PERM - Obtaining and Employment-based Immigrant Visa by Paul Anderson

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Every year United States of America give out 140,000 immigrant visa, based on job experience so called Employment-Based (EB) visas. It is classified into 5 sub-categories, based on the preference.

EB1: Priority Workers (Outstanding researchers, multinational

executives and managers and extraordinary ability)

EB2: Advanced degree or exceptional ability

EB3: Skilled workers and professionals

EB4: Special Immigrants

EB5: Employment creators(Investors)

Program Electronic Review Management (PERM) process in order to obtain Labor Certification of which the foreign nationals can obtain employment-based Green Card through their employer. Firstly the employer must obtain Labor certification from the Department of Labor (DOL) for the foreign employee. DOL should certify USCIS none of the US Citizens are not available, whose skill set matches the requirement of the job. Employer must get prevailing wage determination (PWD) from applicable State Workforce Agency (SWA) and the whole 100% of pay should be offered. SWA is no longer involved in PWD for PERM process; from Jan 4, 2010 it is taken care by National Prevailing Wage and Helpdesk Center (NPWC).

Petitioning employer for foreign employee must conduct recruitment activities before they file the application for PERM. If employer does not find any qualified applicant either US Citizen or Green Card holder, they can go ahead with the labor certification for the non-citizens in obtaining Green Card. On March 28, 2005 PERM came to effect, and all the labor certification must follow PERM process. Previous labor certification was RIR processing which longer exist.

Main difference between current and previous labor certification is that PERM process allow filing for labor certification application online to DOL (ETA Form 9089), as previously it was to State Workforce Agency (SWA). Another interesting thing about new PERM process, wherein we no need to submit any supporting document at the time of filing, but requirement activities should be ready. Recruitment activities include job posting notice in the worksite, news paper ads, job order with SWA for the period of 30 days. If the position for the professional occupation, one must follow any 3 of the recruitment activities like: Job fairs, on-campus recruitment, employee referral program, job portal website, and TV and radio ads, many other as per HR terms.

Once the application is filed online DOL will closer to 45-60 days to process the application. But in case DOL request for auditing the application, the employer should submit the entire supporting document within 30 days, if they failed to submit the employer must conduct â€œsupervised recruitmentâ€ for labor certification. Once the DOL pick this Labor certification needs to be audited the employer cannot withdraw the application, by telling this position is not valid or applicable. Labor certification is valid for just 180 days and expires if not submitted with USCIS for an Immigrant Petition once itâ€™s approved.

Some of the outstanding researchers, multinational managers, people with extra ordinary ability and

people who belong to National Interest Waiver do not require Labor Certification in order to obtain Green Card. Changing jobs wonâ€™t change the labor certification process while it is pending if the employer wishes to continue to obtain Green card, but in real world it never happens.

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