

PERM PROCESSING TIME UPDATE – SEPTEMBER 2009



by

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Remember when PERM was first introduced to the public? The idea was that the new online labor certification system would streamline the PERM application process and result in processing times of just a few weeks or a couple of months. Less than 4 years after it was first introduced, the PERM system has become mired in excessive backlogs and delays.

According to the Department of Labor (in a recent meeting with the American Immigration Lawyers Association), as of mid-September 2009, there are approximately 65,800 PERM cases that are pending.

Of that total, approximately 24,600 cases (or 37% of the total pending cases) are in audit (meaning that the Department of Labor has requested additional information or evidence in the case subsequent to the initial filing of the PERM case). The Department of Labor is processing audited cases from October 2007 (a backlog of almost 2 years).

As of mid-September 2009, there are approximately 37,500 pending PERM cases in “Final Review” (meaning that the cases have not yet been audited or the cases have been audited and an audit response has been returned to the Department of Labor).

The Department of Labor has indicated that email inquiries can be made on PERM cases filed more than one year ago and for which an audit has not yet been issued.

It is likely that a high percentage of cases will continue to be audited, especially in light of the continued high unemployment rate throughout the United States. It appears that the Department of Labor is requesting in its audits proof of the recruitment steps listed in the online PERM filing. The DOL appears to be of the view that, if an employer is claiming it cannot find a qualified U.S. worker at a time when U.S. workers are being laid off at alarming rates, then it wants to take a closer look at the file and not just rely on the employer’s attestations contained in the PERM ETA 9089. As always, the PERM recruitment report (detailing the recruitment steps taken and proof of the required recruitment) should be completed before filing the case online since a high percentage of cases will likely continue to be audited and audit response times are typically only 30 days.

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