

MEMORANDUM
H-1B Labor Condition Application Obligations

Under current Department of Labor regulations, an employer petitioning for H-1B status on behalf of a current or prospective employee must meet several obligations. Specifically, the employer must submit a completed Form ETA-9035E, Labor Condition Application ("LCA") to the DOL and obtain approval of the LCA prior to submitting the H-1B nonimmigrant petition to the U.S. Immigration & Citizenship Services ("USCIS"). Through completion and submission of the LCA to the DOL, the employer affirmatively agrees to several attestations regarding the wages, working conditions, and benefits to be provided as identified in the LCA. In addition, the employer must:

- (1) Make the LCA and supporting documentation available to the public for inspection;
- (2) Develop and maintain documentation to support the validity of the statements and attestations made in the LCA and the accuracy of the information provided at its principal place of business, making such documentation available to DOL upon request;
- (3) Include a copy of the certified LCA with the H-1B petition to the USCIS; and
- (4) Not permit the prospective H-1B employee to commence work until the H-1B petition is approved by USCIS or, where the prospective employee is already in H-1B status with another employer, until the employer files the H-1B petition, including certified LCA, with the USCIS.

Public Inspection File

Employers are required to maintain documentation in a public inspection file to support each of the attestations made on the LCA. The public inspection file must be made available to the public within one working day after the date on which the LCA is filed with the Department of Labor. The file may be maintained at the employer's principal place of business in the U.S. or at the place of employment. It should be kept separate from employee files. The records must be retained for a period of one year beyond the last date on which any H-1B nonimmigrant is employed under a particular LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn.

The completed Public inspection File must contain the following documentation:

- **A copy of the completed and signed LCA form and cover pages.**
- **A copy of the notice of posting and the original postings** (with recorded dates of posting). When the occupation is designated as a union position, the LCA must be provided to the union bargaining representative, and evidence should be placed in the public access file. For non-union positions, the LCA must be posted in two conspicuous locations at the job site for ten (10) days. The posting must occur on or within thirty (30) days before the date the LCA is filed with the DOL. The employer should complete a posting notice and include the notice in the public access file.

In the alternative, an employer is permitted to post electronically if its employees have computer access. The electronic "posting" is done by any means ordinarily used by an employer to communicate promotions and job openings. For example, posting can be complied with through a notice "posted" on a company's home page (on the internet or intranet – provided all employees have access to the notice). If posted on a home page, the

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notice must remain accessible for 10 days.

In addition, there may be additional posting requirements if the H-1B employee will work at a "client work site." Please contact our office to discuss the requirements for client work sites, if this becomes applicable.

- **Copy of the LCA Receipt Notice**, signed by the alien, documenting that a copy of the completed LCA was provided to the alien.
- **Documentation of the wage to be paid to the H-1B nonimmigrant.** The LCA itself is sufficient unless a range of salaries is indicated as the wage to be paid. In that event, a separate Actual Wage Statement is required;
- **Actual Wage Memorandum.** This memorandum should indicate the number of individuals currently in the position designated on the LCA, as well as the range in salaries, if any, for individuals who hold that position as well as the factors used to determine the actual wages.
- **Documentation of the prevailing wage.** In most cases, this will consist of an acceptable wage survey taken in the geographical area of intended employment. In the event a prevailing wage determination is obtained from the State Workforce Agency (SWA), the SWA determination must be included.
- **Summary of the benefits offered to U.S. workers in the same occupational classifications as H-1B nonimmigrants.** This must include a summary of all benefits offered (e.g., health insurance coverage) and a statement of how benefits differ in situations where not all employees are offered or receive the same benefits.

The DOL further requires that the employer maintain payroll records for all employees (U.S. and non-U.S.) in the same occupational classification, and location as the H-1B nonimmigrant. These records must include: the employees' names; home addresses; occupations; rates of pay; hours worked daily and weekly, if paid on basis other than salary; total additions to or deductions from pay; and total wages paid in each pay period. The employer must also maintain documentation of its offer of benefits and eligibility requirements for benefits that it provides to employees as compensation for services including a copy of any documents provided to employees describing the employer's benefit plan(s), a copy of the benefit plan(s), and evidence as to what benefits are actually provided to U.S. workers and H-1B nonimmigrants. In addition, copies of all H-1B petitions and extensions must be maintained. This documentation is not required for the public access file, but must be available for inspection by the Labor Department upon request.



