

PERM: Permanent Labor Certification

Written by Tiya PLC

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1. An applicant with a pending green card case, who is in the U.S., should still consult with a competent immigration attorney to apply for a non-green card work visa even if the U.S. Citizenship and Immigration Services has issued and approved his/her I-765 Application for Employment Authorization (EAD).

2. Choosing the employment-based classification (such as an EB-1, EB-2 or EB-3) is crucial to the processing time for the green card case especially for foreign nationals with certain country of birth (not nationality). Some EB green card cases can take 6 to 9 years to process while other EB green card cases may take 2 or less years to process.

3. Most employment-based green card cases consist of three stages:
 - a) Stage 1: PERM

 - b) Stage 2: I-140 Immigrant Petition for Alien Work.

 - c) Stage 3: I-485 Applications for Adjustment of Status.
 - i. During this stage, the green card applicant can seek to apply (recommended) for I-131 advance parole and I-765 employment authorization document (EAD).

Stages 2 and 3 may be filed concurrently or at the same time, depending on criteria.

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4. Some employment-based green card cases do not require PERM, a permanent labor certification by the U.S. Department of Labor. However, most employment-based green card cases do require a PERM.

5. PERM stands for Program Electronic Review Management System.

6. PERM is a process whereby the U.S. Department of Labor (“DOL”) determines that:
 - a) The employer-sponsor has adequately tested the U.S. labor market to ascertain that there are no qualified, willing, able and available U.S. workers for the green card position;

 - b) The job requirements of the employer-sponsor are not unduly restrictive or adverse;

 - c) The offered green card salary meet the DOL prevailing wage criteria;

 - d) The employment of the foreign national will not adversely affect the wages and conditions of U.S. workers who are similarly employed; and

 - e) The foreign national meet the job requirements for the green card position in compliance with the criteria promulgated by immigration law.

7. The EB-3 green card applicant may include certain family members as derivative applicants in the green card cases after the PERM stage has been approved by the DOL.

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