



Unlocking Opportunities:

A Comprehensive Guide
for the EB-2 NIW Visa

MARCH 2024

Ramon Rocha

2nd Edition (English)

EB-2 NIW

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About the Author



With a multifaceted trajectory and enriching experiences, I bring a diverse background reflected in my work and how I face life. After graduating as a Systems Analyst from Universidade Mackenzie SP in 2000, I sought improvement through a postgraduate degree in Professional MBA in Systems Engineering, complemented by studies in Business and Marketing in the USA.

My journey in the United States began in 2018 when I decided to explore this country, which is rich in culture and opportunities. This experience led me to change my tourist visa to an F-1 student, immersing myself in learning the local language and culture.

Before that, in Brazil, I worked as a journalist and editor of a website specializing in event coverage, developing communication skills and a passion for writing. My career in technology was marked by passages in several companies in the segment, both in São Paulo and Minas Gerais, where I could contribute my knowledge as an expert in the area.

As an administrator, I have taken on various challenges, always striving for excellence in each enterprise. I am a perfectionist by nature, and I firmly believe that sharing my knowledge leaves a lasting legacy for future generations. With this vision and determination, I am sharing my knowledge and experience in this guide, hoping to facilitate the path of those seeking legalization in the US through work visas.

Introduction

Dear reader,

With great enthusiasm, I share this detailed guide on the EB2-NIW (National Interest Waiver) visa process. Throughout my immigration journey within the US, I lived in various situations requiring persistence, resilience, patience, and overcoming. An immigration process is usually never simple or easy and requires the petitioner, preferably, to know as much about the process he intends to send to US immigration. The difficulty of finding consistent, complete, and quality information made me join the pieces and present the result here.

My goal with this guide is to provide a clear and concise roadmap for those navigating the complex process of obtaining an EB-2 NIW visa. I hope to demystify the requirements, offer practical tips, and share valuable insights based on my experiences and research. Whether you're a researcher, entrepreneur, or professional in any field, this guide aims to empower you with the knowledge and confidence to pursue your American dream through the EB-2 NIW visa.

I understand that immigration is a unique journey for every individual, so this guide is not just a set of information but a personalized tool to assist you at every stage. I urge you to explore its pages, absorb the shared knowledge, and, as I always advise, seek the guidance of qualified professionals for consultancy/ mentoring or to be the agent preparing your petition.

The journey through the EB-2 NIW is challenging, but I firmly believe it is an achievable goal with proper knowledge and assistance as long as you meet the requirements. This guide is my contribution to making this path more transparent and accessible.

I wish you success in your search for permanent residence in the United States. May this guide be a valuable source of information and support throughout your journey.

With the best wishes,

Ramon Rocha

Legal Notice

The author of this guide, not an immigration lawyer, does not provide legal advice. The entire content of this book aims solely to offer general guidance on the EB-2 National Interest Waiver (NIW) visa process. It should not be interpreted as specific legal advice for individual situations.

Readers should use this guide as a resource to understand the EB-2 NIW immigration process and to assist in preparing their petitions or reviewing processes made by third parties. However, if you have any questions not clarified in this guide or need specific legal advice, it is recommended that you consult a licensed immigration attorney in the United States.

This guide does not establish an attorney-client relationship between the author and the reader, and the author assumes no responsibility for any loss or damage resulting from the use of this guide or the reliance on its content.

Chapter 1: Introduction to the EB-2 NIW Visa

Welcome to the first chapter of our eBook "Unlocking Opportunities: A Comprehensive Guide to the EB-2 NIW Visa". In this introductory chapter, we will dive into the world of the EB-2 NIW visa, understand its purpose, and highlight its benefits.

SECTION 1.1: WHAT IS THE EB-2 NIW VISA?

The EB-2 NIW Visa, or Employment-Based Second Preference, National Interest Waiver, is a category of immigrant visa in the United States that allows foreign professionals to obtain permanent residence (Green Card) without needing a specific employer sponsor or prior job offer. In other words, applicants to the EB-2 NIW may petition themselves based on their exceptional skills and significant contributions to the national interest of the United States.

The EB-2 NIW is a particular category of immigration visa in the United States, created to promote the country's economic, scientific, and technological development. It has its roots in the need to attract and retain highly qualified professionals and outstanding entrepreneurs who demonstrate exceptional skills in their respective areas of activity and whose presence in the USA is considered national interest.

Over time, the valuable contribution that highly qualified professionals and entrepreneurs can make to the United States has led to the evolution of the EB-2 NIW. Initially, the focus was on exceptional skills in academic and scientific fields. However, as the global economy developed and innovation became a cornerstone, we recognized the need to adapt eligibility criteria to also include entrepreneurs and their 'Endeavor' or entrepreneurship activities.

The inclusion of the National Interest Waiver category expanded opportunities for individuals who, in addition to exceptional skills, wanted to contribute to the economic growth of the United States through innovative ventures. This advance has allowed talented professionals and entrepreneurs to envision a more accessible way to carry out their projects and contributions in the US, bringing benefits not only to themselves but also to the American economy and society.

Here are the main aspects of the EB-2 NIW Visa:

1. Qualification Based on Exceptional Abilities: Applicants typically demonstrate exceptional abilities in their fields of expertise, such as science, arts, education, business, or other professions, to be eligible for the EB-2 NIW. Awards, publications, patents, citations in academic works, peer recognition, and other relevant evidence are commonly used to demonstrate this.

2. Contribution to the National Interest: In addition to exceptional skills, applicants must show how their achievements and work benefit the national interest of the United States. Contributions to scientific, economic, cultural, educational, or other advances that significantly impact the country may be involved.

3. Exemption from the Labor Certification: One of the main advantages of the EB-2 NIW is that applicants do not need an employer who sponsors them or a Labor Certificate from the US Department of Labor (Labor Certification). This eliminates the need to prove that no American workers are available for the job.

4. Application Process: The EB-2 NIW application process involves filing a petition with the US Citizenship and Immigration Service (USCIS). Applicants should prepare solid documentation and a compelling narrative highlighting their achievements, skills, and contributions to the national interest.

5. Approval and Green Card: Approval of the EB-2 NIW petition will result in an applicant receiving a Green Card as a permanent resident of the United States, which grants them the right to live and work indefinitely in the US.

It is important to note that obtaining the EB-2 NIW can be complex and competitive since many highly qualified candidates apply for this visa. Therefore, it is advisable to seek the guidance of an experienced immigration lawyer to ensure that your petition is well-prepared and has the best chance of success. The EB-2 NIW provides a valuable opportunity for talented and innovative professionals to contribute to the United States and obtain permanent residence independently.

SECTION 1.2: PURPOSE OF THE EB-2 NIW VISA

The main goal of the EB-2 NIW Visa is to enable foreigners with exceptional skills in fields such as science, technology, business, medicine, education, and other areas to obtain permanent residence in the United States. The peculiarity of the EB-2 NIW is that it allows applicants to waive the usual job offer requirement and the job certification process.

