

Program Electronic Review Management (“PERM”) is the system used for obtaining labor certification and is the first step for certain foreign nationals in obtaining an employment-based immigrant visa (the “green card”). The employment-based preference categories that require PERM labor certification are (1) EB-2 (other than a National Interest Waiver) and (2) EB-3.

The PERM process requires the petitioning employer to conduct a series of recruitment activities to test the labor market before filing the application. If sufficiently able, qualified and willing applicants (i.e. U.S. citizens or Permanent Residents) do not find a position through the recruitment process, the employer can submit a PERM labor certification application. After the labor certification is approved by the U.S. Department of Labor (“DOL”), the employer should timely file the EB-2 or EB-3 I-140 visa petition for the alien worker.

When applying for Employment-Based Immigration: Second Preference EB-2, the job one applies for must require an advanced degree and you must possess such a degree or its foreign equivalent (a baccalaureate or foreign equivalent degree plus 5 years of post-baccalaureate, progressive work experience in the field). You must meet any other requirements specified on the labor certification as applicable. They must provide documentation, such as an official academic record showing that you have a U.S. advanced degree or a foreign equivalent degree, or an official academic record showing that you have a U.S. baccalaureate degree or a foreign equivalent degree and letters from current or former employers showing that you have at least 5 years of progressive post-baccalaureate work experience in the specialty.

If a doctoral degree is customarily required, you must have a United States doctorate or foreign equivalent degree.

A foreign worker may be eligible for the EB-3 visa preference category if he/she is a skilled worker, professional, or other worker.

- **“Skilled workers” are persons whose jobs require a minimum of 2 years training or experience, not of a temporary or seasonal nature. The skilled worker must meet the educational, training, or experience requirements of the job opportunity. Relevant post-secondary education may be considered as training.**
- **“Professionals” are persons whose job requires at least a U.S. baccalaureate or foreign equivalent degree and are a member of the professions.**

- The “other workers” subcategory is for persons performing unskilled labor requiring less than 2 years training, education, or experience, not of a temporary or seasonal nature.

Third preference petitions must generally be accompanied by an approved, individual labor certification from the Department of Labor.

Both applying for EB-3 and the advanced degree for EB-2 requires the PERM labor certificate.

If your I-140 petition is approved, your spouse and unmarried children under the age of 21 may be eligible to apply for admission to the United States in E34 (spouse of a “skilled worker” or “professional”) or EW4 (spouse of an “other worker”). and E35 (child of a “skilled worker” or “professional”) or EW5 (child of an “other worker”).

Overall, PERM labor certification is an extremely complicated and time-sensitive procedure. We recommend that you consult with an experienced immigration attorney. Our lawyers have successfully handled hundreds of PERM cases.