The Labor Condition Attestation Requirements

The purpose of the Labor Condition Attestation ("LCA") is to assure that neither U.S. workers nor aliens are adversely affected by the wages and working conditions proposed in the H-1B petition/extension. All H-1B employers must attest, via the LCA, to certain issues regarding wages, working conditions, strikes, and notice to employees or their representatives about the filing of the LCA.

As an H-1B "non-dependent" employer, your company must attest to the following:

- (1) The H-1B nonimmigrant will be:
 - (a) Paid the greater of: (i) the prevailing wage level for the specific occupation in the area of intended employment; or (ii) the actual wage level paid by the employer to all other individuals with similar experience

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and qualifications for the specific employment in question;

(b) Paid the required wage for time in nonproductive status due to a decision of the employer or due to the H-1B nonimmigrant's lack of a permit or license; and

(c) Offered benefits and eligibility for benefits on the same basis, and in accordance with the same criteria, as similarly situated U.S. workers.

Note:

The prevailing wage source and amount are specified on Form ETA 9035. As salaries for similar positions vary throughout the United States, the LCA must reflect the prevailing wage of the specific geographical region that encompasses the employee's "workplace." If the employee is required to travel from time to time or, in fact, travels significantly throughout the United States, please contact our office and discuss the situation with the legal professional handling your immigration matters.

- (2) The employment of the H-1B nonimmigrant will not adversely affect the working conditions of workers similarly employed in the geographical area of intended employment, and the H-1B nonimmigrant will be afforded working conditions on the same basis, and in accordance with the same criteria, as offered to similarly employed U.S. workers;
- (3) At the time of filing the LCA, there is not a strike, lockout, or work stoppage in the course of a labor dispute in the named occupation at the place of employment, and that, if such a strike, lockout, or work stoppage occurs after the application is submitted, the employer will notify the U.S. Department of Labor within three (3) days of such occurrence and the application will not be used in support of a petition filed with USCIS for H-1B nonimmigrants to work in the same occupation at the place of employment until the U.S. Department of Labor determines the strike, lockout, or work stoppage has ceased.
- (4) A copy of this application has been, or will be, provided to each H-1B nonimmigrant employed pursuant to this application no later than the first day of employment, and as of this date, notice has been provided of the filing of the LCA to the bargaining representative of the employer's employees in the occupational classification or, if there is no such bargaining representative, the employer has posted notice of the filing of the LCA on the premises where the employee will be working. If the employee is to work off-site on premises other than those of the petitioner, e.g. in the case of contract employee or consultants, the LCA posting notice must be placed at that/those worksite(s). Further, the alien must be provided, before the first day of employment, with a copy of the application and the petitioner must retain a "receipt" copy with the alien's signature under the heading "I hereby certify that I have received a full and complete copy of this document on [current date]." A receipt must be obtained for any new employee on or before the first date of his/her employment.

Wage Determinations

If you believe there is no other employee with similar experience and qualifications performing analogous duties, then the wage to be paid need only be at least the prevailing wage, which may be determined through the use of an authoritative survey published by a source independent of the employer, through obtaining a wage determination from an SWA, or from other legitimate sources. A current prevailing wage determination must always be obtained prior to the filing of an LCA.

The U.S. Department of Labor has indicated that the monetary value of an employee's benefits or eligibility for *guaranteed* benefits (e.g. future guaranteed bonuses, paid vacations, holidays, insurance, savings plans, etc.) may be used to calculate the employee's "actual" wages if their value is certain. Kindly note that discretionary benefits,

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such as a discretionary bonus, may not be used in the calculation of the employee's "actual" wages. Also, as the value of stock options change constantly, it may be more difficult to include these in the calculation. Remember that the employer must pay the higher of the actual or prevailing wage.