SECTION 1.3: EB-2 NIW BENEFITS

1. No employer sponsor is required: Your EB-2 NIW visa can be sponsored without an employer in the US, unlike other work visas, which gives you more freedom in your career and professional future.

2. Faster processing: The EB-2 NIW visa generally has faster processing than other EB visa categories, which can speed up your journey to permanent residence.

3. Possibility of self-petition: You can apply for the EB-2 NIW on your own, an advantage for entrepreneurs and independent professionals like you.

4. Gateway to citizenship: Once you obtain permanent resident status through the EB-2 NIW, you can eventually pursue naturalization and become a citizen of the United States.

SECTION 1.4: THE ROLE OF THE NATIONAL INTEREST

A fundamental concept in the EB-2 NIW is the "National Interest". This term refers to the idea that their skills and achievements should benefit the United States significantly. This can be achieved in various areas, including scientific research, technological advances, economic development, health, education and more.

Now that you have an overview of the EB-2 NIW Visa and its objectives let's go deeper into the eligibility criteria in the next chapter. If you are eager to learn how your career and experience fit into this visa, continue reading to understand how you can qualify based on your exceptional skills and contributions to the national interest of the United States.

The 1990 Immigration Act states that the standards for a national interest exemption in category EB-2 are "significantly above what is necessary to prove the potential national benefit".

Otherwise, the law does not explicitly establish what counts as National Interest. USCIS considers it appropriate to leave the application of this test as flexible as possible.

It will be up to the foreigner the burden of proof to establish that the exemption or waiver of the offer of employment will be of national interest. The evaluation of each case will be based on its own merits.

The variety of cases and decisions indicates that the government requires a fairly direct benefit to the broader community before agreeing that a job is in the national interest. Factors that have been considered in success cases include:

1. Admitting foreign nationals will improve the US economy
2. Admitting foreign nationals will improve the wages and working conditions of American workers.
3. Admitting foreign nationals will provide more affordable housing for young, elderly, or poor US residents.
4. Admitting foreign nationals will improve the US environment and lead to more productive use of national resources.
5. The interested US government body requests the foreigner's admission.

The Administrative Appeals Office (AAO) issued a new decision - Matter of Dhanasar, annulling the NYSDOT decision on December 27, 2016.

In this decision, USCIS revised the analytical framework to assess eligibility for "exemptions of national interest." The Decision established that USCIS can now grant a National Interest Exemption if the applicant demonstrates the following:

1. The effort proposed by the foreigner has substantial merit and national importance;
2. The foreigner is well placed to advance in the proposed enterprise;
3. Overall, it would be beneficial for the United States to waive job offer and labor certification requirements

The merit of the enterprise can be demonstrated in several areas, such as business, entrepreneurship, science, technology, culture, health, or education. Evidence that the enterprise has the potential to create a significant economic impact may be favorable but is not required since the merit of an enterprise can be established without immediate or quantifiable economic impact.

Evidence: To support the argument that the work of a foreign citizen is of substantial merit, it is necessary to present supporting documents explaining in simple terms why the work of a foreign citizen is crucial and the practical applications or benefits of this work for the USA. Establish that the effort proposed by the beneficiary has substantial merit and consists, but is not limited to, of the following:

- a. A detailed description of the proposed undertaking and why it has substantial merits;
- b. Documentary evidence supporting the petitioner's statements and establishing the merits of the undertaking.

Letters of recommendation from experts in the field explaining a foreigner's research and its implications and importance to the United States are adequate evidence, in addition to any other publications or reports detailing the significance of a foreigner's effort and the benefits of such work to the United States.

The new decision of AAO - Matter of Dhanasar extended the evaluative framework to the "national interest" of the candidate's effort. In determining whether the proposed effort is of national importance, USCIS considers its potential prospective impact. They evaluate the prospective effects not only in geographical terms but also in its broader implications. For example, a doctor working in a hospital may appear to be benefiting only the geographical region that the particular hospital serves.

However, the physician can demonstrate that they are benefiting the nation by publicizing their research publications, or by developing new procedures or techniques implemented in hospitals outside their geographical region. It is usually easy to demonstrate that most types of scientific research have nationally essential benefits, as scientific advancement in a particular area can reasonably be tied to a specific national goal, such as health or safety.

The evidence that may be submitted may include documentation demonstrating that the proposed effort:

- a. It has national or even global implications within a particular field,
- b. Has significant potential to employ US workers or has other substantial positive economic effects, particularly in an economically depressed area;
- c. It will generally increase social welfare or cultural or artistic enrichment; and
- d. It impacts a subject that a government entity has described as having national importance as the subject of national initiatives.

Evidence: The evidence presented should demonstrate the potential prospective impact of the enterprise. In addition to explaining how the work of a foreigner is essential to the nation as a whole, other forms of evidence can provide more support for these arguments.

- **Government-Related Agency Funding:** Any cases of a foreign citizen's work being funded by the US government can easily substantiate the claim that foreign labor benefits the US.
- **Citations:** not only can citations show a foreigner's impact on the field, but they can also demonstrate that his work is being implemented and used by researchers across the country and is of national importance.
- **Letters of recommendation:** Letters of recommendation can provide statements explaining the national benefits of a foreign worker's work and examples of how their work is being implemented.

Be well-positioned to advance the proposed endeavor

The second "prong" requires the foreigner to demonstrate they are well positioned to advance the proposed effort. The factors that USCIS considers include, but are not limited to: the foreign's education, skills, knowledge, and success history in relation or similar efforts; a model or plan for future activities; any progress towards achieving the proposed venture; and the interest of potential customers, users, investors or other relevant entities or individuals. With substantial evidence, the petitioners must establish that they are well-positioned to move forward in the proposed enterprise. An important note from Dhanasar is that even if there is no certainty that the proposed endeavor will succeed, USCIS can still determine that the foreigner is well-positioned to advance in the endeavor. However, unfounded allegations are insufficient and do not satisfy the petitioner's burden of proof.

Evidence: Examples of evidence may be letters from detailed experts demonstrating the US government's interest in the petitioner's research, documentation that the petitioner has played a significant role in projects funded by government grants, and evidence of the foreign academic background, skills, knowledge, experiences, and other notable achievements in his field, including associations or publications in the media.

List of possible evidences:

A. Publications and citation records (including journal articles, book chapters, and books)

A complete publication record must be included in the petition to demonstrate the foreigner's historical past of scientific achievement. The publication alone, however, will not indicate the foreign influence in the field. A citation record must accompany the publication record to demonstrate the influence of the foreigner's work in the field and show that other researchers are using the work. In addition, journal impact factors and average citation records for the field can be used to show that the foreigner has a degree of influence above the average researcher. It should be noted that no "magic number" of citations will guarantee NIW (National Interest Waiver) approval and many strategies can be used to compensate for a low citation record.

