



PERM LABOR CERTIFICATION PROCESS FAQs (FOR EMPLOYEES)

The PERM Labor Certification Application is often the first step in the permanent resident or “green card” process. When filing a PERM application, your employer confirms that it has made a good faith effort to test the U.S. labor market and found no willing, able, and qualified U.S. workers available for the position to be certified in the location of the job opportunity. In addition, your employer attests that the employment of the foreign national will not adversely affect the wages and working conditions of similarly employed U.S. workers. Upon approval of the application, the Department of Labor (DOL) will certify the position to be held by the foreign national as one for which U.S. workers are not available.

What steps are involved?



Step 1: The foreign national employee and his or her manager each complete the appropriate questionnaires.

Step 2: Based upon the information provided in the questionnaires, our firm will draft a job description for the manager’s review to ensure that:

- It accurately reflects the job duties and actual minimum requirements of the position;
- Your employer has not hired workers with less training or experience for jobs substantially comparable to that involved in the job opportunity; and
- Your employer does not require U.S. applicants to possess training and/or experience beyond what the foreign national possessed when hired.



Step 3: Once the manager approves the draft job description, the employee confirms that he or she will be able to obtain skills verification letters from prior employers to demonstrate that he or she meets the minimum requirements for the position.

Step 4: Upon confirmation that the employee will be able to obtain the skills verification letters, we will request a prevailing wage determination (PWD) from the DOL. The DOL will return the PWD within approximately 24-27 weeks based on current processing times. Updated processing times can be found at <https://flag.dol.gov/processingtimes> under the “NPWC Processing Times” tab.

Step 5: Upon receipt of the PWD, your employer initiates recruitment, which includes:

- An internal physical posting notice with the full job description to be posted at the worksite for 10 business days;
- Two Sunday newspaper ads; and
- A 30-day job order placed with the State Workforce Agency (SWA); and three additional recruitment steps, which include ads in local newspaper, on a third-party job search website, and on a local radio station.

Your employer must review all resumes received and contact all potentially qualified candidates.



Step 6: Once recruitment has been completed, a 30-day “Quiet Period” begins, during which the employer must continue to accept and review resumes.

Step 7: During the 30-day “Quiet Period,” our firm prepares your employer’s compliance file and your employer prepares the recruitment report, which it finalizes once the “Quiet Period” has concluded.



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Step 8: At the end of the 30-day “Quiet Period,” your employer provides our firm with the completed recruitment report and GLC prepares the PERM application for filing.

Step 9: Once finalized, our firm submits the PERM application online. Cases are adjudicated in approximately 6-8 months. The DOL randomly audits approximately 30% of all PERM applications. If your case is selected for audit, it will increase the adjudication time.



Why are the job description and actual minimum requirements so important?

The job description must specify the actual minimum requirements for the offered position and should not be tailored to the foreign national employee. The job description will be used by your employer to evaluate whether U.S. workers who apply for the position satisfy the actual minimum requirements. Your employer may determine that an applicant is not qualified for the job offered only if he or she does not meet the minimum requirements.

In addition, your employer must not have hired any employee in a substantially comparable job with less training or experience. For example, the employer cannot state that the actual minimum requirements for the position of Computer Systems Analyst, Level III are a master’s degree and two years of experience if there are other employees in the same position at the same level who have a bachelor’s degree and one year of experience.

The foreign national must also verify that he or she met the minimum requirements as stated before joining the company. Generally, experience or education obtained while working for your employer cannot be used by the employee to satisfy the minimum requirements. If the PERM application is audited, your employer may need to demonstrate and/or justify the validity of the actual minimum requirements listed on the PERM application. This may include supplying proof that all other individuals in the same or comparable positions meet the minimum requirements as stated on the PERM application.



What is an audit?

An audit is issued by the DOL when more information is needed regarding the position’s actual minimum requirements, your employer’s recruitment efforts, or any other matter to adjudicate the application. In addition, the DOL may reopen a PERM case for a period of up to five years from the date the application was submitted, even after certification. Therefore, it is critical that your employer maintain the PERM compliance file for the required five-year retention period.



May a foreign national switch positions during the PERM-based green card process?

Generally, yes. However, in some cases where the job location changes, or there is a substantial change in job duties, it may be necessary to file a new PERM application. For this reason, please contact your designated HR representative or our office before accepting a new position.

For an overview of the entire green card process, please see our [PERM-Based Green Card Process Overview](#).