



Do You Qualify for a Green Card in the U.S. National Interest?

Since the Immigrant Visa backlogs for some EB-3 (and even EB-2) categories have become such a source of frustration and delay for foreign nationals aspiring to Permanent Residency, we are frequently asked about the EB-2 National Interest Waiver (NIW). This Waiver allows an applicant to completely skip the PERM (Labor Certification) process and to file for Permanent Residency without a sponsoring employer.

Professionals in certain fields – and with particular abilities and accomplishments – may qualify for an EB-2 national interest waiver. They must be:

Immigrants who hold advanced degrees. These immigrants must have an advanced degree such as a Masters degree or Doctorate in their field. Most scientists and researchers meet the advanced degree requirement.

OR

Immigrants who have exceptional abilities. Immigrants who are particularly gifted in science, the arts or business may qualify for an EB-2 National Interest Waiver based upon their proven achievements.

In order to apply for a National Interest Waiver, you must show that you meet the criteria of possessing an advanced degree and having exceptional abilities. In addition, you must demonstrate that: 1] that the benefit of your proposed activity will be national in scope; 2] you seek employment in an area of “substantial intrinsic merit” to the U.S.; and 3] that the requirement of a Labor Certification will adversely affect the national interest.

National. Your work must benefit the U.S. as a nation, and not just one area of the country. An example is an applicant who worked for a State Department of Transportation. It was not at all difficult to document that his achievements in developing structure materials for bridges surpassed those of the majority of his peers. Unfortunately, his work only impacted a certain region of the U.S. You must be ready to provide evidence that the results of your work are national in scope.

Interest. Proving the merit of your specialty involves a thorough explanation of the work, and a description of its application to real life. Your petition should include a thorough CV and letters of support from experts in the field. Some topics we’ve worked with include cancer research, research into alternative energy sources, and even a researcher who worked on the Space

Elevator. These fields of study and development are fundamentally significant. Their very nature interests and benefits us all.

Waiver. The application must also address the fact that the time, effort and expense of a PERM application (or Labor Certification) would be of little worth. The PERM process is meant to determine whether there are qualified U.S. workers for the position, and if there would be an negative impact to the U.S. workforce by the hiring of a foreign national. In the case of an approvable NIW case, it should be clear that the immigrant's work is so highly specialized that their Permanent Residence in the U.S. would be of no detriment. Basically, that the immigrant's background and accomplishments in the field are so significant that there is no negative impact to the U.S. workforce by foregoing the labor certification process.

A National Interest Waiver is approved for only the highest echelon of professionals in the sciences, arts and business. Because its benefit is so great, the application must be prepared with the utmost care. Speak with an experienced [immigration attorney regarding](#) the details of your work, your achievements, and your desire to contribute to the United States.

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