

TABLE OF CONTENTS

AILA'S GUIDE TO PERM LABOR CERTIFICATION

Preface	ix
About the Editors	xi
Subject Matter Index.....	465

Section 1: Step-by-Step Roadmap to PERM Success

1. Introducing the PERM-to-Green Card Path and the Players, Hurdles, and Traps You are Likely to Encounter along the Way.....	1
<i>by Elizabeth Peng, Jessica E. Robles, and Cletus M. Weber</i>	
2. Knowing What to Do and When to Do It: A Step-by-Step Guide to Successful PERM Labor Certification Practice	9
<i>by Shannon N. Barnes, Alexander Dgebuadze, Jessica E. Robles, Robert P. Webber, Anthony E. Weigel, and Cletus M. Weber, updated by Alexander Dgebuadze, Jessica E. Robles, and Anthony E. Weigel</i>	
3. Anatomy of ETA Form 9089: An Item-by-Item Dissection.....	39
<i>by Steven Clark, updated by Vincent Lau</i>	

Section 2: Major PERM Issues to Resolve Early in the Process

4. Employer-Related Issues to Spot Before Commencing a PERM Case	83
<i>by Wendy Castor Hess, Jonathan A. Grode, and Maria P. Fritzinger, updated by Wendy Castor Hess and Emma Tuohy</i>	
5. Identifying the Employer's Requirements for the Position Before Drafting an Approvable and Appropriate PERM Application.....	107
<i>by Robert H. Cohen, updated by Jessica E. Robles</i>	
6. Drafting PERM Applications to Ensure I-140 Approval.....	119
<i>by Edward R. Litwin and Marcine A. Seid</i>	
7. Alien-Related Issues to Spot Before Commencing a PERM Case.....	133
<i>by Y. Jessica Choi and Karen M. Pollins</i>	

Section 3: Advanced Guidance on Key Technical PERM Issues

8. Finding the Right Job Code, Wage, and Experience Level: A Step-by-Step Guide to Navigating the O*NET 149
by Josie Gonzalez
9. Prevailing Wages under PERM: How to “Do the Right Thing” 153
by Ester Greenfield and Linda Rose
10. The Recruitment Process Under PERM 179
by Howard W. Gordon, updated by Bennett Savitz
11. The 10 Additional Recruitment Steps for Professional Positions..... 195
by Howard W. Gordon, updated by Aimee Clark
12. When and How Should Employers Use the *Kellogg* Language in PERM Applications?..... 203
by Alexander Dgebuadze
13. PERM Actual Minimum Requirements, with Specific Reference to Situations Where a Labor Certification Application Beneficiary Has Gained Experience, Training, or Education After Joining the Employer 211
by A. James Vázquez-Azpiri
14. Hiring the Best Qualified Worker: PERM’s “Infeasibility to Train” Exception..... 233
by Alexander Dgebuadze
15. Layoff Provisions Under PERM..... 243
by Catherine L. Haight; updated by Lindsay Koren
16. Spotting Facts That Tell You That PERM Is Likely to Be Difficult or Impossible—and Seeking Ways to Address Such Difficulties 249
by John E. Exner IV and Kwang-yi Ger Gale, updated by John E. Exner IV and Jaclyn D. Granet
17. When Is a Job Clearly Open? Towards a Unified Theory of 20 CFR §656.10(C)(8)..... 261
by Kevin Koll

Section 4: PERM Audits, Appeals, and Revocations

18. PERM Audits: Turn, Turn, Turn 267
by Alan Tafapolsky and J. Anthony Smith, edited by Noah Klug
19. Supervised Recruitment—A Journey Back to the Future..... 287
by Shannon N. Barnes, updated by Kevin Koll and Susan Wehrer

20. It Ain't Over 'til BALCA Sings: Carrying your PERM Through the Final Act of Appellate Review 305
by Shannon N. Barnes and Diana Vellos Coker, edited by Noah Klug
21. Worst Case Scenarios: Revocation, Invalidation, Debarment, Suspension, Appeal, and the Paramount Importance of Document Retention 329
by Susan J. Cohen

Section 5: Other PERM Issues

22. Foreign College and University Teachers: Special Recruitment Is Meant for You! 337
original by Jane W. Goldblum and Maria P. Fritzingler, updated by David Ware
23. How the PERM Labor Certification Process Evolved..... 367
by Lorna Rogers Burgess

Appendices

24. Ethics in PERM: Where the Line Is and How to Draw It..... 381
by Stacy Hong, Troy Palmer, Eleanor Pelta, and Sarah Peterson
25. Chart to Verify Alien's and Derivatives' Admissibility *Before* Taking a Case 393
by Jane W. Goldblum, updated by Richard Link
26. The BALCA Chart for PERM Whisperers 405
by Anthony E. Weigel
27. Annotated Index of Appendix Items for Templates 1 to 25 407
updated by Jared Leung
- Template 1: PERM Labor Certification Checklist 410
- Template 2: Memorandum Regarding Labor Certification 411
- Template 3: Form of Engagement Letter Content 414
- Template 4: Form of Dual Representation Letter 416
- Template 5: Employer Intake (All Employers) 418
- Template 6: Job Description/Minimum Requirements Document 419
- Template 7: Employer Intake (Small Employers) 422
- Template 8: PERM Account Set-Up Correspondence 423

Template 9: Employee Intake	426
Template 10: Employee Qualification Checklist.....	433
Template 11: Form of Correspondence Relaying Skill/Experience/etc. Statements.....	434
Template 12: Sample Business Necessity Questions for Employer	437
Template 13: Form of Business Necessity Memorandum.....	438
Template 14: Notice of Filing.....	441
Template 15: PERM Advertising Efforts Chart	442
Template 16: Recruitment Calculation Timeline.....	443
Template 17: Recruitment Instruction Memorandum	444
Template 18: Form of Audit File Cover Sheet and Index	453
Template 19: Form of Recruitment Report.....	455
Template 20: Pre-Filing Review Request Correspondence.....	457
Template 21: Post-Filing Memorandum to File	458
Template 22: PERM Document Retention Checklist.....	459
Template 23: Form of Employer Filing Confirmation Correspondence to Employer	460
Template 24: Post-Filing Correspondence Regarding Status of Case and Processing Time	461
Template 25: Form of Audit Response Letter	462