

Steps of the Labor Certification (PERM) Process



- Step 1**
- Establish the duties and absolute minimum requirements for the position
 - Define the required experience, education, training, etc. without tailoring to the Foreign National employee
- Step 2**
- Gather documentation to show that Foreign National employee meets the defined minimum requirements
 - Employee must have met requirements prior to working for sponsoring employer. Experience can be gained with sponsoring employer, but ONLY in a position that is "not substantially comparable"
 - Documentation from Foreign National Employee includes academic credentials, licenses, certifications, and experience verification letters from former employers (MANDATORY).
 - Documentation from Sponsoring Employer includes Business Necessity evidence and information, Not Substantially Comparable information and affidavits, and industry expert letters, as applicable to each PERM case.
 - **IF DOCUMENTATION CANNOT BE PROVIDED BY FOREIGN NATIONAL EMPLOYEE AND SPONSORING EMPLOYER, RESTART STEP 1 FOR REVISIONS.**
- Step 3**
- Acquire a Prevailing Wage Determination (PWD) from DOL. The minimum wage level is determined by referencing the position's description (Step 1) and can take approx. 6 - 8 weeks. **NOTE 11/1/2016: Current prevailing wages are taking DOL more than 75 days.**
 - **IF SPONSORING EMPLOYER DOES NOT AGREE WITH WAGE ISSUED IN PWD, RESTART STEP 1 FOR REVISIONS TO REFILE PWD REQUEST.**
- Step 4**
- Recruitment must be done using 6 - 7 job posting methods per strict DOL regulations
 - The ETA 9089 MUST be filed within 180 days of Day 1 of Recruitment
 - The average Labor Market Test takes 2 - 3 months to complete
 - **STEP 5 MUST BEGIN DURING STEP 4.**
- Step 5**
- Begin Step 5 during Step 4
 - DOL requires that an employer promptly respond to any resumes gathered from recruitment to ensure that DOL considers the recruitment process valid.
 - Applicants should be reviewed and responded to within 2 weeks of receiving their resume during recruitment/Step 4.
 - It is strongly recommended that an attorney be consulted for this step due to how individualized each case is.
 - **IF AN ABLE, WILLING, AVAILABLE, AND QUALIFIED U.S. WORKER IS FOUND DURING RECRUITMENT, THEN THE PERM CANNOT BE FILED AND MUST RESTART AT STEP 1.** [The only exception to this rule is if the employer advertised "Multiple Openings."]
- Step 6**
- After drafted ETA 9089, Recruitment Report, and supporting documentation has been reviewed by the attorneys, the Foreign National employee, and the Sponsoring Employer, the PERM Application can be filed 30 days after Recruitment has finished.