Permanent Labor Certification Program

Supervised Recruitment: Overview and Best Practice Tips

Office of Foreign Labor Certification
Employment and Training Administration
United States Department of Labor
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Supervised Recruitment
I. Supervised Recruitment Overview

II. Review of Supervised Recruitment Letters

III. Compliance Requirement Tips

IV. Source Documentation Methods

V. Extension Requests

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VIII. Resources for PERM Labor Certification Applications
Section I
Supervised Recruitment Overview
Citations

• **8 U.S.C. § 1182(a)(5)(A)** requires that the employment of a foreign worker will not adversely affect the “wages and working conditions” of similarly employed U.S. workers.

• **20 CFR § 656.21(a):** “Where the Certifying Officer determines it appropriate, post-filing supervised recruitment may be required of the employer for the pending application or future applications pursuant to § 656.20(b).”
Citations, Continued

- **20 CFR § 656.24(f):** “If the Certifying Officer determines the employer substantially failed to produce required documentation, or the documentation was inadequate, or determines a material misrepresentation was made with respect to the application, or if the Certifying Officer determines it is appropriate for other reasons, the employer may be required to conduct Supervised Recruitment pursuant to § 656.21 in future filings of labor certification applications for up to two years from the date of the Final Determination.”
What is Supervised Recruitment?

• Supervised Recruitment is an additional programmatic step within PERM to ensure that an adequate test of the labor market has been conducted and that the employer has engaged in appropriate recruitment for the job opportunity.

• Where the Certifying Officer determines it appropriate, post-filing Supervised Recruitment may be required of the employer for the pending application or future applications pursuant to 20 CFR § 656.20(b).
Supervised Recruitment Five Phases:

Phase I: Assessment

Phase II: Supervised Recruitment Notification Letter

Phase III: Advertisement Placement Letter

Phase IV: Resumes and Recruitment Report Received

Phase V: Final Determination
Section II
Review of Supervised Recruitment Letters
Supervised Recruitment Letters

- Notification of Supervised Recruitment (NSR)
  - Notifies the employer and/or attorney/agent that application has been selected
  - Outlines the Supervised Recruitment process
  - Includes instructions on drafting the advertisement
  - Includes the current prevailing wage
  - Amended NSR
  - Consolidated NSR
Supervised Recruitment Letters, Continued

- Draft Advertisement Instructions Letter
- Consolidated Draft Advertisement Instructions Letter
- Draft Advertisement Correction Letter (DAC)
- Recruitment Instructions Letter (RIL)
  - Amended RIL
  - Consolidated RIL
- Notification of Resumes Received (NORR)
Supervised Recruitment Letters, Continued

- Recruitment Report Instructions Letter (RRIL)
  - Amended RRIL
  - Consolidated RRIL
  - Notification of Resumes Received (NORR)
  - Additional Resumes Received
  - NORR-RRIL Extension Letter
Supervised Recruitment Letters, Continued

• General Request for Information

• Business Existence Letter

• Extension Letter
  ✓ Granted
  ✓ Denied

• Notice Regarding Attorney/Agent Representation
Supervised Recruitment Letters, Continued

- Notice of Withdrawal
- Contacting U.S. Workers
- Sponsorship Verification Letter
- Sponsorship Verification/Business Existence Letter

✓ Consolidated Verification/Business Existence Letter
Section III

Compliance Requirements Tips
Compliance Processing Tips

• Did you modify any of your specified requirements listed on the original ETA Form 9089 during “post-filing”? If yes, this may delay the processing of your application.

• Did you include your case number on any and all correspondence sent to the Atlanta National Processing Center (ANPC)? If not, this may delay the processing of your application. Please direct Supervised Recruitment inquiries via electronic mail at sr.processing@dol.gov.
Compliance Processing Tips, Continued

• Would you still like all Supervised Recruitment correspondence sent to the individuals listed on ETA Form 9089? Did you confirm that the current e-mail addresses for the listed employer and attorney or agent (if applicable) on the ETA Form 9089 are still correct?

• Did you include the case number in the subject reference line?

✓ If not, this may delay the processing of your labor certification application.
Compliance Processing Tips, Continued

• Did you submit your recruitment report?

