

Permanent Labor Certification Program

Final Regulation

Frequently Asked Questions

June 1, 2005

FILING

Question: What is the process by which an employer registers and files an application on line?

- ☞ In order to file permanent labor certification applications on-line, the employer must have a Permanent Online System account, username, password, and PIN. The account allows for the preparation and management of applications on-line, the username and password are necessary to access the account, and the PIN is required to submit applications on-line.

Permanent Online System account – An account is created after an employer has submitted registration information on-line at www.plc.doleta.gov and the employer information is verified by DOL. Account creation is a means by which to control filing authorization and to provide account holders filing management capabilities. An employer must be registered and be in possession of a PIN in order to file applications on-line. Upon verification of the employer's information, a password and confirmation of the account holder's username are sent to the employer in one email and, for security reasons, the PIN in another. It must be noted that upon accessing the account for the first time, the system requires the DOL password be changed to a new password. It is critical that the employer be aware of and know the new password, as only an individual in possession of the account's valid username and password is able to access the account.

Sub-account – The holder of a Permanent Online System account is able to create multiple sub-accounts with individual usernames and passwords for persons authorized by the employer to file applications in its name, to include attorneys and agents. It is a means by which to provide the employer the security of ensuring only persons authorized by the employer are filing on the employer's behalf. In creating a sub-account, the employer is able to designate whether the sub-account holder is the employer's employee, the employer's agent or the employer's lawyer. The employer is also able to designate the level of security access available to the sub-account holder.

NOTE: While the employer is permitted the opportunity to designate persons to represent the employer in the application filing process, the employer must recognize that ultimate responsibility for the accuracy of all representations made by such designated persons rests with the employer. Therefore, the employer is encouraged to establish measures designed to ensure only legitimate dissemination and use of account information.

Federal Employer Identification Number (FEIN) – The FEIN is provided to the employer by the IRS. It is a means by which the Department of Labor (DOL) verifies the *bona fides* of the employer and ensures that only legitimate employers are able to avail themselves of the labor certification process. In order to satisfy the definition of employer for purposes of labor certification, all employers, including employers of household domestic workers, must possess a valid FEIN.

Username – The username is a log-in name provided by the employer registrant. After registration, upon successful employer verification, confirmation of the username is emailed to the employer by DOL. It is a means by which to identify the account holder and establish access authority. Each username is unique; duplications are not accepted.

Password – An initial password is provided by the Permanent Online System. After registration, upon successful employer verification, the temporary password is emailed to the employer by DOL. Upon activation of an account after registration, the individual initially accessing the account is required to create a new password. The password is a means by which to identify the account holder and establish access authority. NOTE: An account can only be accessed by the holder of the username and password. Where the password is changed, only an individual with the user name and the **new password** will be able to access the account.

Personal Identification Number (PIN) – The PIN is provided to the employer after registration upon successful employer verification by DOL. It is a means by which to safeguard on-line filing. Only an individual in possession of a PIN is able to actually submit a labor certification application on-line. The PIN used in submitting an application must be the PIN of the employer named on the application filing the application.

Question: Where the employer has established a sub-account for an attorney or agent, is the attorney or agent permitted to submit applications on-line?

☞ Yes, an attorney or agent may submit applications under the following circumstances. An employer must complete the registration process as explained at <http://www.plc.doleta.gov>, including the initial log-in. During the initial log-in, the employer will change the employer's temporary password (as assigned by the system during registration) and once logged-in, the employer can establish a sub-

account for an attorney or agent. The employer will select a username for the attorney or agent, and the system will assign a temporary password. The attorney or agent will receive an e-mail with the username, temporary password, and the employer's PIN. When the attorney or agent logs in and changes the attorney's or agent's password, the attorney or agent is then permitted to complete and submit applications on-line on behalf of the employer using the PIN of the employer in whose name the application is being filed.

Question: How can the employer ensure that no unauthorized use of the employer's personal identification number (PIN) and/or usernames and passwords exists?

☞ The employer is able to view all applications filed under the employer's account, to include all applications filed under the employer's sub-accounts, and we recommend employers implement a mechanism by which to identify any unauthorized use of the employer's PIN and/or usernames and passwords. We also recommend employers require those persons to whom sub-accounts have been assigned to carefully monitor the accounts for unauthorized activity. If the employer uncovers unauthorized use of the PIN and/or usernames and passwords, the employer must immediately contact the Department of Labor at PLC.HELP@DOL.gov.