B. Recommendation's Letters

Recommendation letters are crucial to the NIW (National Interest Waiver) petition. Independent letters of recommendation (from those who have never worked or studied with you, collaborated with you, or advised your work) will carry much more weight with USCIS than letters from dependent recommenders, and this should be taken into account when selecting recommenders. Letters of recommendation should discuss your research contributions and their meaning in lay terms and comment directly on the benefit of your work for the United States.

Recommendation letters are also an excellent opportunity to demonstrate the implementation of your work. A letter of recommendation from someone who has used your work and can explain how he has done it in the letter is a great way to strengthen your case.

C. Funding/Subsidies from the US Government:

Funding from reputable institutions or government agencies, such as the US military, NIH, NASA, etc., is strong evidence to demonstrate the national importance of foreign work. It is essential to establish a high level of foreign involvement in applying for funding and its critical role in research related to funding after it has been awarded.

D. Affiliations:

If affiliations are in the area of foreign specialization and require exceptional achievements as selective criteria, associations can improve the general credentials of the foreigner.

E. Awards:

For awards to strengthen the NIW petition, ideally, they need to be explicitly given to the national foreigner and recognized nationally/internationally.

Awards open to individuals in a particular institution, city, state/region/province are not as influential. For example, an award given by the American Chemical Society would likely be recognized nationally because it is the largest professional organization for chemists in the US.

F. National Articles Published About the Foreigner:

The benefits of a job in the US can be seen in media coverage. If the articles or publications bring evidence focused on the foreign worker or the work he has done in the field of the enterprise, and the national or international recognition media gives prominence, this will be useful for the NIW petition.

G. Patents, Contracts, Licenses and Technology Transfers:

A complete patent registration, accompanied by evidence of citation or commercialization, is significantly helpful in demonstrating the usefulness of the foreign worker's work as the domestic industry is adopting it. Other similar evidence, including contracts, licenses, and technology transfers, are also demonstrative of implementing work from abroad.

H. Third-Party Evidence Based on Foreign Work:

If researchers request work or assistance from other institutions abroad, this reaffirms the impact and significance of the effort from abroad. Documentation such as email correspondence and confirmation in major commercial publications or media outlets is good evidence.

I. Leading or Critical Role:

Evidence showing that the foreigner has a leading, critical, or indispensable role in the venture or the like may be very relevant to the NIW.

SECTION 1.5: WHAT THE USCIS MANUAL SAYS?

A. Advanced Degree Professionals

1. Eligibility

To qualify for this immigrant classification as a professional with an advanced degree, the following requirements must be met:

- The beneficiary must be a member of the professions holding an advanced degree or foreign equivalent degree;
- The position certified in the underlying permanent labor certification application or Schedule A application must require, at a minimum, a professional holding an advanced degree or the equivalent; and
- The beneficiary must have not only had the advanced degree or its equivalent on the date that the permanent labor certification application was filed, but also must have met all of the requirements needed for entry into the proffered position at that time.

2. Foreign Equivalent Degrees

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of baccalaureate. A U.S. baccalaureate degree or a foreign equivalent degree followed by at least 5 years of progressive experience in the specialty is considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the beneficiary must have a U.S. doctorate or a foreign equivalent degree.

A beneficiary can satisfy the advanced degree requirement by holding either a:

- U.S. master's degree or higher or a foreign degree evaluated to be the equivalent of a U.S. master's degree or higher; or
- U.S. bachelor's degree, or a foreign degree evaluated to be the equivalent of a U.S. bachelor's degree, plus 5 years of progressive, post-degree work experience

A beneficiary who does not possess at least a U.S. bachelor's degree or a foreign equivalent degree is ineligible for this classification.

3. Advanced Degree Position

Mere possession of an advanced degree or its equivalent is not sufficient for establishing a beneficiary's eligibility for this classification. The petitioner must also demonstrate that the position certified in the underlying permanent labor certification application or set forth on the Schedule A application requires a professional holding an advanced degree or the equivalent. The petitioner must demonstrate that the position, and the industry as a whole, normally requires that the position be filled by a person holding an advanced degree.

Where the position requires multiple credentials combined with experience, the issue is not whether a combination of more than one of the foreign degrees or credentials is comparable to a single U.S. bachelor's degree or an advanced degree, but rather that the minimum requirements for the position in the permanent labor certification meet the definition of an advanced degree.

This requirement has resulted in a particular problem involving petitions filed on behalf of registered nurses. Although many such nurses possess advanced degrees, they are filling nursing positions in the United States that generally do not require advanced degrees. Specifically, the Occupational Information Network (O*Net) indicates that, in nursing, only managerial jobs (director of nursing or assistant director of nursing) or advanced level jobs (such as clinical nurse specialist, nurse practitioner) generally require advanced degrees. A registered nurse job, by contrast, usually does not require an advanced degree.

The long waiting periods often required for issuance of third preference employment-based immigrant visas for skilled workers, professionals, or other workers may cause a gap between the available supply of eligible nurses and the high demand for nursing services. Officers must verify the actual minimum requirements for the nursing position offered in the advanced degree petition. As stated, most nursing positions do not qualify for the advanced degree classification.

B. Exceptional Ability

1. Eligibility

A beneficiary may qualify for the exceptional ability visa preference classification if:

- He or she has exceptional ability in the sciences, arts, or business;
- He or she will substantially benefit the national economy, cultural or educational interests, or welfare of the United States in the future; and
- His or her services in one of those fields are sought by an employer in the United States.

The term exceptional ability is defined as a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. This standard is lower than the standard for extraordinary ability classification.

2. Evidence

Officers should use a two-step analysis to evaluate the evidence submitted with the petition to demonstrate eligibility for exceptional ability classification.

Petition for Exceptional Ability Classification: Overview of Two-Step Evidentiary Review	
Step 1	Assess whether evidence meets regulatory criteria: Determine, by a preponderance of the evidence, which evidence submitted by the petitioner objectively meets the parameters of the regulatory description that applies to that type of evidence (referred to as "regulatory criteria").
Step 2	Final merits determination: Evaluate all the evidence together when considering the petition in its entirety for the final merit's determination, considering the high level of expertise required for this immigrant classification.

Assess Whether Evidence Meets Any Regulatory Criteria

The first step of the evidentiary review is limited to determining whether the evidence submitted with the petition is comprised of at least three of the six regulatory criteria.[15] The officer should apply a preponderance of the evidence standard when making this determination.

While officers should consider the quality and caliber of the evidence to determine whether a particular regulatory criterion has been met, officers should not yet make a determination regarding whether or not the beneficiary qualifies for exceptional ability in this first step.

