

Permanent Residence for Researchers

International Scholar Services

<https://www.purdue.edu/IPPU/ISS/Scholar/>

Who may be sponsored for permanent residence?

Permanent Residence Sponsorship <u>Must</u> be Provided	The Department must direct ISS if it wants to sponsor Permanent Residence	The position is ineligible for Permanent Residence Sponsorship
<ul style="list-style-type: none">➤ Tenured faculty➤ Tenure-track faculty➤ Clinical faculty➤ Professors of Practice	<ul style="list-style-type: none">➤ Research Faculty➤ Continuing Lecturers and other staff who “instruct”➤ Research Staff➤ Any other staff for whom permanent residence is not prohibited	<ul style="list-style-type: none">➤ Postdocs➤ Short-Term Lecturers➤ Visiting faculty or scholars

Defined Terms

- **Permanent residence**

- Normally, foreign workers are presumed to be “temporary”. Their work “visas” (H-1B, etc.) have limits on them. For example, foreign workers normally may hold H-1B status only for 6 years.
- Permanent residence enables a foreign person to reside in the USA indefinitely. It also permits them to freely access the US Labor Market. It is documented by a “greencard”.
- You are reviewing this powerpoint because you or your ISS Liaison has indicated that permanent residence sponsorship is desired for an employee within your Department

- **Employment-Based**

- Permanent residence can be based on a familial relationship or an employment relationship. Purdue pursues permanent residence that is based on employment relationships. This is often abbreviated to “EB”

- **Opportunity**

- The employment position that the foreign worker “will” hold.
- The law views the “opportunity” as something that will exist in the future, once the greencard is issued.
- The fact that the worker is employed now by Purdue in a remarkably similar role is a magical coincidence that the law considers irrelevant.
- The permanent residence sponsorship process has nothing to do with the foreign worker’s current permission to work.

Defined Terms

- **Preference Category**

- US law sets a hierarchy as to how much the USA “prefers” different kinds of foreign workers, as part of the permanent residence process
- The preference category is based on the minimum requirements for the position (Job Family and Career Stream) as set by HR and reflected in SuccessFactors
 - EB-1 is for positions where the researcher has “significant” accomplishments
 - EB-2 is for positions where a master’s degree is the minimum education requirement
 - EB-3 is for positions where a bachelor’s degree is the minimum education requirement
- The choice of Preference Category impacts the total amount of time involved in receiving the greencard

- **Beneficiary / Foreign Worker**

- The foreign worker for whom permanent residence sponsorship is sought.
- Usually this is a current Purdue employee holding, for example, H-1B status.
 - Some immigration classifications do not permit “immigrant intent” – the intention (by the foreign national) to immigrate (reside and work indefinitely in the USA). Examples are F and J status. Normally we move foreign nationals into an appropriate immigration classification as part of our preparation for permanent residence sponsorship.

Options

Two General Paths to Permanent Residence

Accomplishments of the Researcher

- Based on the researcher's impact and accomplishments within the field
- Publications in peer-reviewed journals yielding high levels of citations
- Original contributions to the field

This is either

- ***EB-1B Outstanding Researcher / Professor***
- ***EB-2 National Interest Waiver***

