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RE: **Fact Sheet for Employer and Foreign Employee on Permanent Residency Through Labor Certification Processing under PERM**

Dear Sir or Madam:

This document will summarize the procedure to obtain U.S. Permanent Resident status (the so-called "green card") via employment and it will explain the information needed from the employer to process the case.

The procedure to obtain a green card is a multi-stage process. First an application to the U.S. Department of Labor (DOL) must be submitted; once the DOL certifies the application then a petition for alien worker must be submitted to the US Citizenship and Immigration Service (USCIS) regional office. Once the petition for alien worker is approved and if visa numbers are available in the workers category then the adjustment of status application is submitted to the USCIS. The application is processed at the USCIS regional service center on a mail-in basis, thus eliminating a personal interview in most employment based cases.

Stage I - Alien Employment Certification under PERM

The first stage of the process, the alien employment certification application, involves testing the U.S. labor market in connection with filing an application with the Department of Labor ("DOL"). The DOL is seeking to determine whether there are any U.S. workers who are qualified and available for the position in question in your area. Once the recruitment is done the employer may file the Application for Permanent Employment Certification (ETA 9089) either electronically or by mail to the appropriate processing center. The DOL will carefully review documentation showing the company's recruitment activities immediately prior to the filing date of the application to determine if the amount and frequency of activity is adequate in light of the occupation. The DOL will also look at reasons why applicants were rejected for the position; and whether or not the rejection reasons were valid.

Prevailing Wage

Under the PERM the salary level must meet (100%) or exceed what the DOL finds to be the "prevailing wage" for the particular occupation. (The 5% variance in the prevailing wage that was permitted under the old labor certification program is no longer allowed.) We will provide the employer with the current prevailing wage requirements for the position in which the alien employee is being sponsored.

Establishing a Priority Date

Filing the labor certification application establishes a "priority date" for purposes of permanent residency issuance. Permanent resident visas are issued on a first-come, first-served basis within particular country categories for which the U.S. Congress has set annual quotas. The "priority date" marks the alien's place in line awaiting visa issuance. Therefore, the sooner we file the case the better priority date we will have. The standing of the currently available visa numbers in all preference categories and all countries are available on the monthly Visa Bulletin issued by the Department of State. This information is posted in the links section of our web site at www.medvei-immigration.com. See below the current visa bulletin print out in the employment based category.

Although outlook for visa numbers in the current fiscal year that started October 1, 2005 is not the greatest, we still encourage employers to file their cases for labor certification so that a priority date is established for the visa number for the case. Without the filing of the labor certification no priority date can be established. Click here for the current month Visa Bulletin http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html

Stage II - The Immigration Petition

Once the DOL has approved the labor certification, a petition for permanent resident classification is filed with the US Citizenship and Immigration Service. In support of the petition the employer must provide evidence that the alien meets the particular job requirements listed in the labor certification. The employer must also disclose financial information concerning the company to show to the USCIS that the employer is solvent and capable of providing wages and employment on a continuing basis. For a large, public company this may be accomplished with a published annual report. A privately owned company with at least 100 employees may issue a letter from a financial officer. Small companies with less than 100 workers must provide a copy of an audited financial statement or most recent corporate tax return. Due to the current backlogs in the available visa number Stage II and Stage III may not be combined until further notice from immigration.

Stage III - The Adjustment Application

Once the immigration petition has been approved and assuming there is no backlog in the visa issuance quota and waiting list, an adjustment of status application may be filed. If the country and preference category is not oversubscribed and visa numbers are currently available then Stage II and Stage III may be combined for more efficient processing of the case. The advantage for the employee is the ability to apply for Employment Authorization once the Adjustment of Status application is submitted. The final paperwork is submitted by mail to the USCIS service center and no final interview is required in many cases. In this final stage the "adjustment" of the alien's status from nonimmigrant to immigrant happens. With the adjustment granted the alien can receive the green card.

Estimated Processing Times

The processing times may vary greatly, depending at any given time on the size of the agency backlog as well as further changes in processing procedures. Agency processing times are listed in the links section of our web site at www.medvei-immigration.com. I hope that this information has been helpful to you. I am ready, willing and able to start the process for the employment based green card on your behalf as soon as you desire. Please call me at (213) 386-6428 for further information.

Very truly yours,
LAW OFFICES OF ADRIEN MEDVEI

Adrien Medvei, Esq.