If there is another employee with analogous duties who possesses similar experience and qualifications, then please contact our offices for further advice regarding the wage to be paid and documentation thereof. Note that experience, qualifications, education, job responsibility and function, specialized knowledge, and other "legitimate business factors," e.g. conforming to recognized principles or demonstrated by accepted rules and standards, may be considered in determining actual wages. We ask, however, that you review any such occurrence with our office to ensure the company's adherence to relevant documentary requirements.

Payment for Nonproductive Time (i.e. "Benching")

Employers are prohibited from placing H-1B workers in unpaid status due to lack of assigned work, lack of a necessary license, or other factors beyond the employee's control, even if U.S. workers in the same situation are "benched." H-1B workers may only be placed on unpaid leave as a result of conditions unrelated to employment. This would most likely occur in two instances: (a) the H-1B worker requests the leave for his or her own convenience (e.g., to care for an ill relative), or (b) circumstances render the H-1B employee unable to work (e.g., family or medical leave). The employer is not required to pay the H-1B employee under these circumstances as long as U.S. workers would not be paid in similar circumstances and other state or federal laws do not require payment.

Benefits

Employers must offer the same benefits package on the same basis to similarly employed U.S. workers and H-1B workers. Eligibility and participation criteria must be the same for all workers. H-1B workers cannot be denied benefits because they are "temporary employees," but other distinctions are allowed as long as U.S. workers are treated in the same manner, e.g., full-time vs. part-time employees or professional vs. non-professional staff. H-1B workers may be provided with greater or additional benefits as long as this does not discriminate against U.S. workers. It is permissible for employees to choose to receive different benefits, e.g., cafeteria plans, as long as the employer does not attempt to influence their decisions.

In certain circumstances, multinational employers may choose to leave H-1B workers on their "home country" benefits plan, instead of offering U.S. benefits. If this is applicable, please contact our office for further advice.

Place of Employment

If an H-1B alien is sent to a different location outside the area of intended employment listed on the LCA, it must first be determined if the travel involves a new "place of employment" before it can be determined if a new LCA is required. The following circumstances do not constitute a new "place of employment":

- (1) The employee attends a developmental activity, defined as a management conference, staff seminar, or formal training conference, unless the H-1B employee is an instructor or resource who regularly performs such duties at specified locations;
- (2) Travel that is part of the H-1B employee's job functions, i.e., the employee's work requires travel from location to location (a peripatetic worker), or the worker's duties require that the employee generally be at one location, but occasionally travel to other locations. The travel cannot exceed five consecutive workdays for a peripatetic worker, or ten consecutive workdays for any visit by a worker that spends most work time at one location and travels occasionally to other locations.

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If the travel does not constitute going to a new “place of employment” based on the definition above, then the LCA obligations are tied to the regular work location, and a new LCA is not required. If the travel does constitute going to a new “place of employment,” please contact our office as the LCA obligations for the different location will be triggered if the H-1B employee will spend 30 or more days at that location during any 365 day period.

Enforcement

The Department of Labor has the authority to undertake investigations and enforce these regulations. Fines may be assessed for impermissible termination penalties, impeding the ability of the Department of Labor to investigate. Fines may be assessed at \$1,000 per violation.

Employment Verification

Under law, every U.S. employer must maintain Employment Verification Forms (I-9 forms) for each employee, irrespective of position in the company, citizenship, or immigration status. The purpose of the I-9 form is to verify that new hires are authorized for employment with your organization in the United States. The I-9 form must be completed within three days of the date of hire. Your I-9 records should be maintained separately from the public inspection files or the employee personnel files.

Change to the Conditions of Employment

In the event the H-1B petition is approved by the USCIS, the Beneficiary's employment authorization will apply only to the specific position identified in this petition. Should the Beneficiary be transferred, promoted, reassigned, etc. to a different position other than that listed in the H-1B petition approved by the Immigration Service, such that the basic conditions of employment change, the Beneficiary may be in violation of his/her H-1B nonimmigrant status. Moreover, as the petitioning employer, your company may be deemed to be in violation of federal H-1B regulations. Therefore, it is imperative that you contact our office should the job title, position duties, work location, salary, or any other condition of employment change in any way so that we may discuss the impact to the employment of the H-1B worker.

If you have any questions or concerns regarding the obligations of the H-1B employer, please contact our office.

