U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43122416

Date: MAY 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a sustainability specialist, 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, concluding the record did not establish the Petitioner'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 Petitioner 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 eligibility 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 the Petitioner demonstrated that his proposed endeavor had substantial merit. We agree with this conclusion as the Petitioner's proposed endeavor falls within the range of areas of substantial merit, namely business and entrepreneurialism. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner indicates that she is a construction engineer professional "with expertise and 22 years of experience in the fields of sustainability, occupation safety, and management." The Petitioner explained her proposed endeavor as follows:

> My proposed endeavor is to build on my extensive experience with occupational safety, sustainability, community engagement, and construction industry management to develop and implement a comprehensive approach to integrating these aspects in the field of Engineering and Construction. Leveraging my expertise in strategic planning, stakeholder engagement, and sustainable practices, I will methodically assess project sites, identify risks, develop tailored solutions, and implement initiatives that promote occupational safety, environmental stewardship, and community well-being. Through my peer-reviewed publications, conference presentations, and collaborations with industry partners, my work will continue to circulate in the field, disseminating best practices and driving advancements in the integration of sustainability and safety in the construction industry. Additionally, I will support advancements in my field by working directly with companies, providing advisory and consulting services, and implementing sustainable practices that will shape the future of the industry, making it safer, more environmentally responsible, and socially conscious.

The Petitioner contended that her proposed endeavor had national importance because it impacted matters the U.S government identified as national priorities, including a 2030 Greenhouse Gas Pollution Reduction Target, the Bipartisan Infrastructure Law with goals to improve the construction

industry, the Occupational Health and Safety Act (OHSA) meant to ensure workplace safety, and U.S. Environmental Protection Agency (EPA)'s promotion of green building practices.

SCOPS later issued a request for evidence (RFE) stating that the Petitioner did not submit sufficient information and evidence to demonstrate that the potential prospective impact of her proposed endeavor would rise to the level of national importance, extending beyond her proposed services to impact the industry more broadly. SCOPS requested that the Petitioner submit additional evidence including a more detailed description of her 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 asserted she submitted a "well-wrought, succinct, and complete proposed endeavor." She indicated the endeavor is consistent with national priorities promulgated by OSHA, including "collecting and publishing workplace illness and injury information" leading to "improvements in worker safety and health in a number of different ways" while enabling construction firms to meet and operationalize OSHA's evolving regulatory expectations. Similarly, the Petitioner pointed other to OSHA initiatives that her proposed endeavor would impact, such as the Secretary of Labor's Report to the President on the Status of Federal Agencies' Occupational Safety and Health Programs 2022, and the OSHA Strategic Partnership Program including its 20-year collaboration with a leading national construction company.

The Petitioner also emphasized a February 2025 industry report discussing the construction sector and its workforce shortages, noting that "industry models estimate that around 439,000 additional workers will be needed [in 2025] to meet demand." Likewise, the Petitioner submitted another industry report asserting that there would be "an additional 2.17 million adjusted net hires for construction between 2024 and 2026" and that her proposed endeavor would "directly support these objectives by delivering training, operational efficiency models, and safety improvements that upskill workers and address evolving labor market needs." In addition, the Petitioner pointed to a submitted business plan and its revenue and hiring projections and contended that her endeavor would "generate broader economic benefits by empowering construction companies and project contractors to strengthen their safety practices and jobsite efficiency, thereby enhancing their competitiveness, fostering innovation, and driving sustained growth."

In concluding that the Petitioner did not demonstrate the national importance of her proposed endeavor, SCOPS reasoned the Petitioner did not sufficiently establish that her proposed endeavor would broadly impact the field or spread a unique methodology throughout the industry. SCOPS indicated that it was not apparent how the services of the Petitioner's proposed consulting business would have broad implications beyond its clients. Further, SCOPS concluded that the Petitioner's financial projections did not reflect a substantial economic benefit commensurate with national importance.

On appeal, the Petitioner asserts that the submitted evidence clearly establishes the national importance of her proposed endeavor demonstrating its ability to generate meaningful and measurable contributions to the U.S. construction sector by addressing critical challenges such as workplace safety

deficiencies, operational inefficiencies, and workplace development gaps, while promoting economic growth and social well-being in economically depressed areas of the country.

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.

As a preliminary matter, it is notable that in support of the petition the Petitioner mainly emphasized national level impacts on sustainability discussing sustainable practices, environmental stewardship, environmental responsibility as well as a 2030 Greenhouse Gas Reduction Target and the EPA's promotion of green building practices. Further, the Petitioner's stated job title in the Form I-140, Immigrant Petition for Alien Workers is "sustainability specialist." However, in response to the RFE and on appeal, the Petitioner has appeared to abandon her intent of impacting environmental issues in the construction industry, once central to her proposed endeavor. Similarly, the Petitioner indicated that she would disseminate best practices and drive advancements through peer-reviewed publications, conference presentations, and collaborations with industry partners, yet in response to the RFE, there is little mention of her intent to promulgate advancements in her field through scholarly circles but only an intent to operate a consulting business in the construction industry. It is also noteworthy that there is no evidence to support that the Petitioner had a history of published work in scholarly circles related to claimed innovation in the construction industry, despite her assertion in support of the petition that this would be central to her proposed endeavor.

