Employment-Based Immigration: Second Preference EB-2

You may be eligible for an employment-based, second preference visa if you are a member of the professions holding an advanced degree or its equivalent, or a person who has exceptional ability. Below are the occupational categories and requirements:

Eligibility Criteria		
Sub-Categories	**Description**	**Evidence**
Advanced Degree	The job you apply for must require an advanced degree and you must possess such a degree or its foreign equivalent (a baccalaureate or foreign equivalent degree plus 5 years of post-baccalaureate, progressive work experience in the field). You must meet any other requirements specified on the labor certification as applicable as of the priority date.	Documentation, such as an official academic record showing that you have a U.S. advanced degree or a foreign equivalent degree, or an official academic record showing that you have a U.S. baccalaureate degree or a foreign equivalent degree and letters from current or former employers showing that you have at least 5 years of progressive post-baccalaureate work experience in the specialty. If a doctoral degree is customarily required, you must have a United States doctorate or foreign equivalent degree
Exceptional Ability	You must be able to show exceptional ability in the sciences, arts, or business. Exceptional ability “means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.” You must meet any requirements specified on the labor certification as applicable.	You must meet at least three of the criteria below.*

* Criteria

- Official academic record showing that you have a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to your area of exceptional ability
- Letters from current or former employers documenting at least 10 years of full-time experience in your occupation
- A license to practice your profession or certification for your profession or occupation
- Evidence that you have commanded a salary or other remuneration for services that demonstrates your exceptional ability
- Membership in a professional association(s)
- Recognition for your achievements and significant contributions to your industry or field by your peers, government entities, professional or business organizations
- Other comparable evidence of eligibility is also acceptable.

Type or Waiver of Labor Certification	Description
General Permanent Labor Certification	Your employer must obtain a certified Application for Permanent Employment Certification (ETA Form 9089 (PDF)) from DOL before filing the Form I-140, Petition for Alien Worker with USCIS. For more information on permanent labor certification, read our policy in Volume 6, Part E, Chapter 6, of the USCIS Policy Manual.
Schedule A Blanket Labor Certification	For those with exceptional ability as defined by the Department of Labor (widespread acclaim and international recognition) or certain professional nurses and physical therapists, the employer submits the petition to USCIS with an uncertified ETA Form 9089 for consideration as Schedule A. For more information on Schedule A, read our policy in Volume 6, Part E, Chapter 7, of the USCIS Policy Manual.

National Interest Waiver.	Those seeking a national interest waiver are requesting that the job offer, and thus the labor certification, be waived because it is in the interest of the United States. The endeavors that qualify for a national interest waiver are not defined by statute; instead, USCIS considers the 3 factors below.** Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them).

Labor Certification and Ability to Pay. Employment-based, second-preference petitions must usually be accompanied by a certified Application for Permanent Employment Certification from the Department of Labor (DOL) on ETA Form 9089, however, DOL provides for a blanket (Schedule A) certification in certain situations. As part of the application process, your employer must be able to demonstrate an ability to pay the offered wage as of the priority date and continuing until you obtain lawful permanent residence status. Your employer may use an annual report, federal income tax return, or audited financial statement to demonstrate a continuing ability to pay your wage. Finally, you may request a waiver of this requirement in the national interest through the petition filed with USCIS. Because the national interest waiver waives the job offer, you do not need to demonstrate an employer's ability to pay a wage.

** Factors USCIS Considers for National Interest Waiver

- The proposed endeavor has both substantial merit and national importance.
- You are well positioned to advance the proposed endeavor.
- On balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus the labor certification.

For more guidance on these factors in general and how USCIS considers them for those pursuing endeavors in STEM and entrepreneurs, read our policy in section D of USCIS Policy Manual, Volume 6, Part F, Chapter 5, Advanced Degree or Exceptional Ability.

For more information on filing fees, see the Filing Fees page.

Family of EB-2 Visa Holders

If your I-140 petition is approved, your spouse and unmarried children under the age of 21 may be eligible to apply for admission to the United States in E-21 and E-22 immigrant status, respectively.