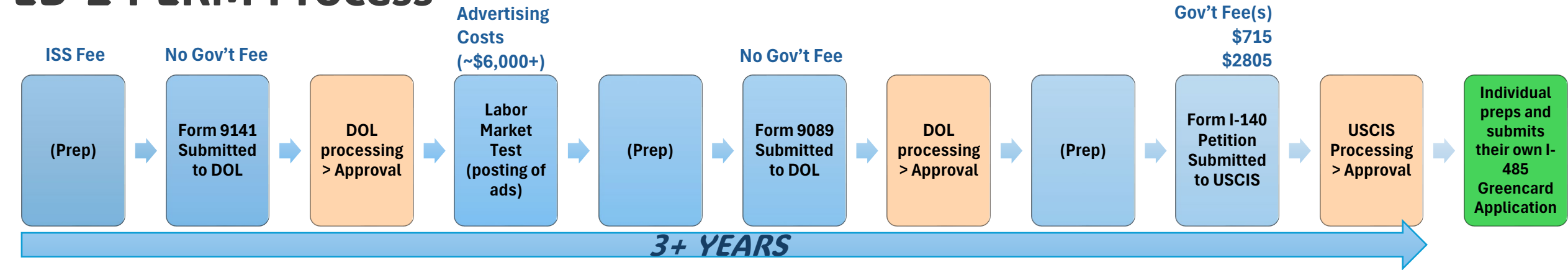
Needs of the Position/Hiring Dept

- Focuses solely on the specific duties and requirements of the “opportunity”
 - Focus is on the role the foreign worker “will” hold when the greencard is issued
 - Basis begins with the Job Family / Career Stream for the position, in Success Factors
- Requires that Purdue demonstrates that “minimally qualified American worker(s) are not ready, willing or available for the position”
 - There is a specific legal process for this called a “Labor Market Test”

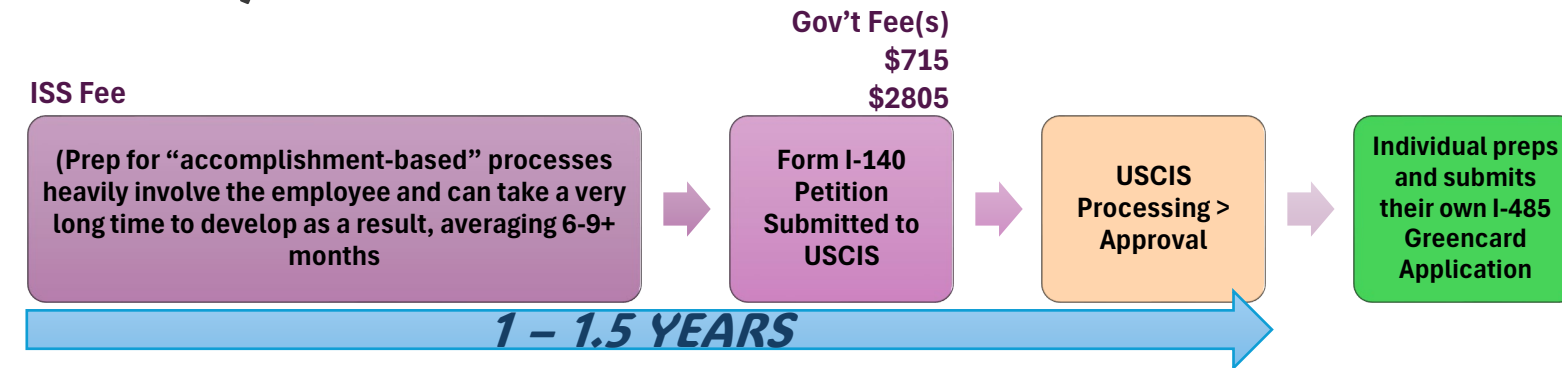
This is EB-2 PERM

Steps Involved

EB-2 PERM Process



EB-1B / NIW Processes



- For ISS Fees, see <https://www.purdue.edu/IPPU/ISS/Scholar/hosts/issfees.html>
- Government Fees may change without warning
- In all cases, the individual is responsible for the final step: submission of the Form I-485 Application to Adjust Status (Application for the Greencard itself).
- In some cases, the individual's ability to submit this filing will be prevented based on "per country limits" imposed by US law. See Slide 11. See also our website at <https://www.purdue.edu/IPPU/ISS/Scholar/immigration/pr/overview.html>, under "How Long Does Permanent Residence Sponsorship Take" for a discussion of "per country limits".

