

CUEVAS, ORTIZ & CUBAS P.A.

ATTORNEYS AT LAW

RE: Application for Labor Certification

Dear Client:

This letter is being provided to explain in general the Labor Certification procedure. The Labor Certification procedure is for U.S. companies who want to offer positions to alien workers, which will result in the alien obtaining permanent residency in the United States.

PERM is the new labor certification system that will allow employers to file labor certification petitions online. Employers will not need to submit supporting documentation with the cases and will instead retain all documentation for inspection in the case of an audit. A percentage of all cases will be flagged for a more extensive supervised recruitment process. During this procedure, the Department of Labor will certify various items before allowing the alien to apply for the residency, including the following:

- 1) **Qualified U.S. workers** cannot be found, at the time of filing the application and in the area of intended employment, who are available, willing, and able to fill the position being offered to the alien; and
- 2) Employment of the alien **will not adversely affect the wages** and working conditions of similarly employed U.S. workers.
- 3) There must be a **bona fide job opening available to U.S. workers** in order for a labor certification to be approved. Conducting a test of the U.S. labor market that fails to locate qualified U.S. workers does not meet DOL requirements for certification if the agency determines that there is in fact no job available for which the employer is willing to hire a U.S. worker.
- 4) The job being offered must be **located in the United States, full-time**, and permanent.

The Application for Labor Certification requires a detailed analysis of the minimum requirements of the position being offered, along with a detailed analysis of the experience of the beneficiary.

In order to complete the Application for Labor Certification, our office will need the following information:

1. The name and address of the corporation who will be making the offer, along with the name and title of the person who will be signing the application;
2. The type of visa you currently have in the U.S. if any;
3. The nature of the employer's activity;
4. A detailed description of all functions that you will be performing as a for example systems analyst. This must include the types of computer systems you will be working with,

computer languages, reports you will be responsible for, all of the managerial functions (if any) that you will be involved in, and all other information so as to give a complete and detailed analysis of the position. Please understand that this portion of the application is very important in that this is the information from which the minimum job description will be created;

5. All other special requirements (if any) for the job, such as traveling requirements, language requirements;
6. The title of the person who will be supervising you;
7. The number of employees will you be supervising;

Regarding your educational and work experience, we will need a detailed resume. The following information will be needed in order to properly complete the forms necessary and present the best possible labor certification application:

1. The date (month/year) that you started and graduated from each school mentioned in your resume;
2. The addresses of the schools that you attended;
3. For each previous employer mentioned, the following information is needed:
 - a. Date (month/year) that you started and ended with each employer;
 - b. Title of job;
 - c. Kind of business the employer was involved in;
 - d. Describe in detail all of the functions you were involved in at each employer. This should be an exhaustive list, for each employer of the type of machinery you dealt with, the computer languages used, the skills needed, the types of customers you serviced, any international experience in the position, the number of persons you supervised, the number of hours per week worked, training received, the type of reports generated, and all other information that describes what you did for that employer. From this portion of the application, we will be able to ensure that you meet, and exceed, the minimum job requirements established for the job.

PERM is the labor certification system that allows employers to file labor certification petitions online. Employers will not need to submit supporting documentation with the cases and will instead retain all documentation for inspection in the case of an audit.

Furthermore, the rule now clarifies that an online job listing, even if posted in conjunction with a print advertisement, qualifies as an additional recruitment step. The use of a professional or trade organization is still okay, but must be documented by copies of pages of newsletters or trade journal containing the advertisements for the job opportunity. All of the additional steps must take place within six months of filing the case. Employers are no longer required to take a different step each month, though only one of the additional steps may take place within 30 days of filing.

The final rule now requires posting of a job notice for ten consecutive business days in any in-house

posting.

The information requested could take some time to compile. However it is necessary that a very thorough job is done by both the employer and our office so that we can create the best possible Application for Alien Labor Certification in order to improve your chances of approval.

If you have any questions, please call me so we can discuss them.

Sincerely,
CUEVAS, ORTIZ, & CUBAS, P.A.

Roberto J. Ortiz
Roberto J. Ortiz, Esq.