Overview, Requirements & Application Procedures

in the EB-2 Category \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Overview: A permanent foreign labor certification (PERM) from the U.S. Department of Labor (DOL) allows U.S. employers to hire and sponsor foreign workers to work permanently in the U.S. Foreign Labor Certification certifies that the employment of the foreign national will not displace nor adversely affect the wages and working conditions of U.S. workers who are similarly employed. The underlying goal of the DOL is to protect jobs for U.S. workers.

DOL will issue a Labor Certification only if:

1. Prevailing Wage is met or exceeded
2. The job was made available to U.S. workers though an appropriate recruitment effort
3. Employee is the best qualified candidate
4. PERM submitted within 18 months of contract signing

DOL standards for granting Labor Certification:

1. The employer has a bona fide, full-time, permanent position that offers wages and working conditions that are “prevailing” in the geographic area of employment
2. The employer engaged in a good-faith recruitment effort
3. There were no U.S. workers who were at least as qualified as the alien worker

EB-2 PERM Special Handling category is reserved for full-time teaching faculty. This process must be initiated within 12 months of employee signing his or her contract as there is an 18 month filing timeline for the Labor Certification.

**Application Procedures:**

* Budget must be approved by the Office of the Attorney General (OAG) before official process starts. Budgets are approved on a case-by-case basis
* Department **must** pay $2,000 for PERM. Department can pay up to $5,000 of the legal fees and employee pays any remaining legal fees, filing fees and Premium Processing fee
* Department completes LPR Packet and Financial Agreement and sends both documents to OIPS
* Department creates Purchase Order # and notifies OIPS
* Invoices for legal fees are submitted by the law firm to OIPS. Then OIPS sends fully approved invoices to the Department and Accounts Payable. Invoice is submitted after each step of the process after Immigration Attorneys complete their job.

Securing the prevailing wage determination. The outside attorney submits the request for a Prevailing Wage Determination (4-5 months).

Recruitment Campaign. Documenting the recruitment and selection and completing the Competitive Recruitment Report (12 weeks). **GMU must complete the recruitment campaign no earlier than 30 and no later than 180 days before filing the application for regular PERM**.

\*If an employee is sponsored under the EB-2 PERM “Special Handling” category all recruitment, search committee, interview and advertisement documents must be submitted.

**Special recruitment and documentation procedures for college and university teachers:**

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| **Requirement** | **Regular PERM** | **College and university teachers** |
| Prevailing wage determination | Required | Required |
| Internal Notice | Required | Required |
| Prohibition on unduly restrictive requirements | Unduly restricted requirements prohibited | Unduly restricted requirements probably prohibited |
| SWA (State Workforce Agency) Job Order | Required | Not required |
| Print advertisements | 2 Sunday newspaper ads or 1 Sunday paper ad +1 professional journal ad | 1 national professional journal ad; may be in electronic journal under certain circumstances |
| 3 additional recruitment steps | Required | Not required, but must document any other recruitment sources used |
| Recruitment report | Standard report required | Special report on competitive requirement required (i.e., records of resumes, dates of submission, the method of reaching out to the applicants) |

FEES

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| --- | --- | --- | --- |
| **Amount** | **Purpose/Form** | **Paid by** | **Timeline** |
| $2,000 Legal Fee (Original Search)  PERM Re-Advertising -$2,500  NO Filing Fee | ETA-9089, Application for Permanent Employment Certification | **Department must pay**  All costs associated with the PERM are borne by the hiring department and the law prohibits the passing on of any of these costs to the employee. | 4-10 months |
| $1,500 Legal Fee  $700 Filing Fee  $1,440 | I-140 Immigrant Petition for Alien Worker (filed with USCIS)  Premium processing is an optional service which allows petitioners to request 15-day processing of c employment-based immigration benefit. | Department  Employee  Employee | 4-6 months |
| $2,000-Legal Fee  $1225-Filing Fee (per adult)  Spouse and children can be added at this stage:  $1,410 for adult or child 14 and older  $750 for children under the age of 14 Plus biometrics $85 each person | I-485 Application to Register Permanent Residence or Adjust Status filed after I-140 is approved | Department  Employee | 6 -12 months |

**After a Green Card is granted employee must inform OIPS, HR and International Tax Office**