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## Supervised Recruitment - PERM FAQ 2

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Submitted by Rajiv S. Khanna on Jul 6th 2010

7. What documentation and/or notice is needed when an employer undergoing Supervised Recruitment changes its attorney/agent?

**Ans.** The employer and/or the newly retained attorney or agent must provide documentation signed by the employer establishing that it intends to be represented by the attorney or agent named, providing all applicable information as requested in Section E, Agent or Attorney Information, of the ETA Form 9089, and containing the statement, "I hereby designate the agent or attorney identified in this letter to represent me for the purpose of labor certification. I take full responsibility for the accuracy of any representations made by the agent or attorney identified above."

8. Can the employer list a wage range in its advertisement(s)?

**Ans.** Yes. If the employer wishes to state a wage range in the advertisement, the bottom of the range must not be lower than the prevailing wage or the wage being offered to the foreign worker named on the ETA Form 9089, whichever is higher.

9. Must the employer advertise at the prevailing wage it listed at the time of filing the ETA Form 9089 OR, if different, the current prevailing wage?

**Ans.** Where the employer includes a wage in its advertisement, the wage **must be equal to or greater than the current prevailing wage for the job opportunity**. Where necessary, the OFLC/ANPC will provide the employer with the new prevailing wage applicable to the job opportunity. If the employer chooses to use a source other than the Occupational Employment Statistics (OES) survey, the employer must provide an acceptable survey, as outlined in 20 CFR 656.40(g), to the Certifying Officer.

10. What is the extent to which the employer must provide any additional information requested in the notification of Supervised Recruitment Letter?

**Ans.** All documentation required by the OFLC/ANPC as part of the supervised recruitment process must be provided in full. Where one form of documentation lends itself more readily for submission to the OFLC/ANPC, e.g., electronic versus hard copy, arrangements can

possibly be made to accommodate the one form over the other.

11. To whom will the Office of Foreign Labor Certification send any resumes received in response to the advertisement(s)?

**Ans.** Resumes and or applications received by the OFLC/ANPC in response to the employer's advertisement(s) will be sent to the employer's attorney or agent of record, if any, with a copy to the employer. If the employer is not represented by an attorney or agent, the resumes and or applications received by the OFLC/ANPC in response to the employer's advertisement(s) will be sent directly to the employer.

12. What are the consequences of an employer requesting to withdraw an application undergoing Supervised Recruitment?

**Ans. While OFLC/ANPC may grant an employer's request to withdraw an application undergoing supervised recruitment and the employer then files a new application meeting all regulatory requirements, the future application for the same foreign worker as in the withdrawn application will be subject to supervised recruitment pursuant to 20 CFR 656.21. Additionally, where the OFLC/ANPC determines it appropriate, all other applications filed by the employer for any foreign worker or job opportunity may also be subject to supervised recruitment.**

An employer that wishes to file a future application for the same foreign worker as in an application withdrawn while undergoing supervised recruitment must do so by completing the ETA Form 9089, except Section I, Recruitment Information, which will be completed after submission at the instruction of the OFLC/ANPC. The employer must file the above referenced application by mail to the Atlanta National Processing Center at the following address:

U.S. Department of Labor  
Employment and Training Administration  
Foreign Labor Certification  
National Processing Center  
Harris Tower  
233 Peachtree Street, Suite 410  
Atlanta, Georgia 30333

**Repeated requests to withdraw different applications undergoing supervised recruitment will be carefully reviewed and may evidence a pattern or practice of the employer's failure to comply with the supervised recruitment process, and may subject the employer to debarment from the permanent labor certification program for a reasonable period of no more than three years pursuant to 20 CFR 656.31(f)(1)(v).**

**Green Card:**

[PERM - Labor Certification](#) <sup>[2]</sup>

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[1] <https://immigration.com/blog/perm-labor-certification/supervised-recruitment-perm-faq-2>

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