

Permanent Labor Certification Program
Backlog Processing
Frequently Asked Questions

Case Processing

Question: During the public briefings, the Department indicated that there will be 2 processing tracks—Reduction in Recruitment (RIR) and Traditional Recruitment (TR). As to the First in-First out (FIFO) principle, does this mean RIR cases will be separated or distinguished from permanent TR cases?

☞ Yes, there will be two processing tracks—RIR and TR. Each track will have a separate FIFO queue. At the centers we will allocate resources so that RIR and TR cases receive equitable treatment in processing

Question: Will the Backlog Processing Centers (BPC) maintain separate tracks for a) traditional filings; b) RIR filings; and c) special handling filings? If not, why not?

☞ The Centers will maintain separate tracks for traditional filings and RIR filings. At this point, all cases identified as special handling will be forwarded to on-site federal staff for processing. As an enhancement to the operating system, we are investigating how these cases can be electronically expedited.

Question: How is the 2 track system going to work, that is the RIR and TR streams? What resources will be allocated to each? What is the time period for each? Will the resources be allocated such that the last TR case and RIR case will be adjudicated together at the end of the 24-30 months?

☞ At this time we are not able to answer questions which are this specific other than to say that it is our goal to treat RIR and TR cases in an equitable manner.

Question: Does the 24-30 month processing projection apply to both RIR and TR cases or will the RIR queue get some preference?

☞ No queue will automatically get preference. We plan to allocate resources based on the number of cases in each queue. However, we anticipate that the processing time for RIR cases will be shorter than that for TR cases.

Question: Are cases being assigned a new case number or is the current SWA or Regional Office number being retained for tracking purposes?

- ☞ All cases are being assigned new case numbers once entered into the Permanent Backlog System (PBLs). Once a case has been entered into PBLs, the BPC will send the employer and attorney of record (if applicable) a letter with the new case number.

Question: When will I receive my 45-day letter?

- ☞ Due to the large volume of files transferred to the two Backlog Processing Centers, we cannot determine when your “45-day” Center Receipt Notification Letter (CRNL) will be mailed to you. As soon as your case is entered into the U.S. DOL Permanent Backlog System (PBLs), a “45-day” CRNL will be generated and sent to you and your attorney/agent of record, if one exists. Once you receive the “45-day” CRNL, all requested corrections, supporting documents, and the enclosed Selection of Continuation Option Letter must be returned to the appropriate Backlog Processing Center. In the designated space at the bottom of the Selection of Continuation Option Letter, please indicate your decision as to whether “I wish to withdraw this application” or “I wish to continue the processing of this application” with a check mark.

Question: The alien has a child who is about to “age-out.” What can be done to expedite this application?

- ☞ The policy of the U.S. DOL/ETA National Office prohibits the expediting of applications.

Question: The employer has been acquired by another company. The new company still wants to hire the alien. What do we need to do?

- ☞ The new employer must submit a copy of the employer’s articles of incorporation, business license, state registration, or other official documents that establish the employer as a *bona fide* business entity and establishes the legal buyout or “successor in interest” position. In addition, a new Form ETA 750 Part A and Part B must be provided to continue the permanent foreign labor certification process.

Question: The message on my Corrections List states, “The Employer’s name/address is not the same on Form ETA 750 Part A and Part B.” What do I need to do?

- ☞ Please refer to item 6 on Form ETA 750 Part A and item 8 on Form ETA 750 Part B. These items must match exactly on your application. Initial and date

any corrections you make on your application and return it to the appropriate Backlog Processing Center.

Question: The message on my Corrections List states, “Basic Rate Per is a required entry.” The amount of pay is included on the application. What’s the problem?

- ☞ Item 12a/b on Form ETA 750 Part A must include both a rate of pay (in dollars and cents) and a period (hourly, daily, weekly, bi-weekly, monthly, or annually). Please correct, initial, and date your application accordingly and return the application to the appropriate Backlog Processing Center.

Question: Does the BPC case continuance letter need to be signed only by the employer or can the attorney of record sign?

- ☞ The Selection of Continuation Option Letter may be signed and submitted by either the employer or the employer’s attorney/agent of record. We request, however, that employers and attorneys coordinate to determine who will submit the Selection of Continuation Option Letter to ensure that the appropriate Backlog Processing Center does not receive conflicting or duplicate responses. In the instance of conflicting responses, we will default to the employer’s response.

Question: I am the attorney of record for a permanent foreign labor certification case. Our firm has moved and wishes to notify your office of this change. How do I do this?

- ☞ Please send the appropriate Backlog Processing Center a letter that states the change requested and enclose a signed and dated [G-28](#) with the updated information. A separate [G-28](#) should be submitted for each case for which a change is requested. The form must be signed and dated by the employer and/or alien, depending on which party you represent. The attorney may send an individual letter for each case or a combined letter with the change of address and listing all affected cases (include name of employer and alien and the case number, if known).

Question: Is there any centralized way to get an attorney’s current address into your system at the BPCs?

- ☞ No, any correction or change must be sent to the appropriate Center following the instructions above.