The initial evidence must include at least three of the following six types of evidence listed in the regulations:

- An official academic record showing that the beneficiary has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;
- Evidence in the form of letter(s) from current or former employer(s) showing that the beneficiary has at least 10 years of full-time experience in the occupation in which he or she is being sought;
- A license to practice the profession or certification for a particular profession or occupation;
- Evidence that the beneficiary has commanded a salary or other remuneration for services that demonstrates exceptional ability. (To satisfy this criterion, the evidence must show that the beneficiary has commanded a salary or remuneration for services that is indicative of his or her claimed exceptional ability relative to others working in the field);
- Evidence of membership in professional associations; and
- Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

In some cases, evidence relevant to one criterion may be relevant to other criteria.

Additionally, if these types of evidence do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. This provides petitioners the opportunity to submit comparable evidence to establish the beneficiary's eligibility if the regulatory standards do not readily apply to the beneficiary's occupation. When evaluating such comparable evidence, officers consider whether the criteria are readily applicable to the beneficiary's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in the regulation.

General assertions that any of the six objective criteria do not readily apply to the beneficiary's occupation are not acceptable. Similarly, claims that USCIS should accept witness letters as comparable evidence are not persuasive. The petitioner should explain why the evidence it has submitted is comparable.

Objectively meeting the regulatory criteria alone does not establish that the beneficiary in fact meets the requirements for exceptional ability classification. For example, being a member of professional associations alone, regardless of the caliber, should satisfy one of the three required regulatory criteria. However, the beneficiary's membership should also be evaluated to determine whether it is indicative of the beneficiary having a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. However, this secondary evaluation should be conducted as part of the final merit's determination.

Final Merits Determination

Meeting the minimum requirement by providing at least three types of initial evidence does not, in itself, establish that the beneficiary in fact meets the requirements for exceptional ability classification. Officers must also consider the quality of the evidence. In the second part of the analysis, officers should evaluate the evidence together when considering the petition in its entirety for the final merit's determination. The officer must determine whether or not the petitioner, by a preponderance of the evidence, has demonstrated that the beneficiary has a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.

When requesting additional evidence or drafting a denial, if the officer determines that the petitioner has failed to demonstrate this requirement, he or she should not merely make general assertions regarding this failure. Rather, the officer must articulate the specific reasons as to why the officer concludes that the petitioner, by a preponderance of the evidence, has not demonstrated that the beneficiary qualifies for exceptional ability classification.

The petitioner must demonstrate that the beneficiary is above others in the field; qualifications possessed by most members of a given field cannot demonstrate a degree of expertise significantly above that ordinarily encountered. The mere possession of a degree, diploma, certificate or similar award from a college, university, school, or other institution of learning is not by itself considered sufficient evidence of exceptional ability.

Furthermore, formal recognition in the form of certificates and other documentation that are contemporaneous with the beneficiary's claimed contributions and achievements may have more weight than letters prepared for the petition recognizing the beneficiary's achievements. As with all adjudications, if an officer believes that the facts stated in the petition are not true,

and can articulate why in the denial, then the officer denies the petition and explains the reasons in the written denial.

3. Schedule A, Group II Permanent Labor Certification

Schedule A, Group II permanent labor certification for persons of "exceptional ability in the sciences or arts" is distinct from classification as a person of "exceptional ability in the sciences, arts, professions, or business." Under the U.S. Department of Labor (DOL)'s regulations, an employer seeking permanent labor certification on behalf of a person of "exceptional ability in the sciences or arts" may apply directly to USCIS for Schedule A, Group II permanent labor certification instead of applying to DOL for issuance of a permanent labor certification.

C. Professional Athletes

1. Eligibility

The Immigration and Nationality Act (INA) defines professional athletes for the purpose of allowing them to retain the validity of the underlying permanent labor certification if they change employers. These athletes may qualify for exceptional ability classification. Specifically, the precedent decision *Matter of Masters* held that a professional golfer could, if he was otherwise eligible, qualify as for exceptional ability classification in the arts.

This holding has been interpreted to apply to exceptional ability petitions filed on behalf of any athlete. However, the fact that the beneficiary has signed a contract to play for a major league team may not be sufficient to establish exceptional ability as a professional athlete.

Definition of Professional Athlete

For purposes of this classification, the term professional athlete means a person who is employed as an athlete by:

- A team that is a member of an association of six or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or
- Any minor league team that is affiliated with such an association.

Permanent Labor Certification Validity

A petition for classification of a professional athlete is supported by an underlying permanent labor certification filed on the beneficiary's behalf, which remains valid even if the athlete changes employers, so long as the new employer is a team in the same sport as the team that filed the petition.

Employers filing permanent labor certification applications on behalf of beneficiaries to be employed as professional athletes on professional sports teams file permanent labor certification applications under special procedures for professional athletes directly with the appropriate DOL processing center.

2. Evidence

As is the case with all petitions for persons of exceptional ability, the petitioner must provide, as initial evidence, documentation demonstrating that the beneficiary qualifies exceptional ability classification, as specified in the regulations. However, submission of evidence that meets the three required regulatory criteria does not necessarily establish that the beneficiary is qualified for the classification. An officer must assess the quality of such evidence, in addition to the quantity of the evidence presented, in determining whether the petitioner has met its burden in establishing that the beneficiary is qualified for the classification.

Similarly, an approved permanent labor certification submitted on behalf of a professional athlete does not prove that the beneficiary qualifies as an athlete of exceptional ability. Officers should look for evidence of exceptional ability beyond the mere existence of a contract with a major league team or an approved permanent labor certification.

An approved permanent labor certification submitted on behalf of the beneficiary does not bind USCIS to a determination that the person is of exceptional ability. Notwithstanding the grant of a permanent labor certification, the beneficiary may, for any number of reasons, be unable to fulfill the underlying purpose of the petition.

Many athletes, for example, enjoy substantial signing bonuses, but may not, thereafter, prove to be of “major league,” let alone exceptional caliber. Similarly, the fact that a beneficiary played for a portion of a season for a major league team does not automatically establish that the beneficiary will continue to play at an exceptional ability level. It would be inappropriate to approve an immigrant visa petition on behalf of a major league player on the basis of exceptional ability if the beneficiary is unlikely to continue to perform the duties specified in the

underlying petition for a reasonable period following approval of lawful permanent resident status.

Additionally, the beneficiary could be cut from the major league roster, may announce his permanent retirement as a player in the sport, or suffer from a career-ending injury prior to adjudication of the petition, thereby removing the job offer that formed the basis of the petition, which would result in a denial of the petition.

D. National Interest Waiver of Job Offer

Since 1990, the Immigration and Nationality Act (INA) has provided that a person of exceptional ability may obtain a waiver of the job offer requirement if USCIS deems such waiver to be in the “national interest.” A subsequent technical amendment extended the job offer waiver to certain professionals. This waiver provision applies only to the second preference (EB-2) classification for members of the professions holding advanced degrees and persons of exceptional ability. This waiver of the job offer is known as the national interest waiver.