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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[1] must be a member of the professions[2] 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;[3] 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.[4]

2. Foreign Equivalent Degrees

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of baccalaureate.[5] 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.[6]

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.[7]

A beneficiary who does not possess at least a U.S. bachelor's degree or a foreign equivalent degree is ineligible for this classification.[8]

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.[9]

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)[10] 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[11] 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.[12]

The term exceptional ability is defined as a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.[13] This standard is lower than the standard for extraordinary ability classification.[14]

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 merits 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.[16]

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.[17] This provides petitioners the opportunity to submit comparable evidence to establish the beneficiary's eligibility if the regulatory standards[18] 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.[19]

Objectively meeting the regulatory criteria alone does not establish that the beneficiary in fact meets the requirements for exceptional ability classification.[20] 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 merits 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.[21] 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 merits 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.[22]

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.[23]

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"[24] is distinct from classification as an person of "exceptional ability in the sciences, arts, professions, or business."[25] Under the U.S. Department of Labor (DOL)'s regulations, an employer seeking permanent labor certification on behalf of an 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.[26]

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.[27] These athletes may qualify for exceptional ability classification.[28] 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.[29]

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.[30]

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.[31]

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.[32]

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.[33] 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[34] may obtain a waiver of the job offer requirement if USCIS deems such waiver to be in the "national interest."[35] A subsequent technical amendment[36] extended the job offer waiver to certain professionals.[37] 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.[38] In support of the petition, however, the petitioner must submit the employee-specific portions of a permanent labor certification (without DOL approval).[39] 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;[40] 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.[41]

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.[42] 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:[43]

- 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.[44]

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.[45]

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.[46] 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."[47]

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.[48]

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."[49] 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.[50]

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[51] 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
- The interest or support garnered by the person from potential customers, users, investors, or other relevant entities or persons.

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.[52] 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;[53]
- 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);[54]
- 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);[55]
- 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;[58]
- The benefit to the United States from the prospective noncitizen's contributions, even if other U.S. workers were also available;[59] 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,[61] which cannot be appropriately captured by the labor certification;[62]
- Whether the person's endeavor has the potential to generate considerable revenue consistent, for example, with economic revitalization; and[63]
- 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.[64] 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[65] or other STEM areas important to U.S. competitiveness[66] or national security.[67]

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.[68] 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,[69] 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.[70]

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.[71] 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.[72]

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,[73] but a petitioner may submit any relevant evidence, including letters from interested government agencies as discussed below,[74] 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.[75] 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.[77]

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."[78] 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.

Footnotes

[^ 1] This section uses the term beneficiary to refer to the noncitizen; however, if the advanced degree professional also seeks a national interest waiver of the job offer, he or she can self-petition. See Section D, National Interest Waiver of Job Offer [6 USCIS-PM F.5(D)].

[^ 2] See 8 CFR 204.5(k)(2) (defining profession as one of the occupations listed in INA 101(a)(32), as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation).

[^ 3] See INA 203(b)(2)(A). See 8 CFR 204.5(k).

[^ 4] See 8 CFR 204.5(k)(4).

[^ 5] For additional information on medical degrees as advanced degrees, see Chapter 6, Physicians [6 USCIS-PM F.6]. For general information about evaluations of education credentials, see Part E, Employment-Based Immigration, Chapter 9, Evaluation of Education Credentials [6 USCIS-PM E.9].

[^ 6] See 8 CFR 204.5(k)(2).

[^ 7] The Joint Explanatory Statement of the Committee of Conference, made at the time Congress adopted the Immigration Act of 1990, stated that the equivalent of an advanced degree is a bachelor's degree plus at least 5 years progressive experience in the professions. See 60 FR 29771 (PDF). USCIS has incorporated this standard with respect to establishing equivalency to a master's degree. See 8 CFR 204.5(k)(3)(i)(B).

[^ 8] Whether the beneficiary has completed all substantive requirements for the degree as of the date on a provisional certificate is a case-specific analysis; but if the petitioner establishes that the beneficiary had completed those requirements, USCIS considers the date of the provisional certificate for purposes of calculating post-baccalaureate experience. See *Matter of O-A-, Inc.* (PDF, 95.16 KB), Adopted Decision 2017-03 (AAO Apr. 17, 2017).

