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# Labor Certified Based on Appeal Alleging Government Error

## Labor Certified Based on Appeal Alleging Government Error <sup>[1]</sup>

Submitted by Chief Editor on Mar 15th 2013

We filed a Form ETA 9089 Foreign Labor Certification (PERM) for a petitioner corporation and a beneficiary Software Architect. The Department of Labor sent us an Audit Notification, which functions as a Request for Evidence in these cases, requesting information on the necessity of the high level of education and experience the petitioner required for the position and details about the process the petitioner used to advertise for the position.

The information we provided seemed to be satisfactory on those points, but the DOL denied the petition, alleging that the position included a telecommuting benefit that was not included in the advertising. After we filed a Motion to Reconsider in which we argued that, in fact, the position did not include a telecommuting benefit and explained the illogical conclusion reached by DOL, they accepted our argument of government error and certified the petition. Later, USCIS approved the I-140 petition as well.

### **Green Card:**

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

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### **Links:**

[1] <https://immigration.com/sample-cases/perm-labor-certification/labor-certified-based-appeal-alleging-government-error>

[2] <https://immigration.com/greencard/green-card/perm-labor-certification>