A petition filed with a request for a national interest waiver on behalf of a person does not need to be supported by a job offer; therefore, the person may file as a self-petitioner. A waiver of a job offer also includes a waiver of the permanent labor certification requirement. In support of the petition, however, the petitioner must submit the employee-specific portions of a permanent labor certification (without DOL approval). The petitioner may submit either the Form ETA 750B or Form ETA 9089. To establish eligibility, the petitioner has the burden of demonstrating that:

- The person qualifies as either a member of the professions holding an advanced degree or as a person of exceptional ability; and

- The waiver of the job offer requirement, and thus, the labor certification requirement, is in the “national interest.”

Qualification for the EB-2 classification as a member of the professions holding an advanced degree or as a person of exceptional ability does not automatically mean that the person qualifies for a national interest waiver. Regardless of whether the person is an advanced degree professional or demonstrates exceptional ability, the petitioner seeking a waiver of the job offer must not only demonstrate eligibility for the classification, but also demonstrate that the waiver itself is in the national interest.

Specifically, in the exceptional ability context, the INA requires that all petitions for a person of exceptional ability show that the person’s presence in the United States would substantially benefit the national economy, cultural or educational interests, or welfare of the United States in the future. Even if the petitioner demonstrates such exceptional ability, if the petitioner is seeking a waiver of the job offer, the petitioner must also demonstrate the additional requirement of national interest. Neither the INA nor the regulations define the term “national interest.”

The burden rests with the petitioner to establish that the waiver of the job offer requirement is in the national interest. USCIS considers every petition on a case-by-case basis.

USCIS may grant a national interest waiver as a matter of discretion if the petitioner demonstrates eligibility by a preponderance of the evidence, based on the following three prongs:

- The person’s proposed endeavor has both substantial merit and national importance;
- The person is well positioned to advance the proposed endeavor; and
- On balance, it would be beneficial to the United States to waive the job offer and thus the permanent labor certification requirements.

Section 1 below provides an overview of the three prongs that are part of the analysis; section 2 provides guidance specific to persons with advanced degrees in science, technology, engineering, or mathematics (STEM); section 3 addresses letters of support and other evidence from interested government agencies and quasi-governmental entities; and finally, section 4 is specific to entrepreneurs.

When an officer denies a petition because the petitioner has not established that granting the waiver is in the national interest, the decision must include information about appeal rights and the opportunity to file a motion to reopen or reconsider.

1. Overview of the Three Prongs

First Prong: The Proposed Endeavor has both Substantial Merit and National Importance

When reviewing the proposed endeavor, officers determine whether the evidence presented demonstrates, by a preponderance of the evidence, the proposed endeavor has substantial merit and national importance. The term “endeavor” is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake

specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer.

The endeavor's merit may be demonstrated in areas including, but not limited to, business, entrepreneurship, science, technology, culture, health, or education.

In addition, officers may consider evidence of the endeavor's potential significant economic impact, but "merit may be established without immediate or quantifiable economic impact" and "endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States."

Officers must also examine the national importance of the specific endeavor proposed by considering its potential prospective impact. Officers should focus on the nature of the proposed endeavor, rather than only the geographic breadth of the endeavor.

For example, the endeavor "may have national importance because it has national or even global implications within a particular field, such as certain improved manufacturing processes or medical advances." Economically, it may have "significant potential to employ U.S. workers" or "other substantial positive economic effects, particularly in an economically depressed area." Therefore, petitioners should submit a detailed description explaining the proposed endeavor and supporting documentary evidence to establish that the endeavor is of national importance.

In determining national importance, the officer's analysis should focus on what the beneficiary will be doing rather than the specific occupational classification. Endeavors such as classroom teaching, for example, without broader implications for a field or

region, generally do not rise to the level of having national importance for the purpose of establishing eligibility for a national interest waiver.

Ultimately, if the evidence of record demonstrates that the person's proposed endeavor has the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance.

Second Prong: The Person is Well Positioned to Advance the Proposed Endeavor

Unlike the first prong, which focuses on the merit and importance of the proposed endeavor, the second prong centers on the person. Specifically, the petitioner must demonstrate that the person is well positioned to advance the endeavor.

In evaluating whether the person is well positioned to advance the endeavor, USCIS considers factors including, but not limited to:

- The person's education, skills, knowledge, and record of success in related or similar efforts;
- A model or plan that the person developed, or played a significant role in developing, for future activities related to the proposed endeavor;
- Any progress towards achieving the proposed endeavor; and
- Any progress towards achieving the proposed endeavor; and

The petitioner should submit evidence to document the person's past achievements and corroborate projections related to the proposed endeavor to show that the person is well-positioned to advance the endeavor. A person may be well-positioned to advance an endeavor even if the person cannot demonstrate that the proposed endeavor is more likely than not to ultimately succeed. However, unsubstantiated or implausible claims would not meet the petitioner's burden of proof.

Below is a non-exhaustive list of the types of evidence that tend to show that the person is well positioned to advance a proposed endeavor. This list is not meant to be a checklist or to indicate that any one type of evidence is either required or sufficient to establish eligibility.

Evidence that may demonstrate that the person is well-positioned to advance a proposed endeavor includes, but is not limited to:

- Degrees, certificates, or licenses in the field;
- Patents, trademarks, or copyrights developed by the person;
- Letters from experts in the person's field, describing the person's past achievements and providing specific examples of how the person is well positioned to advance the person's endeavor;
- Published articles or media reports about the person's achievements or current work;
- Documentation demonstrating a strong citation history of the person's work or excerpts of published articles showing positive discourse around, or adoption of, the person's work;
- Evidence that the person's work has influenced the field of endeavor;
- A plan describing how the person intends to continue the proposed work in the United States;
- A detailed business plan or other description, along with any relevant supporting evidence, when appropriate;

- Correspondence from prospective or potential employers, clients, or customers;
- Documentation reflecting feasible plans for financial support (see below for a more detailed discussion of evidence related to financing for entrepreneurs);
- Evidence that the person has received investment from U.S. investors, such as venture capital firms, angel investors, or start-up accelerators, and that the amounts are appropriate to the relevant endeavor;
- Copies of contracts, agreements, or licenses showing the potential impact of the proposed endeavor;
- Letters from government agencies or quasi-governmental entities in the United States demonstrating that the person is well positioned to advance the proposed endeavor (see below for a more detailed discussion of supporting evidence from interested government agencies and quasi-governmental entities);
- Evidence that the person has received awards or grants or other indications of relevant non-monetary support (for example, using facilities free of charge) from federal, state, or local government entities with expertise in economic development, research and development, or job creation; and
- Evidence demonstrating how the person's work is being used by others, such as, but not limited to:
 - Contracts with companies using products that the person developed or assisted in developing;
 - Documents showing technology that the person invented, or contributed to inventing, and how others use that technology; and
 - Patents or licenses for innovations the person developed with documentation showing why the patent or license is significant to the field.

In each case, officers must consider the totality of circumstances to determine whether the preponderance of evidence establishes that the person is well positioned to advance the proposed endeavor.

