

**U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
Frequently Asked Questions
Permanent Labor Certification
Round 11
August 3, 2010**

Filing – How to File

Question: Does the Office of Foreign Labor Certification expedite applications?

Answer: The Office of Foreign Labor Certification (OFLC), as a matter of long standing policy, does not expedite the processing of applications due to the particular circumstances of any individual employer, foreign worker, or a family member.

Professional/Non Professional

Question: What documentation can an employer provide to evidence its use of an employee referral program with incentives as one of the mandatory three additional recruitment steps for a professional occupation?

Answer: Pursuant to 20 CFR 656.17(e)(4)(ii)(G), an employer can document its use of an employee referral program with incentives by providing dated copies of its notices or memoranda advertising the program and specifying the incentives offered as well as other appropriate documentation. In addition to establishing the existence of a referral program, employers must document that its employees were aware of the vacancy for which certification is being sought through means such as a posting on the employer's internal web site. The Notice of Filing provided to satisfy § 656.10(d) shall not be sufficient for this purpose.

What to File/Documentation

Question: May an employer submit unsolicited documentation to the National Processing Center?

Answer: Where an employer or its representative submits unsolicited documentation in conjunction with, or after filing an ETA Form 9089, the application will be automatically selected for audit except in the case of a request for reconsideration filed after an application is denied. Where an employer or its representative submits unsolicited documentation prior to filing an ETA Form 9089, i.e., where there is no record at the National Processing Center of an application having been submitted by the employer, the documentation will be returned to the sender.

Please note that where an employer or its representative does receive a request for information or documentation from the National Processing Center, e.g. a request

regarding confirmation of the *bona fide* existence of the business or sponsorship verification, such a request does not necessarily signify the application has been placed into the audit queue. However, failure to respond to the request for information or documentation may result in the application being placed in the audit queue or denied.

Notice of Filing

Question: For purposes of the Notice of Filing that is required to be made in connection with a PERM application, what does the Office of Foreign Labor Certification count as a “business day?”

Answer: OFLC has consistently interpreted business days to mean Monday through Friday, except for Federal holidays.