The material discrepancies in the focus of the Petitioner's proposed endeavor leaves uncertainty as to her actual intentions in the United States and its likely potential prospective national impact. 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 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).

The Petitioner is required to demonstrate that her 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. The Petitioner emphasizes that her proposed endeavor aligns with several national initiatives promulgated through the White House, legislation, OSHA, the EPA, amongst other government entities. However, the Petitioner must demonstrate that her proposed endeavor would have a substantial national impact on these large government initiatives rather than just contribute to them in some way. The Petitioner did not sufficiently articulate the nature of her proposed services to demonstrate that they would likely have a potential prospective national impact on the large construction industry. For instance, the Petitioner discussed tailored solutions, best practices, advancements, technologies, procedural updates, operational adjustments, innovative

approaches, and training, among other services she would provide as a consultant; yet in each case, these were left largely unexplained leaving their potential prospective national impact on safety and efficiency in the construction industry questionable. The Petitioner also asserted that her innovations would "circulate in the field" and that her sustainable practices would "shape the future of the industry," but she provided little indication how this would take place, how her services were innovative, what her sustainable practices were, and how they would shape the future of the industry.

On the contrary, the Petitioner's assertions with respect to potential prospective national importance appeared mainly based on her experience abroad. 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. Here, the Petitioner did not properly articulate and document the nature of her proposed services, nor how they could be considered advancements, updates or innovations in the industry as necessary to effectuate a potential prospective national level impact.

For instance, the Petitioner emphasized an estimated shortage of 439,000 workers in the construction industry in 2025 as well as a total of 2.17 million total hires needed by 2026, but it is not sufficiently clear how her largely unexplained consulting services would have a national level impact on these massive labor shortages. It is also not adequately clear how the Petitioner's proposed endeavor, later mainly focused on OSHA workplace safety issues, would have an national impact on the discussed labor shortages in the industry, as well as potential prospective national impacts on several large government initiatives and industry problems discussed by the Petitioner, including $11.5 billion in annual construction industry injuries, the $550 billion Infrastructure Investment and Jobs Act, and national OHSA initiatives to improve national workplace safety, among others. A mere potential contribution to various matters of national-level interest does not establish that a proposed endeavor is of 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 impact are not sufficiently detailed, and there is little indication that there is specific interest from the U.S. government regarding the advancement of her endeavor or that it would contribute significantly to the nation's ability to compete internationally in the construction industry. It is reasonable to conclude, given the size, prominence

of, and inherent danger within the construction industry, that there are many companies and professionals focused on workplace safety deficiencies, operational inefficiencies, and workplace development gaps. However, the specific nature of the Petitioner's methods, their innovation, and potential national impact 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 industry and societal issues claimed given the lack of supporting evidence to substantiate that her work would have significant potential to broadly enhance the advancement of methods or technology in her 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 her proposed endeavor would extend beyond her proposed consulting company and her potential clients, based in New York state, 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. At issue is whether the petitioner can demonstrate that her individual endeavor stands to have broader implications, such as for a field, a region, or the public at large. For instance, an individual developing 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 their methods, 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 Petitioner did not sufficiently clarify how her proposed consulting company would allow her asserted professional services to disseminate beyond the scope of her company, leaving question as to its potential prospective national impact. For instance, it is not apparent how her claimed innovations, even if explained, would be made publicly available rather than maintained as proprietary information. As we noted, in support of the petition, the Petitioner asserted that she would disseminate best practices and drive advancements "through my peer-reviewed publications, conference presentations, and collaborations with industry partners," allowing her work to circulate in the construction field. Yet, there was little indication in response to the RFE that she had any intention of operating in an academic field to disseminate her claimed "best practices" and "advancements" throughout the construction industry.

Lastly, the record does not establish 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 emphasized that her proposed consulting company in New York state would generate over $1.4 million in annual revenue and employ 14 individuals by its fifth year. The Petitioner asserted that this would contribute to federal and state tax revenues and directly benefit local economies, particularly in economically depressed areas. The Petitioner provided a business plan indicating that 28% of the residents in New York state live below the poverty line, highlighting how it will benefit an economically depressed area. However, the Petitioner discusses the entirety of New York state and its 514 opportunity zones, leaving significant uncertainty as how 14 jobs in five years would represent a significant or substantial economic impact for this

region. The Petitioner also did not specify in which of the 519 opportunity zone areas in New York her proposed company would operate to give her proposed revenue and job creation projections sufficient probative value. Therefore, it is not evident how the company's economic activity would have a significant impact on job creation and empower small businesses and underserved communities as claimed, let alone result in a significant national economic impact. The Petitioner did not submit sufficiently specific and targeted business plans to demonstrate broad-based national level impact. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, she has not provided sufficient explanation of the prospective national impact directly attributable to her proposed work or sufficiently established how her 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 she 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.