

## PERM (Application for Permanent Employment Certification)

Approximately 140,000 immigrant visas are available each fiscal year for foreign nationals (and their spouses and children) who seek to immigrate based on employment.

Some immigrant visa preferences require the foreign national to a job offer of permanent employment from a U.S. employer. This employer will be considered your sponsor. For some visa categories, before the U.S. employer can submit an immigration petition to USCIS, the employer must obtain an approved Permanent Labor Certification from the U.S. Department of Labor (DOL). The DOL Permanent Employment Certification verifies the following:

- There are insufficient available, qualified, and willing U.S. workers to fill the position being offered at the prevailing wage
- Hiring a foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers

## Visa Preferences Where an Application for Permanent Employment Certification is required:

**Second Preference EB-2**, reserved for persons who are members of the professions holding advanced degrees or for persons with exceptional ability in the arts, sciences, or business.

**Third Preference EB-3** reserved for professionals, skilled workers, and other workers.

## Application Process

1. **Prevailing wage.** Prior to filing ETA Form 9089, the employer must request a prevailing wage determination from the State Workforce Agency (SWA) having jurisdiction over the proposed area of intended employment. The employer is required to include on the ETA Form 9089 the SWA provided information: the prevailing wage, the prevailing wage tracking number (if applicable), the SOC/O\*NET (OES) code, the occupation title, the skill level, the wage source, the determination date, and the expiration date.
2. **Pre-Filing Recruitment Steps.** All employers filing the ETA Form 9089 (except for those applications involving college or university teachers selected pursuant to a competitive recruitment and selection process, Schedule A occupations, and shepherders) **must** attest, in addition to a number of other conditions of employment, to having conducted recruitment prior to filing the application.  
The employer must recruit under the standards for professional occupations set forth in 20 CFR 656.17(e)(1) if the occupation involved is on the list of occupations, published in Appendix A to the preamble of the final PERM regulation. For all other occupations not normally requiring a bachelor's or

higher degree, employers can simply recruit under the requirements for nonprofessional occupations at 20 CFR 656.17(e)(2). Although the occupation involved in a labor certification application may be a nonprofessional occupation, the regulations do not prohibit employers from conducting more recruitment than is specified for such occupations.

The employer must prepare a recruitment report in which it categorizes the lawful job-related reasons for rejection of U.S. applicants and provides the number of U.S. applicants rejected in each category.

3. **Online filing.** The employer has the option of filing an application electronically or by mail. Not only is electronic filing, by its nature, faster, but it will also ensure the employer has provided all required information, as an electronic application cannot be submitted if the required fields are not completed. Additionally, when completing the ETA Form 9089 online, the preparer is provided prompts to assist in ensuring accurate data entry.

The employer can access a customer-friendly website ([www.plc.doleta.gov](http://www.plc.doleta.gov)) and, after registering and establishing an account, electronically fill out and submit an Application for Permanent Employment Certification, ETA Form 9089.

**Registration.** To better assist employers with processing the Application for Permanent Employment Certification, the electronic Online Permanent System requires employers to set up individual accounts. An employer must set up a profile by selecting the appropriate profile option in the Online System. By completing an Employer Profile, you will be able to:

- Save time by pre-populating your general information.
- View the status of your labor certification applications online.
- Update your profile information online.
- Track newly submitted labor certification applications.
- Email saved labor certification applications to others within the company.
- Add new users to your account.
- Withdraw labor certification applications no longer needed.

4. **Filing by mail.** National Processing Centers have been established in Atlanta and Chicago. Employers submit paper applications to the processing center with responsibility for the state or territory where the job opportunity is located.
5. **Signature requirement.** Applications submitted by mail must contain the original signature of the employer, alien, and preparer, if applicable, when they are received by the National Processing Center (NPC). Applications filed electronically must, upon receipt of the labor certification issued by ETA, be signed immediately by the employer, alien, and preparer, if applicable, in order to be valid.
6. **Retention of records.** The employer is required to retain all supporting documentation for five years from the date of filing the ETA Form 9089. For

example, the SWA prevailing wage determination documentation is not submitted with the application, but it must be retained for a period of five years from the date of filing the application by the employer.

7. **Audits/requests for information:** Supporting documentation need not be filed with the ETA Form 9089, but the employer must provide the required supporting documentation if the employer's application is selected for audit or if the Certifying Officer otherwise requests it.
8. **Approvals.** If the appropriate National Processing Center approves the application, the ETA Form 9089 is "certified" (stamped) by the Certifying Officer and returned to the employer/employer representative who submitted the application.

### **Expiration PERM**

Once a PERM is approved, the employer should file the corresponding I-140 Immigrant Petition for Alien Worker prior to the expiration of the Permanent Employment Certification which is 6 months after the approval date. The Applicant may also file concurrently with the I-140 Immigrant Visa Petition, form I-485 for adjustment of status if a visa is already available according the Applicant's Visa Preference and country of Nationality.