

Re-Selection

Permanent Residence Sponsorship for Search Waivers and Lecturers

International Scholar Services

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

Background

- US law requires two elements for most employment-based permanent residence processes
 - A “permanent” offer of employment
 - Tenured, tenure-track, clinical and professional faculty offers are considered “permanent” for immigration purposes
 - A “timely” test of the US labor market to determine if American workers are available
 - “Timely”
 - The test occurred within the deadline set by law
 - “Labor Market Test”
 - Ads were placed that alerted qualified applicants to the opportunity, with the theory being that they then would apply in response to the ad
 - The law requires that the ads describe the position with enough detail so that anyone who might be qualified and interested would be able to tell the opportunity exists

Re-Selection

- Re-Selection is the legal process by which we run a “timely labor market test.”
 - Consists of two steps:
 1. A minimum of a single ad in an electronic or print journal for no less than 30 days
 - Purdue utilizes HigherEdJobs for this purpose
 - ISS coordinates the posting of the ad, taking screenshots to document it, and pulling the ad after ~ 35 days.
 2. A “Quiet time” of no less than 30 days
 - The Department must engage in the ‘normal’ tasks associated with a selective recruitment campaign
 - Form a search committee, if appropriate
 - Which might comprise the Head, the Assistant to the Head, and possibly 1 or more other persons as determined by the Department
 - Evaluate applications received, if any
 - “Re-selects” the faculty member as the ‘better qualified’ candidate
 - This process satisfies the legal requirement for a timely labor market test
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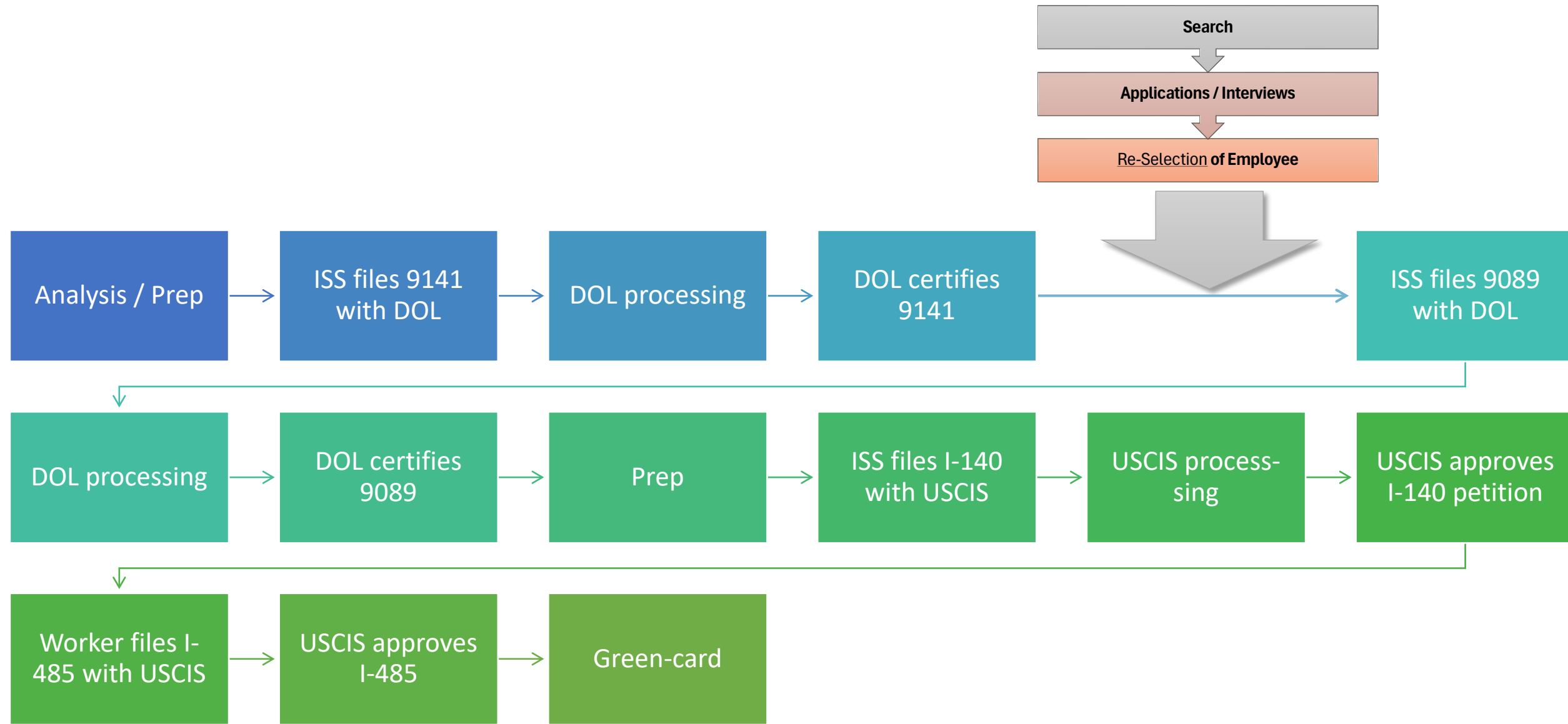
BUT...

