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Permanent Residency (Green Card) Sponsorship by Employers

Before the U.S. employer can submit an immigration petition to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), the employer must obtain an approved labor certification request from the Department of Labor's Employment and Training Administration, which must certify to the USCIS that there are no qualified 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 alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

RESPONSIBILITIES

- The employer must hire the foreign worker as a full-time employee;
- There must be a bona fide job opening available to U.S. workers;
- Job requirements must adhere to what is customarily required for the occupation in the U.S. and may not be tailored to the worker's qualifications. In addition, the employer shall document that the job opportunity has been and is being described without unduly restrictive job requirements, unless adequately documented as arising from business necessity.
- The employer must pay at least the prevailing wage for the occupation.

FILING PROCEDURE

1. **Pre-Filing Recruitment Steps.** All employers filing the labor certification application must attest, in addition to a number of other conditions of employment, to having conducted recruitment prior to filing the application. The employer must recruit under the standards for professional occupations if a bachelor's or higher degree is a customary requirement. For all other occupations not normally requiring a bachelor's or higher degree, employers can simply recruit under the requirements for nonprofessional occupations. Although the occupation involved in a labor certification application may be a nonprofessional occupation, the regulations do not prohibit employers from conducting more recruitment than is specified for such occupations. Also prior to filing the labor certification application, the employer must request a prevailing wage determination.
2. **Labor Certification Application.** The employer must complete an Application for Permanent Employment Certification. The application describes in detail the job duties, educational requirements, training, experience, and other special capabilities the employee must possess to do the work, and a statement of the prospective immigrant's qualifications. Applications filed electronically must, upon receipt of the labor certification issued by ETA, be signed immediately by the employer, alien, and preparer, if applicable, in order to be valid.
3. **USCIS Application.** The employer must file an Immigrant Petition for its foreign national employee.

FEES

There are currently no fees required by the Department of Labor to file a permanent labor certification application. Once approved, the government application filing fee for filing the Immigrant Petition are paid to the Department of Homeland Security by corporate check or money order. The current filing fee is \$190.00.

TIME FRAME

The labor certification application, if filed online, takes approximately 6 months. The processing time for the immigrant petition is taking on average 18 months.