Third Prong: On balance, it would be beneficial to the United States to waive the job offer and thus the permanent labor certification requirements

Once officers have determined that the petitioner met the first two prongs, they proceed with the analysis of the third prong. This last prong requires the petitioner to demonstrate that the factors in favor of granting the waiver outweigh those that support the requirement of a job offer and thus a labor certification, which is intended to ensure that the admission of foreign workers will not adversely affect the job opportunities, wages, and working conditions of U.S. workers.[56]

While Congress sought to further the national interest by requiring job offers and labor certifications to protect U.S. workers, Congress also recognized that in certain instances the national interest is better served by a waiver of the job offer and thus the labor certification requirement. In such cases, a national interest waiver outweighs the benefits inherent to the labor certification process, which primarily focuses on a geographically limited labor market. Within the context of national interest waiver adjudications, Congress entrusted the Secretary of Homeland Security to balance this interest.

Therefore, for the third prong, an officer assesses whether the person's endeavor and the person being well-positioned to advance that endeavor, taken together, provide benefits to the nation such that a waiver of the labor certification requirement outweighs the benefits that ordinarily flow from that requirement. For example, in the case of an entrepreneur, where the person is self-employed in a manner that generally does not adversely affect U.S. workers,[57] or where the petitioner establishes or owns a business that provides jobs for U.S. workers, there may be little benefit from the labor certification.

Therefore, in establishing eligibility for the third prong, petitioners may submit evidence relating to one or more of the following factors, as outlined in [Matter of Dhanasar](#):

- The impracticality of a labor certification application;
- The benefit to the United States from the prospective noncitizen's contributions, even if other U.S. workers were also available; and
- The national interest in the person's contributions is sufficiently urgent,[60] such as U.S. competitiveness in STEM fields.

More specific considerations may include:

- Whether urgency, such as public health or safety, warrants foregoing the labor certification process;
- Whether the labor certification process may prevent an employer from hiring a person with unique knowledge or skills exceeding the minimum requirements standard for that occupation, which cannot be appropriately captured by the labor certification;
- Whether the person's endeavor has the potential to generate considerable revenue consistent, for example, with economic revitalization; and
- Whether the person's endeavor may lead to potential job creation.

2. Specific Evidentiary Considerations for Persons with Advanced Degrees in Science, Technology, Engineering, or Mathematics (STEM) Fields

There are specific evidentiary considerations relating to STEM degrees and fields, although the analysis is the same regardless of endeavor, so these considerations may apply in non-STEM endeavors where the petitioner demonstrates that such considerations are applicable. USCIS recognizes the importance of progress in STEM fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security.

To identify a critical and emerging technology field, officers consider governmental, academic, and other authoritative and instructive sources, and all other evidence submitted by the petitioner. The lists of critical and emerging technology subfields published by the Executive Office of the President, by either the National Science and Technology Council or the National Security Council, are examples of authoritative lists. Officers may find that a STEM area is important to competitiveness or security in a variety of circumstances, for example, when the evidence in the record demonstrates that an endeavor will help the United States to remain ahead of strategic competitors or current and potential adversaries, or relates to a field, including those that are research and development-intensive industries, where appropriate activity and investment, both early and later in the development cycle, may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners.

With respect to the first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance. Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national

importance. On the other hand, while proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance.

For the second prong, as mentioned above, the person's education and skillset are relevant to whether the person is well positioned to advance the endeavor. USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong.

Persons with a Ph.D. in a STEM field, as well as certain other persons with advanced STEM degrees relating to the proposed endeavor, have scientific knowledge in a narrow STEM area since doctoral dissertations and some master's theses concentrate on a particularized subject matter. Officers should then consider whether that specific STEM area relates to the proposed endeavor. Even when the area of concentration is in a theoretical STEM area (theoretical mathematics or physics, for example), it may further U.S. competitiveness or national security as described in the proposed endeavor.

Examples of evidence that can supplement the person's education are listed above, but a petitioner may submit any relevant evidence, including letters from interested government agencies as discussed below, to show how the person is well positioned to advance the proposed endeavor. A degree in and of itself, however, is not a basis to determine that a person is well positioned to advance the proposed endeavor.

Finally, with respect to the third prong, it is the petitioner's burden to establish that factors in favor of granting the waiver outweigh those that support the requirement of a job offer and thus a labor certification.

When evaluating the third prong and whether the United States may benefit from the person's entry, regardless of whether other U.S. workers are available (as well as other factors relating to prong three discussed above, such as urgency), USCIS considers the following combination of facts contained in the record to be a strong positive factor:

- The person possesses an advanced STEM degree, particularly a Ph.D.;
- The person will be engaged in work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness; and
- The person is well positioned to advance the proposed STEM endeavor of national importance.

The benefit is 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 as discussed in section 3 below.

3. The Role of Interested Government Agencies or Quasi-Governmental Entities

While not required, letters from interested government agencies or quasi-governmental entities in the United States (for example federally-funded research and development centers) can be helpful evidence and, depending on the contents of the letters, can be relevant to all three prongs. Specifically, letters from an interested government agency or quasi-governmental entity could prove favorable for purposes of the first prong if, for example, they establish that the agency or entity has expertise in the proposed endeavor and that the proposed STEM endeavor promises to advance a critical and emerging technology or is otherwise important for purposes of maintaining the United States' technological prominence.

Detailed letters of government or quasi-governmental interest that provide relevant information about how well-positioned the person is to advance the endeavor are valuable for purposes of assessing the second prong. Finally, an interested government agency or quasi-governmental entity can help explain how granting the waiver may outweigh the benefits of the job offer and labor certification requirement by explaining a particular urgency or detailing how the United States would benefit from the prospective noncitizen's contributions, even if other U.S. workers are available.

4. Specific Evidentiary Considerations for Entrepreneurs

There may be unique aspects of evidence submitted by an entrepreneurial petitioner[76] undertaking a proposed endeavor, including through an entity based in the United States in which the petitioner typically possesses (or will possess) an ownership interest, and in which the petitioner maintains (or will maintain) an active and central role such that the petitioner's knowledge, skills, or experience would significantly advance the proposed endeavor.

When evaluating whether such petitions satisfy the three-pronged framework, officers may consider the fact that many entrepreneurs do not follow traditional career paths and there is no single way in which an entrepreneurial start-up entity must be structured.

In addition to the more generally applicable evidence described above, an entrepreneur petitioner may submit the following types of evidence to establish that the endeavor has substantial merit and national importance, that the petitioner is well positioned to advance the endeavor, and that, on balance, it would be beneficial to waive the job offer and thus labor certification requirements.

Evidence of Ownership and Role in the U.S.-Based Entity

The petitioner may have an ownership interest in an entity based in the United States, of which the petitioner may also be the founder or co-founder. The petitioner may also play an active and central role in the operations of the entity as evidenced by the petitioner's appointment as an officer (or similar position of authority) of the entity or in another key role within the entity. Such evidence may have probative value in demonstrating the petitioner is well positioned to advance the endeavor.