✓ The recruitment report must be submitted within 30 days with all supporting documentation unless an extension request has been requested and approved.
Compliance Processing Tips, Continued

• Did you request a timely extension prior to the due date of your correspondence request?

✓ Per 20 CFR § 656.21(g) the “Certifying Officer in his or her discretion, for good cause shown, may provide one extension to any request for documentation or information.”
Compliance Processing Tips, Continued

• Did you supply the Certifying Officer with the required documentation or information within the specified date of the request?
  ✓ If not, the application may be denied per 20 CFR § 656.21(f).

• If you are requesting a withdrawal of your application, did you submit the request in writing to sr.processing@dol.gov?
Section IV
Source
Documentation Methods
Three Types of Source Documentation Methods

- The “New” Preferred Method: PERM Online System Upload Documents
- Email
- U.S. Postal Mail
Submission Instructions

Preferred Method – Upload into PERM Online System:

- Decreases labor certification application processing time;
- Reduces stakeholder carrier costs (e.g., USPS, UPS, FedEx, etc.); and
- Supports stakeholder initiatives (i.e., usage of technology that is efficient and “user-friendly.”).
Submission Instructions, Continued

• Employer must be logged into PERM Online System
• Select ‘MY APPLICATIONS’ tab
  • Select “UPLOAD DOCUMENTS” sub-tab
Submission Instructions, Continued

- Enter the case number for the applicable application in the “ETA Case Number” field and left click on “Search.”

Enter or check the case number (if displayed) that you wish to upload documents. NOTE: Documents can be uploaded up to 30 days past final decision date.
Submission Instructions, Continued

- Left click on the case number hyperlink
Submission Instructions, Continued

Similar screen will appear:
Submission Instructions, Continued

• The employer will be provided with the following Supervised Recruitment "Document Type" options:
Submission Instructions, Continued

- Click on the “Browse” button and select the file to upload into the PERM Online System;

- Indicate type of “Category” and “Document Type” from drop down options;

- Employer has the option of entering a “File Name” and “Note”; and
  (Note: free-text data field with maximum of 250 characters).

- Left click on the “Upload” button.

(Note: see our response to the RIL.)
Submission Instructions, Continued

- The following screen will appear after uploading a document in the PERM Online System.

- Left click on the “Save” button.
Left click on “OK” to complete the last step in uploading the document in the PERM Online System.
Submission Instructions, Continued

• The employer will automatically be routed back to the “Upload Documents” page for the same case number.

• Left click on the icon under “Attachments” to see all documents uploaded for the application.
Submission Instructions, Continued

- The employer will be able to view a list of the documents uploaded, document type, date uploaded, any uploaded notes and the user that uploaded each document.

<table>
<thead>
<tr>
<th>File Name</th>
<th>Document Type</th>
<th>Date</th>
<th>Upload Note</th>
<th>User</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSR Response for case A-18043-42507.docx</td>
<td>NSR Response</td>
<td>02/20/2018</td>
<td></td>
<td>anpctester</td>
</tr>
<tr>
<td>RIL Response for A-18043-42507.docx</td>
<td>RIL Response</td>
<td>02/20/2018</td>
<td>See our response to the RIL.</td>
<td>anpctester</td>
</tr>
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<td>RRIL Response for case A-18043-42507.docx</td>
<td>RRIL Response</td>
<td>02/20/2018</td>
<td>See our uploaded RRIL response for case A-18043-42507.</td>
<td>anpctester</td>
</tr>
</tbody>
</table>
Important Notes

• Any case submitted by main account and/or any sub-accounts can be viewed.

• Selecting the Case Number link will allow the user to upload new documents to the case.