**LCA Public Access File
Table of Contents and Compliance Checklist**

Employee Name or Number: _____

LCA Validity Start Date: _____ **End Date:** _____

Employee Actual Start Date Under this LCA: _____

Date of Employee Termination *(if earlier than End Date)*: _____

Minimum Retention Date for this Public Access File: _____

(Note: LCA Public Access Files must be maintained for a period of one year beyond either the LCA validity end date or the date of employee termination and withdrawal of the associated H-1B petition, whichever is earlier)

Table of Contents and Checklist

- ☐ **Posted copy(ies) of LCA**
- ☐ **LCA posting certification signature/date**
- ☐ **Copy of DOL Form ETA-9035E instructions**
- ☐ **Documentation of Prevailing Wage rate/source**
- ☐ **Description/Memorandum of Actual Wage system**
- ☐ **Description of employee benefits program(s)**
(Note: H-1B worker must be offered the same benefits as U.S. workers)
- ☐ **Copy of full H-1B Non-Dependency calculation**
(Only needed if close to Dependent or previously Dependent)
- ☐ **Signed copy of certified LCA**
- ☐ **Proof of receipt of LCA copy by employee**
(Note: Must be given to H-1B worker no later than first day of work under this LCA)

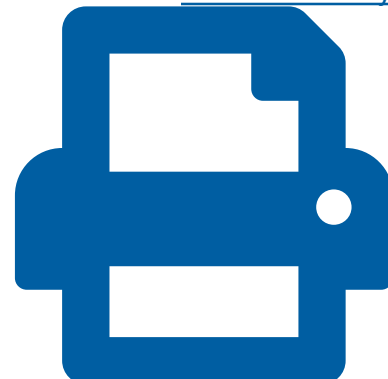
Select what form/section you would like to view:

- Select -

1205-0466

Expiration Date: XX/XX/XXXX

[Print Summary](#)



Labor Condition Application for H-1B, H-1B1 and E-3 Nonimmigrant Workers Form ETA-9035CP

U.S.Department of Labor

IMPORTANT: Please read these instructions carefully before completing the Form ETA-9035 or 9035E – Labor Condition Application (LCA) for Nonimmigrant Workers. These instructions contain full explanations of the questions and attestations that make up the LCA, Form ETA-9035 and 9035E, with further information about the employer's obligations provided in 20 CFR 655 Subpart H. If the employer plans to file non-electronically, which is allowed only for certain reasons set out below, ALL required fields and items containing an asterisk (*) must be completed as well as any fields and items where a response is conditioned on the response to another required section/field or item as indicated by the section (§) symbol. In accordance with 20 CFR 655.740, once an LCA has been received from an employer, a determination will be made by the ETA Certifying Officer whether to certify the LCA or return it to the employer not certified. Where all items on the Form ETA- 9035 or 9035E are complete and do not contain obvious inaccuracies, the ETA Certifying Officer will certify the LCA within 7 working days of the date the LCA is received and date-stamped by the Department. If the LCA is not certified pursuant to 20 CFR 655.740(a)(2)(i) or (ii), the ETA Certifying Officer will return it to the employer, or the employer's authorized agent or representative, explaining the reason(s) for such return without certification. Except in the case of a disqualification issued by the Wage Hour Administrator, the employer may submit a corrected LCA to the Department for review, which shall be treated as a new LCA and processed on a "first come, first served" basis. Anyone who knowingly and willingly furnishes false information in the preparation of the Form ETA- 9035 or 9035E and any supplement thereto, or aids, abets, or counsels another to do so is committing a Federal offense under 18 U.S.C. 1001 or other provisions of law.