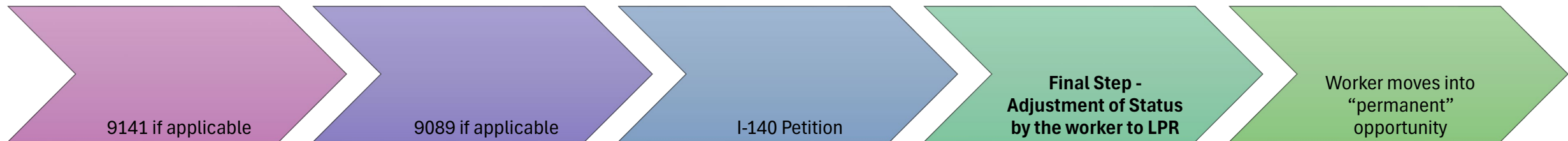
Comparison

	Based on the Researcher (EB-1B or EB-2 NIW)	Based on the Position (EB-2 PERM)
When is it appropriate	<p>The researcher –</p> <ul style="list-style-type: none"> <input type="checkbox"/> Has more publications than average for the field <input type="checkbox"/> Has higher than typical citation rates <input type="checkbox"/> Can point to impact within the field 	<ul style="list-style-type: none"> • There are concerns about costs • There are concerns about the investment of time required from the researcher • The Department feels that if it were to begin a search to replace the foreign worker, there either would be <ul style="list-style-type: none"> • A complete absence of suitable candidates, or • A significant investment would be needed to bring a candidate up to full competency in the role
Who leads the PR Process	International Scholar Services has a limited capacity for EB-1B / NIW filings each year. We will advise whether the case may be managed within International Scholar Services, or whether the case must be assigned to one of the two immigration law firms approved by Purdue University for immigration services	International Scholar Services
Cost	<p>For ISS Fees and all other costs, see https://www.purdue.edu/IPPU/ISS/Scholar/hosts/issfees.html</p> <p>The ISS Fee is charged only once the appropriate permanent residence process is confirmed, which is <u>after</u> EB-1B/NIW assessment and/or collection and review of all EB-2 PERM documents</p> <p>ISS Fees (recharge rates) are processed through Purdue's iLab system at the beginning of the calendar month <u>after</u> the appropriate service is identified</p>	
Risk	<ul style="list-style-type: none"> • Level of risk depends on the researcher's credentials / accomplishments. <ul style="list-style-type: none"> • The more documentation there is about the researcher's accomplishment and impact, the lower the risk is • USCIS adjudication is based on "adjectives" – is the researcher "extraordinary" "accomplished" "innovative". <ul style="list-style-type: none"> • It is easy to disagree with adjectives. • Currently USCIS adjudications are more challenging than has been the case historically 	<ul style="list-style-type: none"> • Level of risk depends on the labor market <ul style="list-style-type: none"> • Are there suitable American workers "out there"? If not, then the level of risk is near-zero. If there are potentially qualified American workers available, then risk increases
Initiation	<ul style="list-style-type: none"> • Email PISA or IntlScholars@purdue.edu asking for EB-1B / NIW assessment • Email is sent to employee that collects information about accomplishments and impact • Assessment must be that the case has at least an 80% chance of approval • If this level of success does not seem likely, ISS recommends proceeding with the job-based PR process for now. Depending on the worker, we can revisit this decision and do a "second" PR process later, if the department wants this and if it appears necessary. 	<ul style="list-style-type: none"> • Email PISA or IntlScholars@purdue.edu asking for EB-2 PERM permanent residence • Email is sent to employee that collects information about Education and Work experience and other skills, AND • Email is sent to the Department Contact / Hiring Manager asking about the position's core functions / duties

Permanent Residence focuses on the FUTURE

“Employment-Based” Immigration

- Both the EB-1B and the EB-2 PERM are processes that are specific to the Purdue employment being described in the paperwork
 - The different stages of paperwork are *not* talking about what the worker is doing “now”
 - The paperwork focuses on “The Opportunity” the worker will hold when the legal process is complete
 - The entire sequence of paperwork is “future-looking”.
 - The paperwork is a request/promise by Purdue that it *will* employ the worker in the position being described (the Opportunity), once the greencard is issued



