

# Figeroux & Associates

(718) 834-0190

26 COURT STREET\* SUITE 701, BROOKLYN, NEW YORK 11242

FAX (718) 222-3153

## Immigration - Labor Certification

### PERM Labor Certification

#### **Introduction:**

PERM is the process for obtaining labor certification, the first step in obtaining employment-based immigrant visa ("green card") for foreign nationals through their employment, also known as PERM labor certification. Before U.S. employer can file an immigration petition with U.S. Citizenship and Immigration Services (USCIS) for a foreign worker, the employer must first obtain an approved labor certification request from the Department of Labor (DOL) for the foreign worker. The DOL must certify to the USCIS that there are not sufficient U.S. workers able, willing, qualified and available to accept the job at the prevailing wage for that occupation in the area of intended employment and that employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

To improve the operations of the permanent labor certification program, a new re-engineered labor certification program, PERM program, is developed by the DOL to replace the previous labor certification program. PERM stands for "[Program Electronic Review Management process](#)", also known as PERM process, and it is an entirely new procedure for labor certification Application.

PERM takes effect on March 28, 2005. All labor certifications filed after March 28, 2005 must be filed using the PERM process. From March 28, 2005 on, traditional labor certification or RIR processing will NO longer be available for new filings. In brief, the PERM process requires the petitioning employer to conduct a series of recruitment activities to test job market before filing the application. If no qualified and willing applicant (US citizen or Permanent Resident) is found through the recruitment process, the employer can submit the PERM labor certification.

The main distinction between PERM and the previous labor certification process is that under [new PERM regulations](#) employers have the option of submitting the labor Certification application electronically directly to DOL not to a State

Workforce Agency (SWA). No supporting documents are submitted at the time of filing. However, the petitioning employer must conduct all required recruitment activities, and have all supporting documents ready prior filing. According to the DOL, an electronically filed PERM labor certification application is expected to be adjudicated in around 45-60 unless the case is audited. If the case is selected by DOL for auditing, the petitioning employer should submit all requested documents to DOL within 30 days. If the employer does not respond to the audit request, the case is deemed abandoned and the employer may be required to conduct "supervised recruitment" for any future labor certification.

After the labor certification is approved by DOL, an Immigrant Petition related to the labor certification should be filed to the USCIS before the expiration of the labor certification. The certification has a validity period of 180-days and expires if not submitted to USCIS within this period.

The Labor Certification requirement is waived for a National Interest Waiver petition under EB-2 and is not required in an EB-1 petition.

**Are you interested in a consultation on the legal issues listed below? Then please check your choice(s) below and we will schedule a meeting with an attorney.**

- Tax & Financial Planning For Individuals
- Save Your Home From Foreclosure
- Estate Planning & Wills
- How to get a green card

**COMMENTS:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SUMMER 2011