Question: I am a new attorney of record for a permanent foreign labor certification case. Our firm wishes to notify your office of this change. How do I do this?

- ☞ Please send the appropriate Backlog Processing Center a letter stating the requested change and enclose a new signed and dated [G-28](#) with the updated information. A separate G-28 is required for each case for which you want to make a change. Each G-28 must be signed and dated by the employer and/or the alien, depending on which party you represent.

Question: The message on my Corrections List states, “Failed Existence Check: Employer’s address/phone number does not reference back to employer’s name.” What should I do to resolve this problem?

- ☞ You must submit a copy of the employer’s articles of incorporation, business license, state registration, or other official documents that establish the employer as a *bona fide* business entity at a specific address to the appropriate Backlog Processing Center.

Question: The message on my Corrections List states that, “Consulate Location is a required entry.” The alien is currently in the U.S. and will apply for adjustment here. Why must I enter a consulate location?

- ☞ Entries are needed in items 10a or 10b on Form ETA 750, Part B. Please mark the appropriate box with an (X) and enter a complete city and foreign country (10a) or city and state (10b) on the application. Initial and date any corrections made to your application and then return the application to the appropriate Backlog Processing Center.

Question: The employer has moved to a new address. How should we notify the Backlog Processing Center of this change?

- ☞ Please send the appropriate Backlog Processing Center a written request to return the original Form ETA 750 Part A and Part B. Make the appropriate change of address, date and initial the change, and return the Form ETA 750 Part A and Part B to the appropriate Backlog Processing Center. Employers who have already recruited for the position in a labor market are cautioned that a move to a new work location may require a new labor market test.

Please note that changes, additions, or deletions to the application must be initialed and dated by the employer on Part A and by the alien on Part B. It is unacceptable for the attorney representing the employer and/or alien to make amendments to the Form ETA 750.

Question: The employer has changed names. Do we have to submit a new application or may we change the original application? How should this be done?

☞ The employer must submit a copy of the employer's articles of incorporation, business license, state registration, or other official documents that establish the employer as a *bona fide* business entity. In addition, a new ETA 750 Part A and Part B must be provided to continue the permanent foreign labor certification process. If the Form ETA 750 Part A and Part B have been returned for correction, the changes may be made on those existing documents.

Please note that the new employer or entity must be connected to the old one (a successor-in-interest) and cannot be an entirely new employer.

Question: Our office recently received a request for "corporate documents" from the BPC. The petition was for a housekeeper. Is this request sent in error or how do we respond?

☞ If the application is for a domestic servant in a private household, the employer should provide a recent tax return and/or leases, utility bills, etc. that establish the domestic employer at the address on the application.

Question: Are all cases filed between 1/1/05 and 3/28/05 to be processed by the BPC rather than the Atlanta or Chicago Processing Centers?

☞ All cases filed between 1/1/05 and postmarked before 3/28/05 will be processed by the Backlog Processing Centers.

Question: Many clients are anxious because we have not received the 45-day letters from the Backlog Processing Centers in connection with their application. How can we follow up on status of cases and at what point should we worry about not getting a letter?

☞ Due to the large volume of files transferred to the two Backlog Processing Centers, we cannot determine when your "45-day" Center Receipt Notification Letter (CRNL) will be mailed to you. As soon as your case is entered into the U.S. DOL Permanent Backlog System (PBLs), a "45-day" CRNL will be generated and sent to you and your attorney/agent of record, if one exists. Once you receive the "45-day" CRNL, all requested corrections, supporting documents, and the enclosed Selection of Continuation Option Letter must be returned to the appropriate Backlog Processing Center within 45 days.

Question: How will RIR and TR priority be handled over PERM cases?

- ☞ Backlogged cases will be processed in Philadelphia and Dallas. PERM cases will be processed in Chicago and Atlanta.

REDUCTION in RECRUITMENT (RIR)

Question: We are receiving letters from BPCs that are out of order from the dates that they were received by DOL in San Francisco. We have several RIR cases filed 4 months before other RIR cases that we have not received letters. Please explain given First In-First Out.

- ☞ We are receiving large numbers of cases from numerous sources and data entering them as quickly as possible so it is possible that “newer” cases could be receiving the 45-day letter before “older” cases. When a full and complete response is received, the case is then put in the RIR or TR queue. These queues arrange cases automatically by order of filing date.

Question: Will an RIR case that has been pending at the federal level for about 1 year be transferred to the Backlog Center, if there has been no decision or notice of finding issues?

- ☞ Yes, all outstanding cases will be transferred to the Backlog Processing Centers.

Question: We called EDD (CA) and heard they will be accepting RIR cases for “another month or so,” but we are not sure where do we send RIR cases after EDD cut off date but before 3/28/05?

- ☞ The SWAs received and date stamped all cases with a postmark date of 3/27/05 or earlier. Cases received by a SWA after that postmarked date will be returned to the applicant for submission to the appropriate National Processing Center in either Chicago or Atlanta.

TRADITIONAL RECRUITMENT (TR)

Question: We have some long pending traditional cases that were transferred from Iowa to Chicago in October 2002 and beyond and are still pending. We have not received notice that the cases have been transferred. When do we start to worry?