Degrees, Certifications, Licenses, Letters of Experience

This evidence may indicate that the petitioner has knowledge, skills, or experience that would significantly advance the proposed endeavor being undertaken by the entity. Education and employment history, along with other factors related to the petitioner's background, may serve to corroborate the petitioner's claims. Some examples include successfully leading prior start-up entities or having a combination of relevant degrees and experience to equip the petitioner to advance the proposed endeavor.

Investments

An investment, binding commitment to invest, or other evidence demonstrating a future intent to invest in the entity by an outside investor, consistent with industry standards, may provide independent validation and support of a finding of the substantial merit of the proposed endeavor or the petitioner being well placed to advance the proposed endeavor. This investment may come from persons, such as angel investors, or established organizations, such as venture capital firms. Because different endeavors have different capital needs, USCIS also considers the amount of capital that would be appropriate to advance the endeavor in determining whether the petitioner has secured sufficient investments.

Incubator or Accelerator Participation

Incubators are private or public entities that provide resources, support, and assistance to entrepreneurs to foster the growth and development of an idea or enterprise. Accelerators are generally private venture capital entities and focus on helping entrepreneurs and their start-ups speed the launch, growth, and scale of their businesses.

Officers may consider evidence of an entrepreneur's admission into an incubator or accelerator as an endorsement of the petitioner's proposed plan or past track record, and the petitioner being well positioned to advance the endeavor. Petitioners may submit evidence of the past success of the incubator for officers to consider when evaluating this evidence.

Awards or Grants

Relevant funds may come from federal, state, or local government entities with expertise in economic development, research and development, or job creation. In addition, awards or grants may be given by other entities, such as policy or research institutes. Like investment from outside investors, this evidence may provide independent validation and support for a finding of substantial merit, national importance, or both, of the proposed endeavor or the petitioner being well positioned to advance the proposed endeavor.

Intellectual Property

Intellectual property, including relevant patents held by the petitioner or one of the petitioner's current or prior start-up entities, accompanied by documentation showing why the intellectual property is significant to the field or endeavor, may serve as probative evidence of a prior record of success and potential progress toward achieving the endeavor. The petitioner should submit evidence to document how the petitioner contributed to the development of the intellectual property and how it has or may be used internally or externally.

Published Materials about the Petitioner, the Petitioner's U.S.-Based Entity, or Both

Relevant published materials may consist of printed or online newspaper or magazine articles or other similar published materials evidencing that the petitioner or the petitioner's entity, with some reference to the petitioner's role, has received significant attention or recognition by the media. Petitioners may submit evidence of the media outlet's reputation for officers to consider when evaluating this evidence.

Revenue Generation, Growth in Revenue, and Job Creation

Relevant growth metrics may support that the proposed endeavor, the petitioner’s start-up entity, or both, has substantial merit or that the petitioner is well positioned to advance the proposed endeavor. Such evidence may include a showing that the entity has exhibited growth in terms of revenue generation, jobs created in the United States, or both, and the petitioner’s contribution to such growth.

This evidence may also support that the proposed endeavor, the petitioner’s start-up entity, or both, have national importance when coupled with other evidence, such as the location of the current or proposed start-up entity in an economically depressed area that has benefited or will benefit from jobs created by the start-up entity.

Letters and Other Statements from Third Parties

Letters may be from, for example, relevant government entities, outside investors, or established business associations with knowledge of:

- The research, products, or services developed by the petitioner, the petitioner’s entity, or both; or the petitioner’s knowledge, skills, or
- Experience that would advance the proposed endeavor.

While entrepreneurs typically do not undergo the same type of peer review common in academia, entrepreneurs may operate in a variety of high-tech or cutting-edge industries that have their own industry or technology experts that provide various forms of peer review.

Additionally, the merits of the entrepreneur’s business, business plan, product, or technology may undergo various forms of review by third parties, such as prospective investors, retailers, or other industry experts. Accordingly, letters and other

statements from relevant third-party reviewers, may have probative value in demonstrating the substantial merit and national importance of the endeavor and that the individual is well positioned to advance the endeavor.

Generally, many entrepreneurial endeavors are measured in terms of revenue generation, profitability, valuations, cash flow, or customer adoption. However, other metrics may be of equal importance in determining whether the petitioner has established each of the three prongs.

As noted in [Matter of Dhanasar](#), “many innovations and entrepreneurial endeavors may ultimately fail, in whole or in part, despite an intelligent plan and competent execution.” Accordingly, petitioners are not required to establish that the proposed endeavor is more likely than not to ultimately succeed based solely on the typical metrics used to measure entrepreneurial endeavors (although such showings may be considered favorably).

They instead need to show that the proposed endeavor has both substantial merit and national importance, that the petitioner is well positioned to advance the proposed endeavor, and 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.

Evidence establishing the petitioner’s past entrepreneurial achievements and that corroborates projections of future work in the national interest are favorable factors. Claims lacking corroborating evidence are not sufficient to meet the petitioner’s burden of proof. As in all cases, officers must consider the totality of circumstances to determine whether each of the three prongs is established by a preponderance of the evidence.

Chapter 2: Eligibility Criteria

The EB-2 NIW (National Interest Waiver) is an immigration visa category in the United States that enables qualified individuals to secure permanent residence (Green Card) based on exceptional skills and contributions to the national interest. To qualify for this visa, applicants must meet two main criteria:

Here are the main aspects of the EB-2 NIW Visa:

1. Demonstrating Exceptional Ability:

To qualify under this criterion, individuals must demonstrate outstanding abilities in fields like science, arts, education, business, or athletics. This demonstration of exceptional skills should be supported by substantial evidence, such as awards, recognition, participation in professional organizations, or significant contributions in the field.

2. Proving National Interest:

In addition to possessing exceptional abilities, the applicant must prove that his presence in the United States is of national interest. This is one of the distinctive aspects of the EB-2 NIW. The applicant must provide evidence that shows how their skills broadly benefit the United States, such as contributions to the economy, technological advances, health enhancement, education, or another area of national relevance.

3. Educational and Professional Background:

In addition to the previous criteria, the applicant's educational and professional training is essential to the application analysis. A solid and relevant background in the field in question and proven professional experience strengthen the candidate's eligibility. It is critical to provide complete and accurate documentation to meet these criteria.

4. Significant Contributions in the Field:

To meet the requirements of the EB-2 NIW, it is essential to demonstrate significant contributions in the field. This can include publications, research, innovations, patents, and presentations at conferences. These contributions should substantially impact the field and be recognized by other professionals in the field.

5. Support from Experts in the Field:

The support and recognition of experts in the field are crucial to support the application. Letters of support from colleagues, supervisors, experts, and other relevant authorities can reinforce evidence of exceptional skills and significant contributions.

6. Opportunities to Continue Operating in the US:

It is essential to demonstrate that staying in the United States will facilitate and promote future contributions in the field. Showing concrete plans to continue working and contributing in the US is highly valued.