• Selecting the paperclip icon (Attachments column) will display all documents that have been uploaded to the case as of now. (Documents viewable by ANPC).
Important Notes

- Selecting the File Name link will open the document that was uploaded to the case.
- Date column contains the date the document was uploaded.
- User column contains the username that uploaded the document.
Important Notes

- Documents cannot be uploaded to a case more than 30 calendar days past the Case Decision Date. The system will display an error message if the case is past the upload deadline.
- The only document types available for upload are (.doc, docx, .pdf, and .txt).
- The system will send the Point of Contact for the case (Section D of 9089 Form) an email as soon as the document is uploaded.
- There is a 30 MB limit on each individual upload.
Submission Instructions, Continued

• The external user will receive an automatically generated e-mail from “U.S. Dept of Labor Employment & Training Administration <mailto: plc.help@dol.gov>” after uploading documents in PERM Online System (copy of the e-mail will simultaneously be sent to the ANPC help desk) acknowledging documentation uploaded in PERM Online System. Example:

  This internal e-mail is to notify you that correspondence has been added to A-12345-67890. Correspondence Type uploaded:
  - NSR Response User Name (UserID)
  - Draft Ad Response User Name (UserID)
  - RIL Response User Name (UserID)
Stakeholder Benefits of Uploading Documents into PERM Online System:

- **Promptly notifies** of successful upload in PERM Online System, ability to upload each section under the respective drop-down option;

- **Reduces cost** to stakeholders;

- **Enhances efficiency** of process of submitting labor certification application documentation;

- **Expedites review** of PERM applications by connecting the responsive documents directly to the application; and

- **Ensures accuracy, integrity and receipt** of submitted information for the respective labor certification application.
PERM Online System
Upload Requirement Reminders:

- **Size:** the maximum size limit for saving a single uploaded document is 30MB; and

- **Sorting:** Recommend separating all document(s) that exceed (or appear to exceed if the exact size is not known) the 30MB maximum limit as two or more documents.

- For example:
  
  Case A-12345-67890 RIL Response, Part I of 2
  Case A-12345-67890 RIL Response, Part 2 of 2
Email Submission

- No cost associated with e-mailing documentation
  - Via e-mail at sr.processing@dol.gov
- Delayed acknowledgement of documentation received
- Delayed receipt of and processing documentation
- Maximum email submission capability of 20MB per document
U.S. Postal Mail

- Resources and costs associated with sending documents via regular postal mail (or via FedEx, UPS, certified mail, etc.) to ANPC

U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
Atlanta National Processing Center
Attention: Supervised Recruitment
P.O. Box 56625
Atlanta, GA 30343

- Delayed receipt of and processing documentation
- No confirmation of receipt
- Slowest processing method
Section V

Extension Requests
Extension Requests:

• Specify amount of extra time requested;
• Specify the reason(s) why the extension is needed;
• Provide documentation supporting the reason(s) for an extension request (documentation is requested and not required; it can assist in determining if extension will be approved);
• Avoid submitting a request for an extension immediately preceding the deadline; and
• Upload extension request to the PERM Online System for faster response.
Section VI

Request for Information
Supervised Recruitment Request for Information:

- Typically issued with a 15-day, 7-day, or 5-day deadline to expedite processing of applications; however, extensions are considered if requested timely;
- Respond to all requested information;
- If information or documentation is not available, indicate in response and explain why; and
- Upload the respective request for information response into the PERM Online System for a faster response.
## Reasons for Request for Information, Continued

<table>
<thead>
<tr>
<th>Area</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Necessity</td>
<td>Review whether the requirements are normal to the job opportunity and whether business necessity is required.</td>
</tr>
<tr>
<td>Other (i.e., applicable and/or required during the assessment and processing of the Supervised Recruitment case.)</td>
<td>(e.g., Clarification of any conflicting, unclear, and/or incomplete information).</td>
</tr>
</tbody>
</table>
# Reasons for Request for Information, Continued

<table>
<thead>
<tr>
<th>Area</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevailing Wage (other than OES)</td>
<td>Review whether the existing prevailing wage on the ETA Form 9089 has expired, or for a prevailing wage update prior to the issuance of a NSR.</td>
</tr>
</tbody>
</table>
## Reasons for Request for Information, Continued

<table>
<thead>
<tr>
<th>Area</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affidavits and other supporting documentation</td>
<td>Review whether the affidavits and other documentation provided by the employer are acceptable.</td>
</tr>
</tbody>
</table>
Section VII
What’s New in Supervised Recruitment?
Batch Consolidation Approval Overview:

- Group of cases assigned a specific job reference number to identify them for the processes to follow;
- Job reference number will be used for all letters / stages of Supervised Recruitment until the time for the recruitment report;
- Each consolidation case will receive an individual RRIL; and
- Cases will be separately processed for adjudication upon receipt of the individual recruitment report.
How Does Batch Consolidation Occur?