- ☞ All cases that were at the Chicago Regional Office have been shipped to the Dallas Backlog Processing Center. All cases that were at the Atlanta Regional Office have been shipped to the Philadelphia Backlog Processing Center. As soon as data entry is completed, a Center Receipt Notification Letter (CNRL) or 45-day letter will be sent out.

TRANSFER OF CASES

Question: How can we know where a case goes?

- ☞ In terms of cases that were at the Regional Offices, the Philadelphia BPC will have all cases that were in Philadelphia and Atlanta Regional offices. The Dallas Backlog Processing Center will have all cases that were in Dallas and Chicago Regional Offices. Also approximately 20,000 cases from the San Francisco Regional Office were split evenly between Philadelphia and Dallas.

All SWAs have also been assigned to a Backlog Processing Center as follows:

Philadelphia Backlog Processing Center: Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Vermont, Virgin Islands, Virginia, Washington, DC, West Virginia

Dallas Backlog Processing Center: Alaska, Arizona, Arkansas, California, Colorado, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

Question: When were state cases sent to the BPC?

- ☞ All SWAs were instructed to make three shipments to the assigned Backlog Processing Centers:

Shipment 1 by 12/31/04--all unopened cases with filing dates of 12/31/02 and earlier

Shipment 2 by 3/31/05--all unopened cases with filing dates between 1/1/03 and 12/31/04

Shipment 3 by 4/22/05--all remaining cases (cases submitted between 1/1/05 to 3/27/05, processed cases, and cases opened but not completed)

Question: Are “unopened” cases from the SWA also being transferred or just “unopened” cases that have reached the DOL Regional Offices?

☞ All SWA cases are being transferred according to the schedule described above. By 4/22/05, there should be no cases left in SWAs. All cases will be at one of the Backlog Processing Centers.

Question: How do you know if any cases transferred from San Francisco Regional Office to the BPCs were lost?

☞ The Backlog Processing Centers perform a reconciliation of the contents of each box with the manifest provided by the sender whether it is a Regional Office or a SWA. There have not been any lost cases.

Question: Can we assume that if our Region’s cases have already been moved to a BPC, then these cases are among the earlier filing dates and we can expect them to be processed soon according to FIFO?

☞ All cases, regardless of whether they were in a Regional Office or a SWA, will be processed according to FIFO, once entered into PBLs.

TIMING and ACCESS to INFORMATION on CASE STATUS

Question: Are all backlogged cases expected to be entered in the database by 3/28/05 so that employers can check status on-line?

☞ We are not able to enter all cases into the database by 3/28/05. We are currently exploring steps that may be taken to accommodate inquiries regarding case status.

Question: When do you expect the BPC will begin adjudicating cases?

☞ The Backlog Processing Centers have begun to process cases from the Regional Offices that have been completely entered into PBLs and for which the Backlog Processing Center has received a response to the Notification Receipt letter.

Question: In order for attorneys to be able to make a decision as to withdrawing a current case and refiling it as PERM, it is necessary to know (approximately) what the backlog is (or the priority date) of cases that are being handled at the BPC. Will something like this be made available?

☞ We are currently exploring how we can inform the public of estimated processing time at a BPC.

Question: What will happen to SWA opened cases if a SWA fails to complete the processing by 3/28/05? Will they go to the national processing queue for processing?

☞ No, these cases will be forwarded to the Backlog Processing Centers. As noted earlier, by 4/22/05 all backlog cases will be at the Centers in Dallas and Philadelphia.

Question: When will a public case information system be up and how will we access it?

☞ We will be posting dates the Regional Offices and SWA shipped files to the BPCs on the home page of the Division of Foreign Labor Certification which is <http://workforcesecurity.doleta.gov/foreign/contacts.asp>.

Question: Once the 45-day letter is received by a backlog center, approximately how soon will labor certification determinations be made?

☞ We are unable to provide an exact timeframe for processing cases after the response to the 45-day letter is received. The processing of a case is dependent upon the timely and complete response of the applicant to all issues and to the FIFO status of a case.

REGIONAL OFFICES

Question: Regarding RIR cases sent from Atlanta: a) which BPC has them; b) how can we get an idea of processing times, and c) where we have a situation with children who are aging out in July, who can we contact?

☞ Philadelphia will have all Atlanta cases and you should contact that Center, but please note that both BPCs operate under a “no expedite” policy.

Question: How many Regional Offices are there now?

☞ There are two Backlog Processing Centers (Philadelphia and Dallas), two National Processing Centers (Atlanta and Chicago), and three satellite offices (New York, Boston, and San Francisco).

Question: Since Atlanta and Chicago are the only national processing centers, what are the functions of all other Regional Offices other than Dallas and Philadelphia?

- ☞ All Division of Foreign Labor Certification (DFLC) field staff now report to the Chief of DFLC and are responsible for processing both temporary and permanent labor certification applications. Staffs in Philadelphia, Dallas, San Francisco, Boston and New York are involved with the backlogged permanent labor applications and as of 3/28/05 staff in Atlanta and Chicago will process applications filed under the new PERM regulation.