7. Impact on US National Interests:

Proof of how the applicant's exceptional abilities positively affect US national interests is one of the pillars of the EB-2 NIW. This influence should be explained clearly and comprehensively, demonstrating how the candidate's presence is vital to the development and progress of the US.

8. Proof of Experience and Professional Achievements:

A crucial part of eligibility for the EB-2 NIW is demonstrating successful career and professional achievements. This may include years of experience in your field, past employment history, career progression, successful projects, and any other evidence showing your competence and abilities.

9. Relevance of Studies and Training:

Educational training and any additional training should be presented in a way that highlights its relevance to your area of expertise and how they have contributed to your exceptional abilities. Certificates, diplomas, and courses aligned with your career are essential supporting elements.

10. Comparison with Professionals in the Same Area:

Comparing your achievements, abilities, and contributions with those of other professionals in the same field can reinforce your claim of exceptional abilities. This can be done by analyzing salary studies, industry awards, positions held in prestigious organizations, and other relevant parameters.

11. Benefits for the US Economy and Society:

Showing how your abilities and activities will contribute to the US economy and society is crucial. This may include job creation, stimulating economic growth, improvements in specific sectors, or any other positive impact your presence may have on the community.

12. Preparation of Solid Documentation:

The documentation submitted must be organized clearly, concisely, and precisely. This may include resume, publications, awards, diplomas, and letters of recommendation, among other relevant documents. Ensuring that the documentation is complete and complies with USCIS requirements is essential.

13. Involvement in Endeavor or Entrepreneurship Activities:

An interesting area to be explored is involvement in entrepreneurial or endeavor activities. This may include setting up companies, startups, or independent projects that significantly impact your field or the economy in general.

14. Foundation or Participation in Companies:

If you were a founder or played a crucial role in founding a company, it is essential to detail this experience. Describe the vision behind the company, how it was established, the challenges faced, and the successes achieved. In addition, highlight how the company contributes to the advancement in its area of operation.

15. Economic and Employment Impact:

When talking about entrepreneurship, highlight your initiative's economic impact and job creation. Explain how many people were employed, how your company contributed to the local or national economy, and how entrepreneurial activities positively affected the business ecosystem.

16. Recognition and Awards in the Business World:

If your business or entrepreneurial projects have received significant awards or recognitions in the industry, be sure to include this information. The awards can serve as proof of the impact and value of your enterprise in the field.

17. Innovation and Contribution to the Community:

In addition to the economic aspects, highlight how his entrepreneurial activities promoted innovation in his area and benefited the community. This may include the development of innovative solutions, corporate social responsibility programs, or other positive impact initiatives.

18. Future Prospects and Continuation of Endeavor:

Describe your future prospects in the business world, including plans to expand your ventures, launch new products or services, and how you plan to continue to contribute to the field and society.

In addition to highly qualified professionals and entrepreneurs, the EB-2 NIW recognizes the importance of exceptional artists and academics in the context of immigration based on national interest.

19. Artists and the EB-2 NIW:

Artists, whether musicians, writers, filmmakers, painters, or in other artistic disciplines, can pursue eligibility at the EB-2 NIW, demonstrating exceptional abilities and outstanding contributions in their field. His artistic achievements, awards, exhibitions, publications, and cultural impact are considered of national interest. The continued presence of these talents in the United States enriches the country's culture and arts.

20. Academics and Researchers at EB-2 NIW:

Academics, researchers, and faculty who possess exceptional skills and contribute significantly to their fields of study may also qualify for the EB-2 NIW. His innovative research, academic publications, conference participation, and contributions to advancing knowledge are highly valued. The permanence of these academics in the USA is seen as of national interest, as it drives the educational and scientific progress of the country.

By gathering and presenting solid evidence supporting these criteria, it is possible to strengthen the EB-2 NIW visa application. Be prepared to document your achievements and contributions in detail and accurately.

Chapter 3: Preparing Your Petition

This chapter covers the steps required to prepare a successful petition for the EB-2 NIW visa, detailing the process and providing guidance to ensure that the documentation and presentation meet USCIS requirements.

Chapter 4: Practical Aspects

In this chapter, we will go into the practical aspects of the EB-2 NIW immigration process. Now that you're familiar with the eligibility criteria, petition drafting, and legal review, it's time to go into more detail about the forms involved in the process, explain the Visa Bulletin, and discuss the advantages and disadvantages of the consular process x status adjustment.

Chapter 5: Questions & Answers

In this chapter, we will present some of the main questions about the immigration process with the EB-2 National Interest Waiver (NIW) visa with your answers.

Chapters 3, 4 and 5 are available in the full version of this guide, which can be purchased on multiple platforms.

Get your complete guide to EB2-NIW now:

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Chapter 6: Final Message

The end of this guide highlights the ongoing commitment to the applicant's journey towards the EB2-NIW (National Interest Waiver) visa. This process is challenging, but with dedication, a deep understanding of requirements, and the proper guidance, it becomes an achievable journey. The search for EB2-NIW is a path to permanent residence in the United States and an opportunity to contribute significantly to the country.

In concluding this guide, we stress the importance of seeking expert legal advice to ensure that every step follows specific regulations and requirements. Each case is unique, and the assistance of experienced professionals can be a crucial differentiator for the success of the process.

I encourage readers to explore more resources, deepen their understanding of EB2-NIW, and seek clarification from qualified professionals if questions arise. This is a crucial chapter in their lives, and I am confident that you will achieve their goals with perseverance and knowledge.

Do not trust "professionals" who give you guarantees of approval! This should be the first warning sign that something may be wrong. This guide was created precisely for this purpose, that is, to provide you with a lot of information so that you can study the process, analyze the requirements for approval, compare them with your reality and possibilities, and make the best decision.

Being eligible by itself does not guarantee you anything! It takes much more than that to present a proposal recognized as "National Interest" for the US.

Remember that the EB2-NIW is very subjective and discretionary. That is, the immigration officer is at liberty to judge your case. Although he needs to justify a negative, the fact is that

he can justify himself only by claiming that he does not believe his proposal is of interest to the country. Because it is very abstract, it gives immense "power" to the officer. Therefore, you must understand the process's requirements, do market research, and present a solid, detailed proposal.

Another important point! If you are applying from within the US, never abandon your status. As much as they tell you to do this, believe me, you may regret it bitterly if you find barriers to approving your petition. In rare exceptions, a lost status is reversed. Don't be overconfident, and always take care of your status! Remember: applying a status adjustment does NOT guarantee you legal status but only authorized permanence while it is pending. This way, if you need to reapply for a new process and abandon your status previously, you will be ineligible for a new status adjustment. Always look for a reliable immigration lawyer for more information or questions about your immigration status.

Thank you for choosing this guide as part of your journey, and I wish all applicants success in their efforts to achieve the EB-2 NIW visa and, consequently, a new phase in their lives in the United States.

Good luck!

Ramon Rocha