

ELLIS PORTER

EB-2 NATIONAL INTEREST WAIVER

The NIW Prong Worksheet

A self-assessment for the three questions every National Interest Waiver case turns on, from *Matter of Dhanasar*.



Prepared by the Ellis Porter content team. This worksheet has not been reviewed by an attorney for your specific situation. It is general information and a self-assessment aid, not legal advice and not a prediction of any outcome.

Three questions, weighed together

Since *Matter of Dhanasar* (2016), USCIS decides National Interest Waiver petitions by asking three questions, called prongs. You must satisfy all three; strength on one cannot replace an answer on another. USCIS weighs the evidence as a whole, so the honest way to use this worksheet is as a signal: if your checkmarks cluster in one prong and thin out in another, that gap is what a consultation should focus on.

1 Substantial merit and national importance

Two words do different work here. **Substantial merit** asks whether your endeavor has real value, and Dhanasar makes clear this can be in business, entrepreneurship, science, technology, culture, health, or education. You do not have to show immediate economic benefit. **National importance** is the part applicants most often misread: it is not about geography. USCIS looks at the broader implications of the work. A project carried out in one city can have national importance if its potential impact on a field, an industry, public health, or the economy reaches beyond that place.

ASK YOURSELF

- ☐ Can I describe my endeavor in two sentences a non-specialist would understand?
- ☐ Can I explain why the field or problem matters beyond my employer or city?
- ☐ Has government, industry, or independent press paid attention to the problem I work on?
- ☐ Could someone outside my field see the potential impact without taking my word for it?

Evidence that speaks to prong 1: a clear description of the endeavor, why the field matters nationally, and independent support such as government or industry attention to the problem you are addressing.

2 Well positioned to advance the endeavor

The second prong shifts from the work to you. Dhanasar lists the factors USCIS weighs: your education, skills, knowledge, and record of success in related efforts; a model or plan for future activities; progress toward the endeavor; and the interest of potential customers, users, investors, or other relevant parties. Importantly, you do not need to show your success is guaranteed; the question is whether you are well positioned given your track record and plan.

ASK YOURSELF

- ☐ Does my record (degrees, publications, roles, shipped work) connect directly to this endeavor?
- ☐ Do I have a concrete plan for the next several years, not just a direction?
- ☐ Can I show progress already made: results, traction, funding, adoption, citations?
- ☐ Would credible people in a position to judge my work say so in writing?

Evidence that speaks to prong 2: your qualifications and achievements, letters from people in a position to judge your work, evidence of adoption or traction, funding or investment, and a concrete plan.

3 Beneficial to waive the job offer

The third prong asks whether, on balance, it benefits the United States to waive the job offer and labor certification EB-2 normally requires. Dhanasar points to considerations like whether it would be impractical for you to secure a job offer or labor certification, and whether the benefit of your contributions outweighs the interests the labor certification process protects. This is where the self-petition rationale lives: for an entrepreneur, a researcher moving between institutions, or a specialist whose work is not tied to one employer, requiring a labor certification can be a poor fit.

ASK YOURSELF

- ☐ Would a single-employer job offer be a poor fit for how my work actually happens?
- ☐ Does my endeavor serve interests beyond any one employer that would sponsor me?
- ☐ Can I articulate why the US benefits from my work even without a specific sponsor?

YOUR NOTES

The gaps you found

For each prong where your checkmarks thinned out, write what is missing: the evidence you do not yet have, or the framing you cannot yet articulate.

Reading your answers honestly

All three prongs have to hold together, and USCIS weighs the whole record, so a full page of checkmarks is not an approval and a few gaps are not a denial. Many strong cases look uneven at first pass; the framing, not just the facts, decides how prongs read. What this worksheet gives you is the right starting question for a professional assessment: not “do I qualify?” but “here is where my case is strong and here is where it is thin; what would it take?”

See how the NIW criteria apply to your case

Answer a few questions about your background and get a clear read on where you stand:

lp.ellisporter.com/niw-eligibility

Prepared by the Ellis Porter content team. This document is general information, not legal advice, and reading it does not create an attorney-client relationship. The three-prong framework is from Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016).