project, and as noted, did not describe how it was replicable on a national level as claimed. It is also not clear how his business plans would "improve construction efficiency and financial performance in Florida's construction sector."

Therefore, it is not evident how the economic activity resulting from the Petitioner's proposed endeavor would have substantial positive economic effects, particularly in an economically depressed area. In fact, as we discussed, the Petitioner generically indicated that his largely unexplained pilot project would take place in the [redacted] and/or [redacted] areas, but he did not explain in which specific geographic locations his homes would be built as necessary to substantiate that it would have a direct impact on economically depressed areas. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work or sufficiently established how his endeavor would significantly impact an economically depressed area.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third 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).

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.