A: Employment-Based Nonimmigrant Visa Information



1. Indicate the type of visa classification
supported by this application

H-1B

B: Temporary Need Information



1. Job Title

Industrial Engineer - Intermediate

2/B.3. SOC (ONET/OES) Code and Occupation 17-2141.00
Title

2/B.3. SOC (ONET/OES) Code and Occupation Mechanical Engineers
Title

4. Is this a full-time position? YES

5. Begin Date 2020-10-01

6. End Date 2023-09-30

7. Total Worker Positions Being Requested for Certification 1

a. New Employment 1

b. Continuation of previously approved employment without change with the same employer 0

d. New concurrent employment 0

c. Change in previously approved employment 0

e. Change in employer 0

f. Amended petition 0

C: Employer Information



1. Legal Business Name KCM Technical, Inc.

3. Address 1 850 Stephenson Highway, Suite 603

5. City Troy

6. State MICHIGAN

7. Postal Code 48083

8. Country UNITED STATES OF AMERICA

10. Telephone Number +18104443692

12. Federal Employer Identification Number
(FEIN from IRS) 20-3612363

13. NAICS Description Engineering consulting services

13. NAICS Code 541330

D: Employer Point of Contact Information



1. Contact's Last (family) Name Lambert

2. First (given) Name Tracy

3. Middle name(s) L.

4. Contact's Job Title Senior Vice President of Specialty Services

5. Address 1 850 Stephenson Highway

6. Address 2 (apartment/suite/floor and number) Suite 603

7. City Troy

8. State MICHIGAN

9. Postal Code 48083

10. Country UNITED STATES OF AMERICA

12. Telephone Number +18104443692

14. Business e-mail address tracy@kcmtech.net

E: Attorney or Agent Information (if applicable)



1. Is the employer represented by an attorney or agent in the filing of this application? Attorney

2. Attorney or Agent's Last (family) Name Pinto

3. First (given) Name Elissa

4. Middle Name(s) N.

5. Address 1 2600 West Big Beaver Road, Suite 300

7. City Troy

8. State MICHIGAN

9. Postal Code 48084

10. Country	UNITED STATES OF AMERICA
12. Telephone Number	+12484337277
14. Email Address	epinto@dickinsonwright.com
15. Law Firm/Business Name	Dickinson Wright, PLLC
16. Law Firm/Business FEIN	38-1364333
17. State Bar Number	P63056
18. State of highest state court where attorney is in good standing	MICHIGAN
19. Name of highest state court where attorney is in good standing	Supreme Court

F: Employment and Wage Information

F. Use the fields above to enter the details of each additional place of employment, when applicable

Wage Rate Paid to Nonimmigrant Workers From	39.02
Wage Rate Paid to Nonimmigrant Workers Per	Hour
Prevailing Wage Rate	39.02
Prevailing Wage Rate Per	Hour
Identify the source user for the prevailing wage (PW)	f13_is_oes_prevailing_wage
Wage Level	II
Source Year	7/1/2019 - 6/30/2020

Enter the estimated number of workers that will perform work at this place of employment under the LCA 1

Indicate whether the worker(s) subject to this LCA will be placed with a secondary entity at this place of employment YES

Legal Business name of secondary entity	FCA US LLC
Address 1	800 Chrysler Drive
City	Auburn Hills
County	OAKLAND
State/District/Territory	MICHIGAN
Postal Code	48236

G: Employer Labor Condition Statements



In order for your application to be processed, you MUST read Section G of the Form ETA-9035CP - General Instructions for the 9035 & 9035E under the heading "Employer Labor Condition Statements" and agree to all four (4) labor condition statements summarized below:

- 1. Wages:** The employer shall pay nonimmigrant workers at least the prevailing wage or the employer's actual wage, whichever is higher, and pay for non-productive time. The employer shall offer nonimmigrant workers benefits and eligibility for benefits provided as compensation for services on the same basis as the employer offers to U.S. workers. The employer shall not make deductions to recoup a business expense(s) of the employer including attorney fees and other costs connected to the performance of H-1B, H-1B1, or E-3 program functions which are required to be performed by the employer. This includes expenses related to the preparation and filing of this LCA and related visa petition information. 20 CFR 655.731;
- 2. Working Conditions:** The employer shall provide working conditions for nonimmigrants which will not adversely affect the working conditions of workers similarly employed. The employer's obligation regarding working conditions shall extend for the duration of the validity period of the certified LCA or the period during which the worker(s) working pursuant to this LCA is employed by the employer, whichever is longer. 20 CFR 655.732;
- 3. Strike, Lockout, or Work Stoppage:** At the time of filing this LCA, the employer is not involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupational classification in the area(s) of intended employment. The employer will notify the Department of Labor within 3 days of the occurrence of a strike or lockout in the occupation, and in that event the LCA will not be used to support a petition filing with the U.S. Citizenship and Immigration Services (USCIS) until the DOL Employment and Training Administration (ETA) determines that the strike or lockout has ended. 20 CFR 655.733;
- 4. Notice:** Notice of the LCA filing was provided no more than 30 days before the filing of this LCA or will be provided on the day this LCA is filed to the bargaining representative in the occupation and area of intended employment, or if there is no bargaining representative, to workers in the occupation at the place(s) of employment either by electronic or physical posting. This notice was or will be posted for a total period of 10 days, except that if employees are provided individual direct notice by e-mail, notification need only be given once. A copy of the notice documentation will be maintained in the employer's public access file. A copy of this LCA will be provided to each nonimmigrant worker employed pursuant to the LCA. The employer shall, no later than the date the worker(s) report to work at the place(s) of employment, provide a signed copy of the certified LCA to the worker(s) working pursuant to this LCA. 20 CFR 655.734.

