

## PERM Labor Certification & I-140 Immigrant Petition for Alien Worker



Faye M. Kolly, Judy J. Lee, Maggie Murphy

1

## Buy American, Hire American

- Executive Order 13788 directs Federal Departments to craft policies that will encourage purchase of American-made products and hiring of U.S. workers.
  - Increased scrutiny regarding wages
  - Increased detail and greater scrutiny in audit
  - FY2018 statistics do not reflect a significant increase in denials from previous years

## Session Highlights



Basic Information: General Requirements

Position Requirements, Qualifications and Prevailing Wage

Recruitment and Scrutiny of Advertisements

Evaluating Applicants: Review of Resumes and Interviews

Documentary Evidence and Audits

I-140, Immigrant Petition for Alien Workers

## PERM Labor Certification

### 20 CFR 656.17

- Department of Labor oversees PERM program
- Designed to protect U.S. workers
- Requires advertising and other forms of recruitment by employers to test the U.S. labor market
- Employer must demonstrate that the Foreign National's employment will not adversely affect the wages and working conditions of U.S. workers



## PERM Labor Certification General Requirements

- “Permanent” Job Offer
- Employer must pay all costs and fees related to the PERM process
- DOL prevailing wage determination (3-4 months to receive)
- Test local job market (recruitment – 60-180 days)
- Application filed electronically with DOL if *no* U.S. workers are willing, able, available and qualified for the position (adjudication – 6-7 months)
  - U.S. worker: U.S. citizen, lawful permanent resident, asylee or refugee
- Employer must pay prevailing wage determined by DOL when PR granted

5

## Position Requirements Minimum and Special Job Requirements

- Minimum and Special requirements consistent with H-1B record
- Minimum requirements consistent with O\*NET database
  - O\*Net contains information on hundreds of standardized and occupation-specific descriptors
  - Each occupation is classified with an specific job zone – total of 5 job zones
  - Each occupations lists Specific Vocational Preparation (SVP)
- Requirements, Job Zones and SVP are important for:
  - Prevailing Wage Determination
  - Determination whether job requirements are normal
  - Determination whether job requirements are tailored to the employee’s credentials
  - Business necessity

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: PERM and I-140

Also available as part of the eCourse

[2018 eConference on Immigration and Nationality Law](#)

First appeared as part of the conference materials for the  
42<sup>nd</sup> Annual Conference on Immigration and Nationality Law session  
"PERM and I-140"