

FAQ for Extended RIR Conversion Date

Because the Reduction in Recruitment (RIR) application processing takes significantly less time than Traditional Recruitment (TR) to reach resolution on the application, the Department of Labor (DOL) previously encouraged employers to convert TR applications to RIR by following the process established by 66 FR 40584. As of this announcement, any TR application submitted to a SWA with a postmark dated on or before **March 28, 2005** may request conversion to RIR by following the established process.

Why might an employer want to convert a TR application to RIR?

Because RIR applications do not undergo the same recruitment process, these applications generally reach final resolution (certification or denial) in significantly less time than TR applications. Therefore, it is often to the employer's advantage to convert applications from TR to RIR.

Is there a date by which an employer's original application must have been filed in order to be eligible for conversion from TR to RIR?

Yes, applications must have been postmarked on or before **March 28, 2005**. This is an extension from the prior deadline and essentially includes all open TR cases in the backlog for which a job order has not been initiated.

Who may request RIR conversion?

The employer, or its designated attorney or agent, may file the request for RIR conversion.

Aliens are not eligible to request conversion, and the Backlog Elimination Centers (BECs) will not respond to such requests.

Are applications for Schedule B occupations eligible for RIR conversion?

No, under existing regulations, Schedule B applications are not eligible for the RIR process.

Is there a date before which an employer or their agent must send a request for RIR conversion to the BEC?

There is no specific date by which an employer or their agent may request RIR conversion. **However, by regulation, once the BEC has posted the job order to begin the recruitment process, the application is no longer eligible for RIR conversion.** Since applications are processed by filing date, recruitment for TR applications is begun on a rolling basis based on priority date as cases are processed. Therefore, it is to the advantage of an employer who would like to

request an RIR conversion to do so as soon as possible to minimize the possibility that the BEC begins recruitment on the application.

Will the BEC delay recruitment on a TR application so that the employer can request RIR conversion?

No. Due to the Office of Foreign Labor Certification's (OFLC) intensive effort to eliminate the backlog, it is not practical for the BEC to delay recruitment on applications to await RIR conversion requests. Therefore, BECs will not delay recruitment to allow for RIR conversion. Requests for RIR conversion must be received prior to the beginning of supervised recruitment to be considered. Employers should send their requests and appropriate documentation as soon as possible to maximize their opportunity for RIR conversion.

What is the supporting documentation required for a request for RIR conversion?

The supporting documentation required for conversion to RIR processing is the same as that required for an application initially filed under the RIR process, with the addition of a written request for conversion. Employers or their attorneys should ensure the request includes:

- 1) A written request for conversion;
- 2) Documentation demonstrating that a pattern of recruitment has been established within the six months preceding the date the conversion request is received by the BEC, and that any U.S. workers were rejected solely for lawful, job-related reasons. Documentation must provide a description of the recruitment process used and the results of the recruitment process;
- 3) Contact information regarding the application including an e-mail address where a reply to the RIR conversion request can be sent.

How should an employer or the employer's attorney send in an RIR Conversion request to the BEC?

Send the required information listed above **by mail** to the appropriate BEC based on where the case was filed. The information should be addressed:

For Philadelphia BEC:
ATTN: RIR Conversion Request & Documentation
U.S. Department of Labor
Employment and Training Administration
1 Belmont Avenue, Suite 200

Bala Cynwyd, PA 19004

For Dallas BEC:

ATTN: RIR Conversion Request & Documentation
U.S. Department of Labor
Employment and Training Administration
700 North Pearl St., Suite 400N
Dallas, Texas 75201

How will the BECs process requests for RIR conversion?

The BECs will process the requests for RIR conversion on a first-come, first-serve basis. Response times to requests will vary depending on the volume of responses. Employers will **not** receive a confirmation that the request was received.

BECs will review the documentation provided and determine whether the documentation provided is sufficient.

What happens if the RIR conversion request is granted?

If the request is granted, the employer or their designated attorney will be notified by e-mail and the application will be moved from the TR processing queue to the RIR processing queue. Applications will continue to be processed by filing date.

What happens if the RIR conversion request is not granted?

If BEC determines that the documentation provided is insufficient to warrant RIR conversion, the case will remain in the TR processing queue and be processed in priority order. An e-mail will be sent notifying the employer or their attorney that RIR conversion was denied.

What if an employer has already had their RIR status denied, or has attempted to convert to RIR previously, is such an application eligible for RIR conversion?

Yes. If the employer is able to remedy the shortcomings in the pattern of recruitment or documentation, requests for RIR conversion may be made even if RIR was denied previously up until the BEC begins supervised recruitment on the application, at which time the case is no longer eligible for conversion.

In order to establish a “pattern of recruitment,” which date is used as the reference point – the date the original application was received or the date the RIR conversion request is received?

The point of reference for the pattern of recruitment is based upon the date the RIR conversion request was received. In other words, the earliest acceptable published advertisement or other recruitment activity must have occurred within six months prior to the date the RIR conversion request was received by the BEC. Earlier advertisements or other recruiting activities will not be considered by the BEC in determining whether a pattern of recruitment has been established.

Can an employer requesting RIR conversion lose their “priority date” for the application?

No, an application converted to RIR processing retains the priority date of the original application. Likewise, if the request for RIR conversion is denied, the case continues processing in the TR queue under the original priority date.

Does the original application need to be withdrawn to request RIR conversion?

No, simply send the request and appropriate documentation to the BEC as described above.

Does the Prevailing Wage used to establish a pattern of recruitment need to be 100% of the current prevailing wage for the occupation?

Yes, as per current regulation governing recruitment for Foreign Labor Certification applications, recruitment should be done at 100% of the prevailing wage.

Can an employer request RIR conversion for a closed or withdrawn application?

No, only cases currently open and in process at the BEC are eligible.

However, if the employer is using the “No BEC Contact” procedure to reconstruct a case or the “Reopen” procedure to request reopen for a case you believe was closed in error as described in prior FAQs, you may submit your RIR conversion request and supporting documentation along with your reconstructed case. If requesting RIR conversion with another action, employer submissions should be clear that multiple actions are being requested, and documentation for each should be provided.