NOTE: The employer is advised to set up a sub-account for the attorney or agent. Thereafter, the attorney or agent, using the sub-account's username and password, will be able to access the sub-account and be able to do what is required and/or needed to file labor certification applications on behalf of the employer, depending on the level of access granted by the employer. In filing applications for an employer, the attorney or agent must use the employer's PIN, which is provided to the attorney or agent upon creation of the sub-account along with the sub-account's own username and password. The employer is cautioned that ultimate responsibility for the representations of its attorney and/or agent rests with the employer.

Question: If a parent entity wishes to centralize administration/control over PERM filings of its subsidiaries having different FEINs, can the parent company create sub-accounts for each subsidiary and then permit each subsidiary to assume responsibility for its own filings?

☞ No, a parent company can not create sub-accounts for subsidiaries having FEINs different from that of the parent company in order to centralize administration and control. When an application is being completed using a sub-account, employer information from the main account, including FEIN and address, is automatically populated into the application and that information can not physically be changed or altered.

Question: Will the National Processing Centers issue confirmations of receipt for mail-in applications?

- ☞ No, the National Processing Centers will not issue confirmations of receipt for mail-in applications. If the employer wishes to maintain a record of having mailed the application, it is recommended that a mail service which provides such documentation be used.

Question: Are there any circumstances under which mailing in a labor certification application would prove more successful than electronically submitting an application on-line?

- ☞ No, mailing in an application will not prove more successful, as the mailed-in application, upon receipt at the National Processing Center, is date stamped. Until the application is data entered into the system by a data entry person (using the exact information shown on the ETA Form 9089), processing will not begin on the application. Once entered in the system, the mailed-in application receives the exact same automated analysis and manual scrutiny as an application submitted electronically. If there are two identical applications, one submitted electronically and one mailed-in, there will be no difference in how they are processed. The only difference will be in processing time; a mailed-in application will take longer, as not only mailing but also the data entry time will be involved. Remember: the on-line system will identify mistakes (e.g. entering four digits for a zip code instead of five digits) before allowing the application to be submitted, but the data entry person must enter the information exactly as shown on the application; a mistake on the form may trigger an audit or denial.

WITHDRAWAL

Question: How can a pending application filed under PERM be withdrawn?

- ☞ If the application was filed on-line, the application can be withdrawn by accessing the account wherein the application was filed and simply marking the appropriate box. If the application was filed by mail, a withdrawal request, in writing, must be sent to the National Processing Center to which the application was originally submitted.

Question: Must the employer wait to receive confirmation of withdrawal from a Backlog Elimination Center (BEC) prior to refiling an application?

- ☞ No, the employer does not need to wait to receive confirmation of withdrawal prior to refiling an application.

RECRUITMENT

ADVERTISEMENT

Question: Is it possible to provide more specific guidelines for drafting PERM advertisements? For example, where there are multiple openings for the job offered which of the following, if not all, would be acceptable: "5 Attorneys," "Attorneys" or "Attorneys, multiple openings"?

- ☞ As stated in the advertising requirements provision, the advertisement must provide a description of the vacancy specific enough to apprise U.S. workers of the job opportunity for which certification is sought. At issue in evaluating whether the advertisement meets this criterion is whether the advertisement is written to attract the interest of the greatest number of qualified U.S. workers and encourage them to apply, not whether specific words or phrases have, or have not, been used. The advertisement will be reviewed to ensure that it reasonably describes the vacancy and reflects the job opportunity as described on the ETA Form 9089. With respect to the examples, any one of the three can be used as long as it is specific enough, under the circumstances, to apprise U.S. workers of the job opportunity. In any event, if employers feel it necessary, employers may always include more detail.

JOB ORDER

Question: Must the employer contact all individuals identified as a "match" by a computerized state employment system or must the employer only contact those applicants who have submitted a resume and/or response as specified by the employer in the job order?

- ☞ The employer is responsible for considering/contacting those applicants who have affirmatively provided a response as specified by the employer in the job order.

PROFESSIONAL/NONPROFESSIONAL

Question: Is it permissible to use forms of media other than the alternative steps listed in the professional occupations recruitment provision, i.e., is it permissible to count advertisements on movie theater screens, on screens in airports, on sides of buses, billboards, etc., as additional steps?

- ☞ No, it is not permissible to use other forms of media other than the alternative steps listed in the professional occupations provision as additional steps. The restriction on acceptable forms of media is governed, in part, by questions of verifiability. Employers, however, are not precluded from using these means as above and beyond the regulation requirements.

AUDIT

Question: In the event of an audit, can an application be withdrawn?

- ☞ An application can not be withdrawn once it has been selected for audit. If circumstances have changed such that the application is no longer valid or applicable, the application must be withdrawn. If an application is selected for audit, the employer can not forego the audit by claiming the application is no longer valid or applicable. The employer will be held to the audit provision standards and possible resulting consequences.