1. **I have read and agree to** Labor Condition YES
Statements 1, 2, 3, and 4 above and as fully
explained in Section G of the Form
ETA-9035CP - General Instructions for the
9035 & 9035E and the Department's
regulations at 20 CFR 655 Subpart H.

H: H-1B Additional Employer Labor Condition Statements



1. At the time of filing this LCA, is the employer NO
H-1B dependent?

2. At the time of filing this LCA, is the employer NO
a willful violator

I/J: Employer Obligations



Notice of Obligations

A. Upon receipt of the certified LCA, the employer must take the following actions: Print and sign a hard copy of the LCA if filing electronically(20 CFR 655.705(c)(3)); Maintain the original signed and certified LCA in the employer's files (20 CFR 655.705(c)(2)); 20 CFR 655.730(c)(3) ; and 20 CFR 655.760) Make a copy of the LCA, as well as necessary supporting documentation required by the Department of Labor regulations, available for public examination in a public access file at the employer's principal place of business in the U.s> or at the place of employment within one working day after the date on which the LCA is filed with the Department of Labor (20 CFR 655.705(c)(2) and 20 CFR 655.760).

B. The employer must develop sufficient documentation to meet its burden of proof with respect to the validity of the statements made in its LCA and the accuracy of information provided, in the event that such statements or information is challenged (20 CFR 655.705(c)(5) and 20 CFR 655.700(d)(iv)).

C. The employer must make this LCA, supporting documentation, and other records available to officials of the Department of Labor upon request during any investigation under the immigration and Nationality Act (20 CFR 655.760 and 20 CFR Subpart I).

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge, the information contained therein is true and accurate. I understand that to knowingly furnish materially false information in the preparation of this form and any supplemental thereto or to aid, abet, or counsel another to do so is a federal offense punishable fines, imprisonment, or both (18 U.S.C 2, 1001,1546,1621).

Public disclosure information in the United States will be kept at:
(You must select one or both of the options listed in this Section.)

- Employer's principal place of business
-

1. Last (family) name of hiring or designated official Lambert

2. First (given) name of hiring or designated official Tracy

3. Middle Initial L.

4. Hiring or designated official title Senior Vice President of Specialty Services

K: LCA Preparer



1. Last (family) Name Pinto

2. First (given) Name Elissa

3. Middle Initial N.

4. Firm/Business Name Dickinson Wright, PLLC

5. Email Address epinto@dickinsonwright.com

APP A: Appendix A - Educational Attainment Documentation



**H-1B COWORKER/POSTING AND
EMPLOYEE NOTIFICATION RECORD**

I hereby certify that copies of the Labor Condition Application included in this Public Access File were posted in one or more conspicuous locations at the listed worksite(s):

Date Posted _____ Date Removed _____

Place Posted _____

Employer's Signature _____ Date _____

I, _____ (print employee's full name), hereby acknowledge receipt from my employer of a copy of the Labor Condition Application included in this Public Access File, as certified by the U.S. Department of Labor:

Employee's Signature _____ Date _____

Labor Condition Application for Nonimmigrant Workers
ETA Form 9035CP – General Instructions for the 9035 & 9035E
U.S. Department of Labor



