U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38777042

Date: SEP. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner requests classification 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 that, although the Petitioner qualified for the classification as a member of the professions holding an advanced degree, the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal. 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 withdraw SCOPS' decision and remand the matter for entry of a new decision.

I. LAW

To qualify for the underlying EB-2 classification, a petitioner must establish that he or she is either a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

We set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver of the job offer, and thus the labor certification, under the EB-2 classification if the petitioner demonstrates that:

[1] *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be 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.

See Dhanasar, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The record supports that conclusion. The remaining issue to be determined on appeal 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. For the reasons discussed below, we will remand this matter for the entry of a new decision consistent with the following analysis.

A. The Proposed Endeavor

The Petitioner works as a health, safety, and environmental engineer at a plant operated by a major manufacturer of power technologies. The Petitioner initially described his proposed endeavor as an intention to continue his employment with the company, where his research would "focus on improving the safety of industrial manufacturing operations in the United States through designing new approaches to mitigate occupational hazards." He stated that his intention was "to reduce the risk of workplace injuries, such as musculoskeletal disorders, in industrial manufacturing sites by conducting ergonomic risk assessments and proactively addressing potential safety risks through site layout and task distribution." He provided the following concerning his research performing ergonomic assessments:

> Through these ergonomic assessments, my research provides an innovative new approach to advancing the safety of domestic workplaces. These assessments provide critical insight into worksite risks in industrial manufacturing settings, and I use this insight to develop strategies for altering factory layout and task distribution to limit the risks of workplace injuries. My research and proposed endeavor are, therefore, helping advance the field of health, safety, and environmental engineering by combining insights form ergonomics and occupational safety to transform how we approach improving workplace safety in industrial manufacturing environments.

In a request for evidence (RFE), SCOPS explained that while the Petitioner had demonstrated that his proposed endeavor had substantial merit, he had not sufficiently demonstrated that the endeavor has national importance. In response to the RFE, the Petitioner further clarified his proposed endeavor by providing information about projects in which he was involved that were implemented at his work location and other locations operated by his employer, as well as projects he is currently undertaking. He included the following description of his proposed endeavor:

> My proposed endeavor, broadly, is to develop and implement techniques and strategies that enhance worker safety and increase [the company's] engine production. This, in turn, strengthens the U.S. transportation and logistics sectors — the backbone of the

> American economy — boosts exports, preserves U.S. manufacturing jobs, and advances [the company's] green energy initiatives.

B. Substantial Merit and National Importance of the Proposed Endeavor

The first 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. The Director determined the Petitioner submitted sufficient evidence to establish that the Beneficiary's proposed endeavor had substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. An endeavor may have national importance because it has national or even global implications within a particular field, such as improved manufacturing processes. *Id.* If the evidence of record demonstrates that an individual's proposed endeavor has the significant potential to, for example, contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance.[2] Regarding an endeavor in the fields of science, technology, engineering, or math—also known as STEM—importance may be found in its contribution to U.S. competitiveness or security in a variety of circumstances, such as when it will help the United States remain ahead of strategic competitors or current and potential adversaries.[3]

SCOPS concluded that the record did not establish that the endeavor is of national importance, explaining that, although the Petitioner's work may impact and benefit his employer and the company's employees, the evidence of record did not adequately explain or substantiate that his work rose to the level of national importance.

On appeal, the Petitioner asserts that SCOPS did not provide analyses concerning arguments he put forth to support the national importance of his endeavor. The Petitioner points to documentation present in the record, including letters of support from colleagues and superiors, an expert opinion letter, industry reports, and government initiatives to show how his intention to continue his research as an engineer in the field of industrial workplace safety demonstrates his qualifications for a national interest waiver. The letters of support provide detailed descriptions of projects that the Petitioner has undertaken, such as the following: improving safety for the movement of hazardous waste; the continuous adaptation of floor plans to facilitate the inclusion of new manufacturing elements while retaining or improving healthy worker motility; and the integration of numerous technology developments to mitigate workplace dangers, including workers' use of robotic assistance.

SCOPS, however, did not indicate whether the Petitioner's proposed endeavor would prospectively have a broader societal impact by contributing to critical and emerging technologies in the STEM field of workplace safety engineering. Specifically, SCOPS did not discuss whether the proposed endeavor would help the United States stay ahead of strategic competitors and potential adversaries and contribute to our nation achieving or maintaining technology leadership or peer status among allies

[2] *See generally* 6 *USCIS Policy Manual* at F.5(D)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.
[3] *See generally* 6 *USCIS Policy Manual, supra*, at F.5(D)(2).

and partners. We note that, although the letters of support describe how the Petitioner's contributions to the company's safety advancement efforts have the potential for adoption within the field more broadly, explaining that the company regularly shares its safety practices at prominent industry conferences in order to help establish industry-wide standards, SCOPS surmised—without further analysis—that the record's lack of confidential company information concerning the Petitioner's projects "called into doubt" his "ability to disseminate information or impact the broader field."

