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

Department of Labor: Overview

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III.   Compliance Requirement Tips

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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 <u>pending application</u> or <u>future applications</u> 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.

AILA Doc. No. 18022834. (Posted 3/21/18)

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

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Submission Instructions, Continued

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

Submission Instructions, Continued

Search Cases	
ETA Case Number:	A-18043-42507 [Search]
	Advanced Search

Print Search Result

ETA Case Number	Date Prepared	Status
A-18043-42507	02/12/2018	In Process
A total of 1 record(s) were found.		

- Left click on the case number hyperlink

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Submission Instructions, Continued

Similar screen will appear**:**

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Submission Instructions, Continued

- The employer will be provided with the following Supervised Recruitment "Document Type" options:

* Category: Supervised Recruitment ⌄

* Document Type:
Select a Document Type to upload
Amended DAIL Response
Amended NSR Response
Amended RIL
Amended RIL Response
Collective Bargaining Agreement (CBA)
DAC Response
DAIL Response
NSR Response
Other Prevailing Wage Documents (If applicable)
Prevailing Wage Survey
RIL Response
RRIL Response
SR Extension Requests
SR RFI Response
SR Recruitment Report
SR US Worker Resumes

Submission Instructions, Continued

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

Upload Documents

* Select File:	H:\Supervised Recruitment - SR\RIL Response for case A-18043-42507 Browse...
* Category:	Supervised Recruitment ▼
* Document Type:	RIL Response ▼
File Name:	Response for A-18043-42507
Note:	See our response to the RIL. *222 characters remaining*

Upload

- 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.

Submission Instructions, Continued

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

- Left click on the "Save" button.

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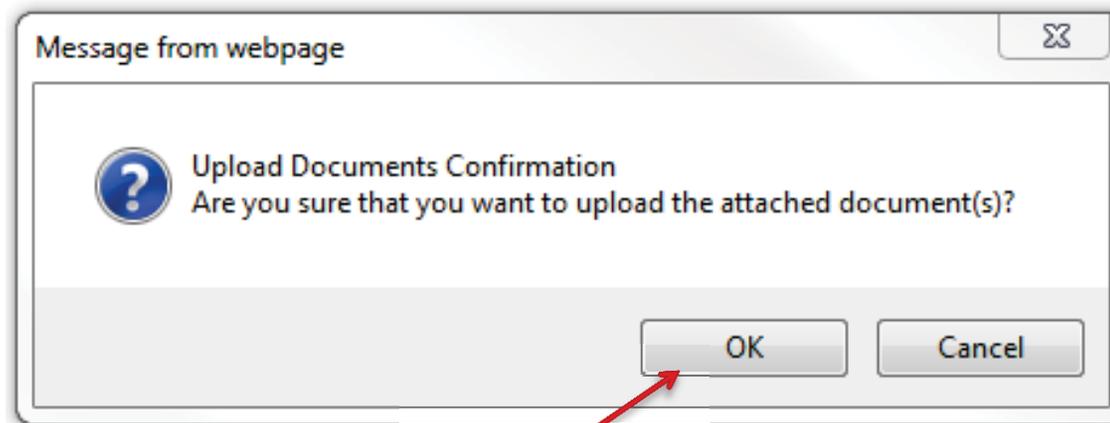
- Left click on "OK" to complete the last step in uploading the document in the PERM Online System.

Submission Instructions, Continued

- The employer will automatically be routed back to the "Upload Documents" page for the same case number.

Upload Documents		
ETA Case Number:	A-18043-42507	Search

ETA Case Number	Date Submitted	Status	Attachments
A-18043-42507	02/12/2018	In Process	📎
1 record(s) found.			

- Left click on the 📎 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.

File Name	Document Type	Date	Upload Note	User
NSR Response for case A-18043-42507.docx	NSR Response	02/20/2018		anpctester
RIL Response for A-18043-42507.docx	RIL Response	02/20/2018	See our response to the RIL.	anpctester
RRIL Response for case A-18043-42507.docx	RRIL Response	02/20/2018	See our uploaded RRIL response for case A-18043-42507.	anpctester

AILA Doc. No. 18022834. (Posted 3/21/18)

Department of Labor: PERM Program
Upload Documents Process

HOME	MY APPLICATIONS	MY PROFILE	EMPLOYER DATA	USER ACCOUNTS

CREATE CASE	SEARCH CASES	WITHDRAW CASES	SEARCH INCOMPLETE CASES	UPLOAD DOCUMENTS

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 de

Upload Documents		
ETA Case Number:	A-18043-42507	Search

ETA Case Number	Date Submitted	Status	Attachments
A-18043-42507	02/12/2018	In Process	📎
1 record(s) found.			