IMPORTANT: Please read these instructions carefully before completing the ETA Form 9035 or 9035E –Labor Condition Application for Nonimmigrant Workers. These instructions contain full explanations of the questions and attestations that make up the ETA Form 9035 and 9035E. ***In accordance with Federal Regulations at 20 CFR 655.730(b), incomplete or obviously inaccurate Labor Condition Applications (LCAs) will not be certified by the Department of Labor. If the employer received approval by the Department of Labor to submit this form non-electronically, ALL required fields/items must be completed as well as any fields/items where a response is conditioned on the response to another required field/item.***

Anyone, who knowingly and willingly furnishes any false information in the preparation of ETA Form 9035 or 9035E and any supporting documentation, or aids, abets, or counsels another to do so is committing a federal offense, punishable by fine or imprisonment up to five years or both (18 U.S.C. §§ 2, 1001). Other penalties apply as well to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621).

OMB Notice: These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Obligations to reply to the ETA 9035 or ETA 9035E are mandatory (Immigration and Nationality Act, Sections 212(n) and (t) and 214(c). Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Room C-4312, 200 Constitution Ave. NW, Washington, DC 20210. (Paperwork Reduction Project OMB 1205-0310).

HOW TO FILE

A. Who May File:

A United States employer who desires to apply for a labor condition application on behalf of a foreign worker(s) must file the ETA Form 9035 or 9035E.

B. How to File and Retention of Records

1. For all occupations, online filing of the ETA Form 9035E is required through the LCA Online System accessible at <http://www.foreignlaborcert.doleta.gov>. Employers with physical disabilities that prohibit them from filing electronic applications or employers without Internet access can file the LCA by U.S. mail. These employers must obtain permission to file their application by U.S. mail by submitting a written request to the following address:

Office of Foreign Labor Certification
Employment & Training Administration
U.S. Department of Labor
200 Constitution Avenue, NW, Room C-4312
Washington, DC 20210
Attn: Temporary Programs Manager

2. In accordance with 20 CFR 655, Subpart H, either at the employer's principal place of business in the U.S. or at the place of employment, the employer shall retain copies of the records required by this subpart for a period of one year beyond the last date on which any H-1B nonimmigrant is employed under the labor condition application or, if no nonimmigrants were employed under the labor condition application, one year from the date the labor condition application expired or was withdrawn. Required payroll records for the H-1B employees and other employees in the occupational classification shall be retained at the employer's principal place of business in the U.S. or at the place of employment for a period of three years from the date(s) of the creation of the record(s), except that if an enforcement action is commenced, all payroll records shall be retained until the enforcement proceeding is completed through the procedures set forth in 20 CFR 655, Subpart I. For a complete list of documents that must be retained and/or made available for public access see 20 CFR 655.760.

Labor Condition Application for Nonimmigrant Workers
ETA Form 9035CP – General Instructions for the 9035 & 9035E
U.S. Department of Labor



Section A
Employment - Based Nonimmigrant Visa Information

1. Enter one of the following classification symbols to indicate the type of visa supported by this application: "**H-1B**", "**H-1B1 Chile**", "**H-1B1 Singapore**" or "**E-3 Australian**." When filing this application electronically, the system will provide a dropdown of these approved visa classification symbols.

The **H-1B** visa allows an employer to temporarily employ a foreign professional worker in the U.S. on a nonimmigrant basis in a specialty occupation or as a fashion model of distinguished merit and ability. A specialty occupation requires the theoretical and practical application of a body of specialized knowledge and a bachelor's degree or the equivalent in the specific specialty (e.g., sciences, medicine and health care, education, biotechnology, and business specialties, etc...).

The **H-1B1-Chile** visa applies to those employers temporarily hiring business professionals who are nationals of Chile under the Chile Free Trade Agreement.

The **H-1B1-Singapore** visa applies to those employers temporarily hiring business professionals who are nationals of Singapore under the Singapore Free Trade Agreement.

The **E-3** visa applies to those employers temporarily hiring business professionals who are nationals of Australia under Title V of the REAL ID Act of 2005 (Division B) in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005.