[^ 9] See 8 CFR 204.5(k)(2).

[^ 10] See the Occupational Information Network (O*Net) website, which is sponsored by U.S. Department of Labor (DOL)'s Employment and Training Administration, and developed by the National Center for O*NET Development.

[^ 11] This section uses "beneficiary" to refer to the noncitizen; however, if the person of exceptional ability also seeks a national interest waiver of the job offer, he or she can self-petition. See Section D, National Interest Waiver of the Job Offer [6 USCIS-PM F.5(D)].

[^ 12] See INA 203(b)(2)(A). See 8 CFR 204.5(k).

[^ 13] See 8 CFR 204.5(k)(2).

[^ 14] See Chapter 2, Extraordinary Ability [6 USCIS-PM F.2].

[^ 15] See 8 CFR 204.5(k)(3)(ii).

[^ 16] See 8 CFR 204.5(k)(3)(ii).

[^ 17] See 8 CFR 204.5(k)(3)(iii).

[^ 18] See 8 CFR 204.5(k)(3)(ii).

[^ 19] See 8 CFR 204.5(k)(3)(ii).

[^ 20] See INA 203(b)(2).

[^ 21] See *Matter of Chawathe (PDF)*, 25 I&N Dec. 369, 376 (AAO 2010) ("[T]ruth is to be determined not by the quantity of evidence alone but by its quality. Therefore, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true."). See *Kazarian v. USCIS* (PDF), 596 F.3d 1115, 1122 (9th Cir. 2010). USCIS has interpreted *Kazarian* as applicable to exceptional ability petitions. See Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14, PM-602-0005.1, issued December 22, 2010.

[^ 22] See INA 203(b)(2)(C).

[^ 23] See INA 204(b).

[^ 24] See 20 CFR 656.15(d).

[^ 25] See INA 203(b)(2).

[^ 26] See 20 CFR 656.15(d). See Part E, Employment-Based Immigration, Chapter 7, Schedule A Designation Petitions [6 USCIS-PM E.7].

[^ 27] See INA 212(a)(5)(A)(iii).

[^ 28] See INA 203(b)(2)(A).

[^ 29] See *Matter of Masters (PDF)*, 13 I&N Dec. 125 (Dist. Dir. 1969).

[^ 30] See INA 212(a)(5)(A)(iii). See 20 CFR 656.40(f).

[^ 31] See INA 212(a)(5)(A)(iv).

[^ 32] See 73 FR 11954 (PDF). See DOL's Foreign Labor Certification webpage.

[^ 33] See 8 CFR 204.5(k)(3)(ii)-(iii). See Section B, Exceptional Ability Classification, Subsection 2, Evidence [6 USCIS-PM F.5(B)(2)].

[^ 34] See Section B, Exceptional Ability [6 USCIS-PM F.5(B)].

[^ 35] See INA 203(b)(2)(B)(i). See 8 CFR 204.5(k)(4)(ii).

[^ 36] See Section 302(b)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232 (PDF), 105 Stat. 1733, 1743 (December 12, 1991).

[^ 37] See Section A, Advanced Degree Professionals [6 USCIS-PM F.5(A)].

[^ 38] See 8 CFR 204.5(k)(4)(ii).

[^ 39] See 8 CFR 204.5(k)(4)(ii).

[^ 40] See 8 CFR 204.5(k)(1)-(3) (providing definitions and considerations for making advanced degree professional and person of exceptional ability determinations). As explained in *Matter of Dhanasar*, 26 I&N Dec. 884, 886 n.3 (AAO 2016), advanced degree professionals and persons of exceptional ability are generally subject to the labor certification requirement and are not exempt because of their advanced degree or exceptional ability. See *Matter of Dhanasar*, 26 I&N Dec. 884, 893 (AAO 2016).

[^ 41] Therefore, whether a given person seeks classification as a person of exceptional ability or as a member of the professions holding an advanced degree, that person cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in the person's field of expertise. See *Matter of Dhanasar*, 26 I&N Dec. 884, 886 n.3 (AAO 2016).

[^ 42] See INA 203(b)(2).

