



YOUR GUIDE TO

# NATIONAL INTEREST WAIVER PETITIONS

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100 Years of Excellence™

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## INTRODUCTION TO NATIONAL INTEREST WAIVERS

*The National Interest Waiver is a means by which foreign nationals with exceptional ability can expedite the process of obtaining permanent residence in the United States.*

**ISSUE:** Foreign nationals seeking employment-based permanent residence in the United States are typically required to undergo the process of labor certification, which includes advertising for a position to prove there are no qualified U.S. citizens or permanent residents. In this era of Buy American, Hire American it has become increasingly difficult to obtain approval through labor certification.

**NATIONAL INTEREST WAIVER SOLUTION:** There is, however, a way for qualified foreign nationals – regardless of whether they have received a U.S. job offer – to bypass the onerous process of labor certification.

Specifically, if a foreign national is properly qualified and can show that his or her work will be in **the national interest of the United States**, he or she is no longer required to undergo the labor certification process nor obtain U.S. employer sponsorship prior to filing.

This exception to the labor certification requirement is what is known as a **National Interest Waiver**.

The purpose of this eBook is to provide easy to understand information about who may be eligible for a National Interest Waiver as well as to detail what is required to file a successful petition to utilize this extremely useful tool in securing U.S permanent residence.

### ABOUT THE AUTHOR

**Thomas J. Arkell** is a senior partner at Dunn Law Firm, LLP, which was founded in 1915. With over 20 years of immigration law experience, Mr. Arkell himself was an international student in the U.S. before becoming a permanent resident and a U.S. citizen. Mr. Arkell personally has helped thousands of college and university faculty, researchers, qualified PhD students, postdocs, doctors and scientists obtain their green cards and successfully petition for a National Interest Waiver.

## WHO IS ELIGIBLE AND WHAT ARE THE REQUIREMENTS OF A NATIONAL INTEREST WAIVER?

*By way of brief background, there are various classifications for employment-based visas. The National Interest Waiver petition qualifies under the Employment Second Preference category, designated as “EB-2”.*

### **EB-2 ELIGIBILITY**

*To be eligible under the EB-2 category, one must:*

- 1. Hold an advanced degree or its equivalent in the profession in which he or she works; OR*
- 2. Have exceptional ability in the sciences, arts or business that will prospectively substantially benefit the U.S. economy.*

Accordingly, if a foreign national does not meet at least one of the above requirements, he or she does not fall under the EB-2 category, and thereby a National Interest Waiver would be inapplicable.

Once it is established that a foreign national does fall under the EB-2 category, he or she ordinarily must have a permanent job offer in the U.S. to be approved under the EB-2 category. Furthermore, to obtain the EB-2 visa, he or she would have to endure the long and arduous labor certification process, which can last anywhere from several months to several years depending upon the circumstances of the case.

There is, however, a way to bypass the U.S. job offer requirement and to avoid enduring labor certification for an EB-2 approval.

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## NATIONAL INTEREST WAIVER REQUIREMENTS

This is where the National Interest Waiver comes into play.

***A qualified foreign national can avoid the labor certification process that is normally required for employment-based visas if he or she can show that it would be in the national interest of the U.S. to do so. This is the essence of the National Interest Waiver petition.***

To that end, there are three factors considered by U.S. Citizenship and Immigration Services (“USCIS”) to determine whether a petitioner’s work is in the national interest of the country:

- 1. The applicant’s proposed endeavor has both substantial merit and national importance;*
- 2. The applicant is well-positioned to advance the proposed endeavor; and*
- 3. It would be beneficial to the United States to waive the job offer and labor certification.*

If the petitioner can successfully meet these criteria, he or she can avoid the lengthy and burdensome labor certification process.

***Clearly, successfully petitioning for a National Interest Waiver is critical to expediting the route to permanent residence.***

## WHAT IS INVOLVED IN FILING A NATIONAL INTEREST WAIVER PETITION AND WHAT EVIDENCE BEST SUPPORTS ONE'S CASE?

*There are several tasks that are necessary to prepare a National Interest Waiver (“NIW”) Petition, including the following:*

- *Drafting the NIW Petition Letter*
- *Obtaining NIW Recommendation Letters*
- *Preparing the appropriate documentation/forms that accompany the NIW Petition*
- *Filing the documentation/forms*

The NIW Petition Letter and recommendation letters require detailed evidence to prove that allowing the petitioner to work in the U.S. without going through the labor certification process is in the country's national interest.

Key factors that can determine the strength of the evidence include whether **(1)** the petitioner is considered an expert or has a substantial degree of influence in his or her field, **(2)** his or her research/work has been frequently relied upon by others in the same field, and **(3)** the research/work is unique, innovative or potentially groundbreaking.

Accordingly, evidence for NIW Petitions commonly includes, but is not limited to, the following:

- *Letters of recommendation*
- *Citations of petitioner's work*
- *Publications authored by petitioner*
- *National or international awards for petitioner's work*
- *Evidence of work as a journal reviewer in petitioner's field*
- *Evidence of membership in a current professional organization in petitioner's field*
- *Patents and licenses of petitioner's work*
- *Presentations made by petitioner in his or her field*
- *Media recognition of petitioner's work*

*All of this evidence can be effectively used in the NIW Petition to support the argument that the petitioner's work is in the national interest of the U.S.*

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## LETTERS OF RECOMMENDATION

The most critical part of an NIW petition is often the recommendations, and it is suggested that an applicant obtain five or six letters. The strongest letters of recommendation come from individuals within the United States who have never worked or collaborated with the petitioner and only know the petitioner by his or her reputation in that field of work.

Furthermore, it is more persuasive when the letters provide an example of the practical applications of the petitioner's work, so that even a reader who lacks a technical background can understand the significance and merit of the work.