All the paperwork focuses on “The Opportunity” that the worker will hold at the end of the process

The worker's "JOB" must remain largely the same until the greencard is issued

"Employment-Based" Immigration

- One way to think about the process is to imagine that the paperwork is describing the "hat" the worker will wear once the greencard is issued. (The hat being a metaphor for the job)
- At each stage of the paperwork, we are describing the hat the worker *will* wear
- If it is decided that the worker will wear a completely different hat once the greencard is issued, the government will (correctly) say that they have never had the opportunity to understand that specific hat because no paperwork was ever filed about that new, different hat
 - The government will deny the paperwork for the first process because the worker no longer intends to hold "that" hat
 - The employer must file new paperwork about the new hat to be worn



All the paperwork focuses on "The Opportunity" that the worker will hold at the end of the process

The worker's "JOB" must remain largely the same until the greencard is issued

"Employment-Based" Immigration

- Changes in jobs / promotions are fine--
 - If the change/promotion Represents less than 25% total change in job duties
 - If supervisory, lead or oversight duties are being added or increased, the result is not more than 50% of the role involves (directly or indirectly) such supervisory, lead or oversight tasks
 - If the change/promotion does not reduce the total dollar value per year of wages being received by the worker (which might happen in some FY to AY changes)
 - The County of work does not change (usually, Tippecanoe County)
 - The College / Division does not change
 - The Department / Lab does not change
- The more change that occurs, the less likely the PR process can absorb the change.
- Ultimately, the specific circumstances must be evaluated by International Scholar Services

Timelines, Delays and Per-Country Limits

- Depending on the process, the paperwork sequence might take 12 – 36+ months; below is the additional delay that occurs for citizens of the listed countries
 - US law has a built-in bottleneck
 - The total migration to the US from any given country cannot exceed 7% of the total annual permitted migration. This is called “per country limits”.
 - If more applicants submit requests that allowed by the relevant “per country limit” a backlog develops
 - The delay occurs after the I-140. The backlog prevents the individual from filing their Form I-485 Application to Adjust Status – the final step to the permanent residence process

	China	India	Mexico	Philippines	All Other
EB-1	0 – 1 year delay	0 – 1 year delay	0	0	0
EB-2	3 – 5 years delay	11 – 13 years delay	0 – 1 year delay	0 – 1 year delay	0 – 1 year delay
EB-3	3 – 5 years delay	11 – 13 years delay	0 – 1 year delay	0 – 1 year delay	0 – 1 year delay

- If it is anticipated that the worker might change roles or be promoted prior to the expected date by which they will receive their greencard, there are several options to consider
 1. Evaluate whether an adjective-based process might work
 2. Consider describing the position flexibly enough to accommodate anticipate promotion or career progression within the department / hiring unit
 3. File the job-based process now to “lock in” the worker’s place in the queue, but file a second PR process for the new job or promotion once it occurs. Once that new paperwork is approved, the worker can use that approval combined with their original “place” in the PR queue to receive their greencard on the same timeline

Next Step

If you know which process you prefer

- Based on the *Researcher*:
 - Email IntlScholars@purdue.edu OR PISA@Purdue.edu (but not both) to request EB-1B Outstanding Researcher or EB-2 NIW assessment. You must include an account number for the ISS Fee when submitting your request.
 - Once processed, an email will be sent to the researcher asking them to submit an “Awesomeness” eform.
 - Once the researcher submits this, the assessment will be provided within 10 business days
- Email IntlScholars@purdue.edu OR PISA@Purdue.edu (but not both) to request EB-1B Outstanding Researcher or EB-2 NIW assessment. You must include an account number for the ISS Fee when submitting your request.:
 - Once processed, emails will go to the Liaison and Researcher with links to eforms to complete
 - Once the eforms are completed and analyzed, ISS will reach out to schedule a “launch” meeting

If you do NOT know which you prefer

- Email to request a meeting
 - Amanda Thompson, Director, International Scholar Services
 - thomp557@purdue.edu
 - In general, these discussions take about 45 minutes