[^ 43] The three prongs derive from the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). The references to the facts in that case in this guidance, however, are illustrative and do not set the standard.

[^ 44] See *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). See *Poursina v. USCIS (PDF)*, 936 F.3d 868 (9th Cir. 2019).

[^ 45] See 8 CFR 103.3(a).

[^ 46] For instance, although the petitioner was an engineer by occupation, the decision discusses his specific proposed endeavors "to engage in research and development relating to air and space propulsion systems, as well as to teach aerospace engineering." See *Matter of Dhanasar*, 26 I&N Dec. 884, 891 (AAO 2016).

[^ 47] See *Matter of Dhanasar*, 26 I&N Dec. 884, 892 (AAO 2016) (finding that the petitioner's proposed research "aims to advance scientific knowledge and further national security interests and U.S. competitiveness in the civil space sector" and therefore has substantial merit).

[^ 48] See *Matter of Dhanasar*, 26 I&N Dec. 884, 887 (AAO 2016) (finding that "certain locally- or regionally-focused endeavors may be of national importance despite being difficult to quantify with respect to geographic scope").

[^ 49] See *Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016).

[^ 50] See *Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016) (explaining that "an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance"). See *Matter of Dhanasar*, 26 I&N Dec. 884, 892 (AAO 2016) (finding that the petitioner's evidence demonstrated the national importance of advancements in STEM fields, specifically hypersonic propulsion technologies and research).

[^ 51] See *Matter of Dhanasar*, 26 I&N Dec. 884, 890, 892-93 (AAO 2016).

[^ 52] See *Matter of Dhanasar*, 26 I&N Dec. 884, 890 (AAO 2016).

[^ 53] In the case of a petitioner who does not intend to be self-employed, USCIS considers a job offer or communications with prospective employers, while not required, relevant to demonstrate the circumstances or capacity in which the person intends to carry out the endeavor and the feasibility of that plan.

[^ 54] For a discussion of financing for entrepreneurs, see Subsection 4, Specific Evidentiary Considerations for Entrepreneurs [6 USCIS-PM F.5(D)(4)].

[^ 55] For a discussion of letters from interested government agencies, see Subsection 3, The Role of Interested Government Agencies [6 USCIS-PM F.5(D)(3)].

[^ 56] See 20 CFR 656.1. See Part E, Employment-Based Immigration, Chapter 6, Permanent Labor Certification, Section A, Employer Requirements, Subsection 2, Individual Permanent Labor Certifications [6 USCIS-PM E.6(A)(2)].

[^ 57] See discussion of the entrepreneurs in Subsection 4, Specific Considerations for Entrepreneurs, [6 USCIS-PM F.5(D)(4)].

[^ 58] See *Matter of Dhanasar*, 26 I&N Dec. 884, 890 (AAO 2016).

[^ 59] See *Matter of Dhanasar*, 26 I&N Dec. 884, 891, 893 (AAO 2016) (holding that "because of his record of successful research in an area that furthers U.S. interests, we find that this petitioner offers contributions of such value that, on balance, they would benefit the United

States even assuming that other qualified U.S. workers are available"). In that case, the Administrative Appeals Office (AAO) noted that the petitioner holds three graduate degrees in fields tied to the proposed endeavor, that his proposed research has significant implications for U.S. national security and competitiveness, and that his work had attracted interest from government agencies. Therefore, the AAO considered the petitioner's endeavor in the field of aerospace engineering, and his level and extent of expertise within that field, taken together, to have the potential to provide great benefit to the United States such that waiver of the job offer was in the national interest.

[^ 60] See *Matter of Dhanasar*, 26 I&N Dec. 884, 891 (AAO 2016).

[^ 61] An employer may only list the minimum job requirements on a labor certification application. See 20 CFR 656.17(i).

[^ 62] See *Matter of Dhanasar*, 26 I&N Dec. 884, 890 (AAO 2016).

[^ 63] See *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) (explaining that when evaluating the first prong, "the potential to create a significant economic impact may be favorable but is not required"). The potential economic impact is an appropriate inquiry when weighing the relative benefit of granting the national interest waiver.