• Occurs during the initial induction phase of Supervised Recruitment;

• Multiple identical cases can be consolidated per employer on the front end without an employer request;

• Benefits all phases from the NSR through Active Recruitment; and

• The Certifying Officer determines the number of cases in each consolidation.
Batch Consolidation

**Important Note:** The fields listed below **must** match verbatim the information listed on the ETA Form 9089, before a “Consolidation or Batch Consolidation” is approved or issued by the Certifying Officer.

- Employer’s name
- Location
- Occupation title
- SOC code
- SOC level
- Offered wage
- Alternative education and experience requirements
- Job description
- Job requirements
- Agent or Attorney/Law Firm
- Education
Section VIII

Resources for PERM Labor Certification Applications
How to Contact ANPC for Assistance

PERM General Program and Processing Questions, contact ANPC at:

ANPC Help Desk: plc.atlanta@dol.gov
Telephone: (404) 893-0101
Mail: U.S. Department of Labor
Office of Foreign Labor Certification
Atlanta National Processing Center
Harris Tower
233 Peachtree Street N.E., Suite 410
Atlanta, GA 30303

Check the OFLC website on regular basis for PERM updates, Frequently Asked Questions, webinar announcements, and updated forms at http://www.foreignlaborcert.doleta.gov.
Technical or System Issues

The employer should send an e-mail to plc.help@dol.gov (not the ANPC help desk) if experiencing any technical or system (PERM Online System) issues. Include in the e-mail:

- A detailed explanation of the problem;
- Urgency of the request; and
- Contact name and phone number of the person to call in case additional information is needed.

Important Note: An experienced USDOL representative will respond to the employer or the authorized attorney/agent via e-mail or telephone.
Go to [http://icert.doleta.gov](http://icert.doleta.gov) and click on “Processing Times”.

**PERM Processing Times (as of 3/31/2017)**

<table>
<thead>
<tr>
<th>Processing Queue</th>
<th>Priority Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Month</td>
</tr>
<tr>
<td><strong>Analyst Review</strong></td>
<td>January</td>
</tr>
<tr>
<td><strong>Audit Review</strong></td>
<td>August</td>
</tr>
<tr>
<td><strong>Reconsideration Requests to the CO</strong></td>
<td>February</td>
</tr>
</tbody>
</table>

The Analyst Review and Audit dates posted on ICERT above reflect the month and year in which cases were filed that are now being adjudicated at the Atlanta National Processing Center. The Reconsideration Request to the CO dates posted on ICERT above reflect the month and year in which cases that are now being reviewed at the Atlanta National Processing Center were appealed. For various reasons, we may be completing the processing of applications filed prior to the month posted on ICERT. If your application was filed more than 3 months prior to the month posted, you may contact our Helpdesk for a status on the application at [npl.atlanta@dol.gov](mailto:npl.atlanta@dol.gov).

**PERM Processing Times**

<table>
<thead>
<tr>
<th>Determinations</th>
<th>Average Number of Days to Process PERM Applications</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Month</td>
</tr>
<tr>
<td><strong>Analyst Review</strong></td>
<td>March 2017</td>
</tr>
<tr>
<td><strong>Audit Review</strong></td>
<td>March 2017</td>
</tr>
</tbody>
</table>

The Analyst Review and Audit Review determination processing times on ICERT above reflect the amount of time to process applications for the month. The actual processing time for each employer PERM application may vary from the average depending on the material facts and circumstances. OFLC is only reporting the average processing time for all PERM applications for the most recent month.
Visit the OFLC website and “Subscribe” for e-mail updates at http://www.foreignlaborcert.doleta.gov.
View Permanent Labor Certification FAQs, Forms, Regulations, etc. at [https://www.foreignlaborcert.doleta.gov/perm.cfm](https://www.foreignlaborcert.doleta.gov/perm.cfm).