*In particular, for the petitioner to successfully be granted an NIW, the letters must show that:*

- 1. the petitioner plans on working in the United States in an area of substantial intrinsic merit;*
- 2. the proposed impact of the petitioner's work is national in scope - that is, while the employment may be limited to a particular geographic area, there will be a benefit to more than a particular region of the country; and*
- 3. that the petitioner has a degree of influence on his or her field (a record of specific prior achievements) that distinguishes him or her from colleagues, and it is therefore beneficial to the United States to waive the labor certification requirement.*

***In sum, the gathering of appropriate compelling evidence - including, and especially, the recommendation letters - is a critical component of success in filing NIW petitions.***

## HOW LONG DOES THE NATIONAL INTEREST WAIVER PROCESS TAKE?

*It typically takes one month to prepare and submit the NIW petition. While it can be filed in one month, it can take more time than that for individuals to return signed recommendation letters.*

After the petition is filed, it usually takes between four to six months for USCIS to adjudicate the NIW, although processing times can vary depending upon factors such as backlogs at the USCIS Service Center where the petition is processed.



## FOR WHAT FIELDS OF WORK AND RESEARCH HAVE NATIONAL INTEREST WAIVERS BEEN SUCCESSFULLY OBTAINED?

Thomas Arkell and Dunn Law Firm have successfully obtained NIW approvals for international students, scholars, physicians, researchers and professionals in a wide variety of scientific and industrial disciplines, including physics, chemistry, biology, biotechnology, nanotechnology, social sciences, medicine, engineering, environmental science, materials science, sociology, aerospace, and genetics.

More specifically, with a success rate of over 99%, Mr. Arkell and Dunn Law Firm have secured NIW petitions for hundreds of satisfied clients around the globe, including these individuals in the following fields:

- *A resident physician working in the field of transplantation, including the transplant of pancreatic islets for the cure of diabetes*
- *A staff scientist working in immunology, specifically in the areas of genetics, molecular biology, and autoimmunity*
- *A mechanical engineer who made contributions in the areas of biomaterials and computational biology, including the biophysics of blood clotting, bleeding and thrombosis*
- *A postdoctoral research associate working in microbial ecology, rumen microbiology, and munitions biodegradation*
- *A biochemist involved in researching metabolic fingerprinting and profiling to better understand plant growth and development*
- *An aerospace engineer researching trajectory optimization and missile defense*
- *A resource efficiency manager specializing in energy engineering*
- *A sociologist specializing in HIV/AIDS prevention, the empowerment of women, and international healthcare*
- *A research associate working in the fields of transportation analysis and traffic management*

WHY SHOULD A POTENTIAL CANDIDATE CHOOSE  
THE IMMIGRATION SPECIALISTS AT DUNN  
LAW FIRM FOR GUIDANCE THROUGHOUT THE  
NATIONAL INTEREST WAIVER PROCESS?

*First, we offer a flat attorney's fee of \$3900 to handle your NIW petition, while most of our competitors' fees start at \$5000.*

We understand that you have other financial demands so we allow flexible no interest payment plans and attorney's fees payments by credit card with no processing fees.

- **SECOND**, Dunn Law Firm features a NIW petition success rate of **OVER 99%** on cases with a full refund over the last twenty (20) years.

- **THIRD**, because of our confidence in our exceptional record of success and quality of representation, we offer a **MONEY BACK GUARANTEE**. In the highly unlikely event that your NIW petition is denied, **ALL** attorney's fees would be completely refunded.

The advantages, however, of partnering with Dunn Law Firm do not end there. While we provide a striking rate of success along with our favorable fee, we do not overlook the importance of providing **personal attention** during this critically important time in our clients' lives. Thomas Arkell, Dunn Law Firm's Senior Immigration Partner, is easily accessible and works closely with each client to not only maximize the likelihood of success, but also to provide peace of mind. After being retained for the NIW petition, upon request Mr. Arkell will provide his personal cell phone number to his clients. **You are not just a number to us, we truly care about your case and your future**, and we will work with you to tend to your individual needs.

[\(Here is an excerpt from the Chicago Business Journal as an example of Mr. Arkell's personal care for his immigration clients.\)](#)

In the same light, we are sensitive to the fact that many of our clients may not have a high salary prior to applying for the green card. Accordingly, we offer payment plans for our

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discounted \$3900 fee – either in four or nine installments – so that our clients do not need to break the bank by paying a sizable sum up front.

Throughout the process, we will prepare and file the NIW petition and supporting documentation. This includes working with you to obtain the critical recommendation letters, drafting the NIW petition letter, and representing you until your NIW petition is approved. We also continue to represent you on any subsequent matters, such as the filing of an Adjustment of Status application, which has become far more important now that USCIS interviews all adjustment of status applicants and closely scrutinizes all arrests, citations, previous lapses in immigration status, groups, organizations, medical issues and the receipt of any type of public benefit.

Over the past 20 years, the Dunn Law Firm and Thomas Arkell have helped thousands of international students, scholars, physicians, researchers and professionals to become permanent residents of the United States. We can help you by successfully obtaining a National Interest Waiver to expedite your path to permanent residence in the United States.

A green card will allow you to travel more freely, provide access to grants and security clearance and pursue the job you truly want in your field. We can deal with the immigration bureaucracy while you concentrate on your career. Let us help you pursue your dreams.

***If you are interested in initiating the NIW process or would like to contact Dunn Law Firm to discuss your credentials and a FREE CONSULTATION with Mr. Arkell, [CLICK HERE](#).***

*Thomas J. Arkell*

*[www.nationalinterestwaivers.com](http://www.nationalinterestwaivers.com)*

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