

Green Card 101: Why you should be interested in the National Interest Waiver

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Synopsis

The National Interest Waiver (NIW) is a category of green cards that allows individuals to obtain US permanent residence without a job offer or employer. The NIW focuses on how the individual can contribute to the national interest of the United States. Qualifications for the NIW include an advanced degree, exceptional ability, or relevant experience.



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One of the processes through which an individual can obtain [US permanent residence](#) ("green card") is the [National Interest Waiver](#) (NIW).

What is a National Interest Waiver?

A national interest waiver is a category of green cards given to those people who are already contributing or have a plan or a project to contribute to the US national interest. An overview of the NIW requirements is as follows:

- The foreign national must have an advanced degree or exceptional ability in the sciences, arts, or business.
- They must demonstrate that their work is or will be in the future in the national interest of the United States. This means their work has substantial potential to benefit the US economy, education, culture, healthcare, environment, etc.
- The foreign national must plan to work in the field of national importance in the US.

Some examples of successful NIW cases from our own files are:

- A PhD-holding scientist with a contract to work with an Ivy League university to research immunity-related disorders.
- An industrial engineer holding a Master's degree with a unique product idea that had drawn considerable attention and interest from US companies.
- A college professor who had taught and was continuing to teach Design Thinking to hundreds of engineers.
- A biotechnology engineer working on devices that were of tremendous help in detecting body hydration levels.
- A dance teacher

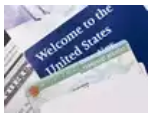
In each of the above cases, the successful applicants contributed or would contribute to matters of US national interest and had evidence of the USA's interest in their work.

Note that the NIW can encompass almost any area, including, but not limited to, business, entrepreneurship, science, technology, culture, dance, music, athletics, sports, coaching, health, education, international relations, research, journalism, etc.

Going forward, in addition to the above considerations, working in areas the Whitehouse has identified as Critical and Emerging Technologies should be helpful in proving the National Interest. As of today, that list includes:

- Advanced Computing

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- Advanced Engineering Materials
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- Semiconductors and Microelectronics
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The above lists are by no means exhaustive. The requirements allow any applicant to “...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.”

Let us examine the pros and cons of an NIW petition.

Pros:

- You do not need a job offer in the US.
- You do not need an employer.
- Your qualifications beyond a threshold are not the focus of the NIW petition. The focus is only on how you would help the USA.

The threshold for the qualifications is reachable for most people: a postgraduate degree, a Bachelor’s degree with five years of experience, or “exceptional ability.”

- Because an employer is not required, you can move between jobs freely as long as you would before or upon receiving your [green card](#), focus on the intended project or effort.

Your priority date is established and can be moved to a faster category of green cards any time you qualify (Employment-Based Category-1, EB-1).

- You can file the qualifying petition (Form I-140) under Premium Processing by paying extra fees to the USCIS, which reduces their cycle to just a few weeks.
- Your approved NIW remains valid forever. There is no expiration.
- There is no limit to how many times you may file an NIW case or a petition under another category of green cards simultaneously or successively.

Special Pros for people already present or working in the US:

- You establish a priority date that can be moved to any case with any employer in any employment category. Note that the priority date can also be moved to an EB-1 category.
- You create the certainty of ongoing H-1B extensions beyond six years with any employer.
- If you are on H-1B, your spouse can receive employment authorization (H-4 EAD), and continue its extensions.

Cons:

- The petition approval is based upon the discretionary analysis by the USCIS; hence, approval can never be guaranteed.
- It might become difficult to obtain certain short-term visas (nonimmigrant visas) like a visitor's visa if you file and fail because you would have exhibited an intent to move to the US permanently rather than for a temporary visit. Note that many visas like H-1 and L-1 are immune from this problem.
- An NIW falls under the EB-2 category, which, for applicants from many countries, including India, can take several years to complete. However, if your spouse or you were born in a country other than India, the completion period could be closer to a year. Note that for this purpose, the country of citizenship is irrelevant; only the country of birth is considered.

In conclusion, the National Interest Waiver is an excellent option for individuals who have advanced degrees or exceptional abilities and are interested in contributing to the national interest of the United States. While there are some cons to consider, the pros outweigh them, making the NIW an attractive choice for those looking to obtain a green card.

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