- Before we can get to the “ReSelection”, we must begin with a preliminary filing with the Department of Labor
 - Form 9141 Request for Prevailing Wage
 - This describes the opportunity to the DOL so that they can assign a federal occupational classification to the role
 - This tells ISS what to include in later steps
- So – to prepare the 9141 application, we must know what the ReSelection ad “will” say, once we get to that.

The Advertisement

- The Department will provide
 - A Summary of the opportunity / position, if the hire was based on Search Waiver
 - The prior ad for the opportunity, if the employee is a Lecturer
- ISS will draft a proposed ad and present to the Department for feedback / approval
- ISS then will submit the Form 9141 to the DOL
 - DOL processing ranges from 5 – 14 months
- Once the DOL issues the 9141 Determination, ISS will confirm the ad once again with the Department
 - The ad cannot change significantly
 - If we change the ad significantly, we must resubmit the 9141 to the DOL
 - And then that (again) must pend for however long it takes the DOL to certify it
- ISS then will post the ad through HR in HigherEdJobs for not less than 30 days
 - The search is NOT in SuccessFactors and thus the ad cannot direct applicants to apply through SuccessFactors
 - The ad will not be posted to any other job search site (it will only be in HigherEdJobs) and thus the ad cannot direct applicants to apply via industry-specific job banks.
 - The ad will direct applicants to submit materials by email to the department
 - We recommend the department create an email address specifically for this purpose
 - Once the email is created, please notify ISS so that we can include that detail in the ad

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- Is not an “employment” action
 - Purdue is not “re-hiring” the faculty member
 - Nothing goes through SuccessFactors
 - Or any other industry job search system
 - OIE is not involved
 - The faculty member’s pre-existing employment is not affected
 - There is no new offer letter
 - The pre-existing employment is not hidden in any way on the immigration paperwork
 - The 9089 lists only the most recent
 - Selection (not the original selection)
 - Recruitment effort (not the original recruitment campaign)
 - BUT the original hire date is fully disclosed in the 9089 and I-140

Who Does What in a Re-Selection?

ISS	Department	Faculty Member
<ul style="list-style-type: none">➤ Provides feedback about the proposed ad, if needed➤ Coordinates the posting of the ad, once finalized by the Department, in HigherEdJobs➤ Pulls the ad from HigherEdJobs after ~35 days, so that the Quiet Time can begin➤ Approve all draft documents to support the DOL audit requirements➤ Provide an electronic copy of the 9089 Notice of Filing to the Department for printing and physical posting at the faculty member's work site➤ Timely file the 9089 with the DOL➤ Work with the faculty member to develop documentation evidencing how requirements are satisfied	<ul style="list-style-type: none">➤ Identifies the email address for use in the ad➤ Drafts initial ad or approves/edits the draft ad provided by ISS➤ Promptly posts the physical 9089 Notice of Filing as directed by ISS➤ Forms a Search Committee that promptly evaluates any applicants using a procedure that is as close as possible to that of a routine search➤ Provide drafts of all required documents to ISS for review (Recruitment Report, Selection Committee Report and Qualifications Letter). Templates are provided via email.<ul style="list-style-type: none">➤ Once ISS approves documents, provides final signed copies to ISS➤ Returns the posted Notice to ISS upon completing of the posting	<ul style="list-style-type: none">➤ Work with ISS to provide or develop documentation of credentials or qualifications, if needed➤ Respond to questions from ISS and complete all required e-Forms➤ Upload requested documents➤ Faculty are responsible for the final step in the permanent residence process, called Adjustment of Status

If there are Applicants

1. Applicants will apply to the department using the email address provided by the department for this reselection process
2. The review of applicants (if any) should be as close as possible to a normal search review and selection process
 - The Department is responsible for this
 - A rubric *must* be used by the search committee to evaluate the applicants (if any)
 - The international worker does not apply and is not evaluated
 - The international worker is the “standard” against which new applicants are considered
 - The international worker’s work to date / accomplishments to date MAY be considered
3. Be cognizant of what messaging if any goes to the department
 - This is a REAL opportunity being posted to test the labor market
 - There can be NO communications that this is a “fake search” or anything similar as that could discourage applicants and void the test
4. After ~35 days, ISS will email to advise the ad is pulled.
 - The search committee should promptly respond to advise whether there have been any applicants. If so, then the applicants’ materials and the rubrics used to evaluate them must be provided to ISS.
 - At this time, the development of the final ReSelection Documents will begin
 - Selection Committee Report
 - Qualifications Letter (about the faculty member)
 - Recruitment Report (listing the other applicants and the reasons for their rejection).
 - Please note – this is not a “strengths and weaknesses” statement. This is solely a list of the reasons for rejection, without strengths. Each basis for rejection should be followed by a brief statement as to how the faculty member does meet the issue raised for the applicant’s rejection

Questions?

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