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).

Department of Labor: PERM Program
Upload Documents Process

Upload Documents

ETA Case Number:	A-18043-42507	Search

ETA Case Number	Date Submitted	Status	Attachments
A-18043-42507	02/12/2018	In Process	📎
1 record(s) found.			

File Name	Document Type	Date	Upload Note	User
NSR Response for case A-18043-42507.docx	NSR Response	02/20/2018		anpctester
RIL Response for A-18043-42507.docx	RIL Response	02/20/2018	See our response to the RIL.	anpctester
RRIL Response for case A-18043-42507.docx	RRIL Response	02/20/2018	See our uploaded RRIL response for case A-18043-42507.	anpctester

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.

HOME | MY APPLICATIONS | MY PROFILE | EMPLOYER DATA | USER ACCOUNTS

CREATE CASE | SEARCH CASES | WITHDRAW CASES | SEARCH INCOMPLETE CASES | UPLOAD DOCUMENTS
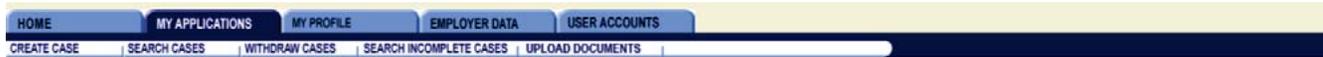
Upload Documents: A-18043-42507
Select Browse to search for files. Click upload to complete uploading files. Only (.pdf), (.doc, .docx) and (.txt) files are supported.

The maximum size limit for saving any one uploaded document(s) is 30MB. Please consider separating document(s) that exceed (or seem to exceed if the exact size is not known) the 30MB limit into two or more document upload and save events to avoid lost information. Selectable document sequence options, i.e., xyz 1, xyz 2, etc., and the Note's free-text data field are provided to assist stakeholders with document upload clarity.

The Note data field provides stakeholders with a maximum of 250 characters to provide additional document upload and save clarity. When appropriate, stakeholders may provide additional information pertaining to the uploaded document to be saved, e.g., document separation sequencing, uploading notations, clarifying previous document upload and save errors involving selection of the incorrect document type, etc.

Uploaded and saved documents must pertain only to the selected case. Do not combine documents for multiple cases. If combined documents are submitted, the case reviews may be delayed and/or denied for failure to follow instructions. The Note data field may not be used to explain any application issues or document content.

Upload Documents

* Select File:		Browse...
* Category:	Choose a category ▾	
* Document Type:	▾	
File Name:		
Note:	250 characters remaining	

Upload

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.

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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

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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

Area	Review
Business Necessity Other (i.e., applicable and/or required during the assessment and processing of the Supervised Recruitment case.	Review whether the requirements are normal to the job opportunity and whether business necessity is required. (e.g., Clarification of any conflicting, unclear, and/or incomplete information).

AILA Doc. No. 18022834. (Posted 3/21/18)

Reasons for Request for Information, Continued

Area	Review
Prevailing Wage (other than OES)	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.

<u>Reasons for Request for Information, Continued</u>

Area	Review
Affidavits and other supporting documentation	Review whether the affidavits and other documentation provided by the employer are acceptable.

Section VII

What's New in Supervised Recruitment?

Batch Consolidation

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.*

AILA Doc. No. 18022834. (Posted 3/21/18)

Technical or System Issues

The employer should send an e-mail to <u>plc.help@dol.gov</u> (*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.

Department of Labor: PERM Program

Go to http://icert.doleta.gov click on "Processing Times"

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

Processing Queue	Priority Dates	
	Month	Year
Analyst Review	January	2017
Audit Review	August	2016
Reconsideration Requests to the CO	February	2017

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 plc.atlanta@dol.gov.

Determinations	Average Number of Days to Process PERM Applications	
	Month	Calendar Days
Analyst Review	March 2017	78
Audit Review	March 2017	234

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.

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Visit the OFLC website and "Subscribe" for e-mail updates at
http://www.foreignlaborcert.doleta.gov.

Department of Labor: PERM Program

View Permanent Labor Certification FAQs, Forms, Regulations, etc. at https://www.foreignlaborcert.doleta.gov/perm.cfm.