SCOPS did not address whether the Petitioner's endeavor has the potential to advance critical and emerging technologies in the field of workplace safety in industrial manufacturing settings. Accordingly, we withdraw SCOPS' determination as to the national importance of the Petitioner's proposed endeavor. On remand, SCOPS should analyze the issue of national importance consistent with the foregoing analysis.

C. Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to 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. *Dhanasar*, 26 I&N Dec. at 890.

SCOPS determined that, after consideration of these factors, the evidence submitted did not establish that the Petitioner meets *Dhanasar's* second prong.

The Petitioner completed a Master of Science in Occupational Safety Management from [redacted] For purposes of assessment under the second prong, an individual's education and skillset are relevant to whether the person is well-positioned to advance the endeavor. USCIS considers an advanced degree in a STEM field—one which is tied to the proposed endeavor and related to work furthering a STEM area important to U.S. competitiveness or national security—an especially positive factor to be considered along with other evidence.[4] In addition to his academic records, the record includes evidence of the Petitioner's published and presented peer-reviewed work, as well as numerous safety certifications—including his certification as a professional ergonomist, which requires demonstration of continued education, training, and work in the field of ergonomics, as well as recertification every five years by the Board of Certified Professional Ergonomists. The Petitioner has provided evidence of his success in a key position with a major engine manufacturing company in the United States, including his receipt of a Business Impact Award.

SCOPS did not analyze how the Petitioner's qualifications position him to advance his proposed endeavor in a specific STEM field—particularly his knowledge in a narrow STEM area involving the application of engineering technologies to improved ergonomics and workplace safety. For example, SCOPS's decision does not address details provided in letters of support from the Petitioner's employer about the impacts of his work on projects for the company in terms of how those impacts relate to his proposed endeavor in a STEM field, citing only his employer's "admiration and

[4] *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(4).

appreciation for him"; SCOPS summarily concluded that "the letters lack specific, detailed information to show he is well positioned."

SCOPS also appears to have considered certain evidence in terms of the Petitioner's standing within his field, rather than whether he is well-positioned to advance his specific proposed endeavor, applying eligibility criteria relating to individuals of extraordinary ability,[5] as opposed to considerations concerning advanced degree professionals. For example, SCOPS determined that, although the Petitioner has "relevant education and skills" and "the training and experience to be successful," he has not established that his work "places him significantly above the level of expertise normally encountered in the field" or has been "influential beyond what is normally encountered in the field." As another example, in assessing publications co-authored by the Petitioner, SCOPS' decision states, "In order to meet this criterion, the petitioner's contributions must not only be original, but also have been of major significance to the field as a whole."[6]

Accordingly, we withdraw SCOPS' determination as to whether the Petitioner is well positioned to advance his proposed endeavor. On remand, SCOPS should analyze the issue of the Petitioner's positioning to advance his proposed endeavor in a STEM field consistent with the foregoing analysis.

D. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for that individual to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the individual's contributions; and whether the national interest in those contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factors considered must, taken together, establish that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Dhanasar* at 890-91.

The Petitioner asserts that he is eligible under the third prong of *Dhanasar* and indicates that his proposed endeavor is focused on a critical and emerging technology in a STEM field. The USCIS Policy Manual outlines specific evidentiary considerations relating to STEM degrees and fields, including with respect to evaluating eligibility under the third prong. When evaluating the third prong and whether the United States may benefit from a person's entry, regardless of whether other U.S. workers are available, the USCIS Policy Manual instructs us to consider the following combination of facts contained in a record as a strong positive factor:

- The person possesses an advanced STEM degree;
- The person will be engaged in work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness; and

[5] *See generally* 6 *USCIS Policy Manual*, F.2(D)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2.
[6] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(D)(1); see also 8 C.F.R. § 204.5(h)(3)(v).

- The person is well positioned to advance the proposed STEM endeavor of national importance.

The benefit to the United States is considered especially weighty where the endeavor has the potential to support U.S. national security or enhance U.S. economic competitiveness, or when the petition is supported by letters from interested U.S. government agencies.[7]

In determining the Petitioner's eligibility with respect to the third prong of *Dhanasar*, SCOPS generally focused on the degree of influence the Petitioner has had in his field; whether his proposed endeavor was sufficient to forgo the labor certification process; whether his endeavor would benefit only his employer, rather than the nation; and the potential of his endeavor to create jobs, among other considerations. However, SCOPS' analysis of the third prong did not sufficiently address the USCIS Policy Manual with respect to an individual's eligibility based on a proposed endeavor involving the advancement of a critical and emerging technology in a STEM field—namely, those factors we have discussed in the bullet points above. Accordingly, we withdraw SCOPS' determination that the Petitioner did not establish that he meets *Dhanasar*'s third prong. On remand, SCOPS should consider this guidance in its determination on the third prong of *Dhanasar*.[8]

III. CONCLUSION

We will remand the matter to SCOPS for the entry of a new decision. SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: SCOPS' decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[7] *See* 6 USCIS Policy Manual, *supra*, at F.5(D)(2).
[8] *Id.*