[^ 64] "STEM" is not defined in the regulations describing the national interest waiver benefit, but officers may refer to the definition found in the context of STEM optional practical training for students for guidance. See 8 CFR 214.2(f)(10)(ii)(C)(2)(i) (defining STEM as "science, technology, engineering, or mathematics").

[^ 65] Critical and emerging technologies are those that are critical to U.S. national security, including military defense and the economy. While those technologies necessarily evolve and USCIS reviews the specifics of each proposed endeavor on a case-by-case basis, examples may include, but are not limited to, certain critical areas of artificial intelligence or quantum information science. When adjudicating this discretionary benefit, officers should review the entire record and, where officers have concerns, work closely with their supervisors and fraud, benefit integrity, and national security personnel in their offices.

[^ 66] One, but certainly not the only, indicator of STEM areas important to U.S. competitiveness is inclusion as a priority in the annual research and development priorities memo about the President's budget issued jointly by the White House Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget. For example, the Memorandum on Research and Development Priorities (PDF) (August 2021) for President Biden's FY2022 budget is indicative of STEM areas important to U.S. competitiveness.

[^ 67] U.S. national security objectives are outlined in the Interim National Security Strategic Guidance (PDF). These objectives include protect the security of the American people; expand economic prosperity and opportunity; and realize and defend democratic values. For purposes

of national interest waiver policy and adjudications, “national security” refers to these three objectives.

[^ 68] For example, the National Science and Technology Council’s Critical and Emerging Technologies List Update (PDF) (February 2022) identifies critical and emerging technologies “with the potential to further these [national security] objectives,” meaning security of Americans, economic prosperity, or democratic values. Departments and agencies may consult this list “when developing, for example, initiatives to research and develop technologies that support national security missions, compete for international talent, and protect sensitive technology from misappropriation and misuse.” The list is part of *A Report by the Fast Track Action Subcommittee on Critical and Emerging Technologies*.

[^ 69] In general, research-intensive industries are those with higher value added from research and development. For example, the Science and Technology Policy Institute provided a list of research and development intensive industries at Appendix C of a report on Economic Benefits and Losses from Foreign STEM Talent in the United States (October 2021).

[^ 70] See *Matter of Dhanasar*, 26 I&N Dec. 884, 893 (AAO 2016).

[^ 71] See *Matter of Dhanasar*, 26 I&N Dec. 884, 892-93 (AAO 2016). In that case, the AAO favorably considered documentation that the petitioner played a significant role in projects funded by grants from the National Aeronautics and Space Administration (NASA) and the Air Force Research Laboratories (AFRL) within the U.S. Department of Defense. Therefore, the significance of the petitioner’s research in his field was corroborated by evidence of peer and government interest in his research, as well as by consistent government funding of the petitioner’s research projects. The AAO concluded that the petitioner’s education, experience, and expertise in his field; the significance of his role in research projects; as well as the sustained interest of and funding from government entities such as NASA and AFRL, positioned him well to continue to advance his proposed endeavor of hypersonic technology research.

[^ 72] See *Matter of Dhanasar*, 26 I&N Dec. 884, 893 (AAO 2016). In that case, the AAO noted that the petitioner holds three graduate degrees in fields tied to the proposed endeavor, including a Ph.D. in a STEM field (Engineering) from a regionally accredited U.S. university.

[^ 73] See Subsection 1, Overview of the Three Prongs [6 USCIS-PM F.5(D)(1)].

[^ 74] For a discussion of letters from interested government agencies, see Subsection 3, The Role of Interested Government Agencies [6 USCIS-PM F.5(D)(3)].

[^ 75] See *Matter of Dhanasar*, 26 I&N Dec. 884, 893 (AAO 2016) (finding detailed expert letters describing U.S. government interest and investment in the petitioner’s research to be persuasive).

[^ 76] This section, because it discusses self-petitions by entrepreneurs, does not distinguish between “petitioner” and “person” as they are one and the same.

[^ 77] Petitioners may submit evidence related to the credentials of experts who support a petition for officers to consider when assigning weight to the letter.

[^ 78] See *Matter of Dhanasar*, 26 I&N Dec. 884, 890 (AAO 2016).

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