Section B
Temporary Need Information

1. Enter the title of the job opportunity for which the labor condition application is being sought by the employer.
2. Enter the six or eight-digit Standard Occupational Classification (SOC)/Occupational Network (O*NET) code for the occupation, which most clearly describes the work to be performed.. For example, the six-digit SOC code for a computer systems analyst is 15-1051.00. **Appendix I** provides a mapping of the current 3-digit Dictionary of Occupational Title (DOT) codes to the SOC/O*NET classification system authorized for use with this form. You may use the 3-digit DOT code to complete the I-129 petition for USCIS.
3. Enter the occupational title associated with the SOC/O*NET (OES) code. For example, the occupational title associated with SOC/O*NET code 15-1051.00 is "Computer Systems Analyst".
4. Enter whether this position is full-time by indicating "Yes" or "No". Although there is no regulatory definition for full-time employment, the Department generally considers 35 hours per week as the distinction point between full-time and part-time.

Note: If this position is part-time, the employer attests that the foreign worker(s) supported by the LCA will not regularly work more than the number of hours indicated (which may be a range of hours) on the United States Citizenship and Immigration Services Form(s) I-129 filed for the nonimmigrant(s). Note: All foreign workers under the LCA must be part-time if question 4 is marked "No"; all foreign workers must be full-time if question 4 is marked "Yes."

5. Enter the beginning date for the worker's period of employment. Use a month/day/full year (MM/DD/YYYY) format.
6. Enter the end date for the worker's period of employment, which cannot be more than three years after the start date for H-1B LCAs and initial H-1B1 LCAs. The end date for the worker's period of employment for E-3 LCAs and H-1B1 extensions cannot be more than two years after the start date. Use a month/day/full year (MM/DD/YYYY) format.
7. The collection of this item contains two parts. First, enter the number of worker positions being requested for certification. Second, use collection items (a) through (f) to enter the number of foreign workers in each applicable USCIS defined category under which you plan to file various Form I-129s for the workers so that the sum of the numbers in (a) through (f) equals the total number of worker positions requested. Every box **MUST** be filled. If the employer plans to request no foreign workers in a particular category, please indicate "0 (zero)."

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Section C
Employer Information

1. Enter the full legal name of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application. The employer's full legal name is the exact name of the individual, corporation, LLC, partnership, or other organization that is reported to the Internal Revenue Service.
2. Enter the full trade name or "Doing Business As" (DBA) name, if applicable, of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application.
3. Enter the street address of the employer's principal place of business.
4. If additional space is needed for the street address, use this line to complete the employer's street address.
5. Enter the city of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.
6. Enter the state of the employer's principal place of business.
7. Enter the postal (zip) code of the employer's principal place of business.
8. Enter the country of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.
9. Enter the province of the employer's principal place of business, if applicable.
10. Enter the area code and telephone number for the employer's principal place of business. Include country code, if applicable.
11. Enter the extension of the telephone number for the employer's principal place of business, if applicable.
12. Enter the nine-digit Federal Employer identification Number (FEIN) as assigned by the IRS. Do not enter a social security number.

Note: All employers, including private households, MUST obtain an FEIN from the IRS before completing this application. Information on obtaining an FEIN can be found at www.irs.gov.
13. Enter the four to six-digit North American Industry Classification System (NAICS) code that best describes the employer's business, not the foreign worker's job. A listing of NAICS codes can be found at <http://www.census.gov/epcd/www/naics.html>

Section D
Employer Point of Contact Information

An employer point of contact is an employee of the employer whose position authorizes the employee to provide information and supporting documentation concerning this Labor Condition Application for Nonimmigrant Workers and to communicate with the Department of Labor on behalf of the employer. The employer point of contact should be the individual most familiar with the content of this application and circumstances of the foreign worker's employment.

Note: The employer point of contact information in this Section, specifically the name, telephone number, and email address, must be different from the attorney/agent information listed in Section E, unless the attorney is an employee of the employer.

1. Enter the last (family) name of the employer's point of contact.
2. Enter the first (given) name of the employer's point of contact.
3. Enter the middle initial of the employer's point of contact. In the absence of a middle name, enter N/A.

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4. Enter the job title of the employer's point of contact.
5. Enter the business street address for the employer's point of contact.
6. If additional space is needed for the street address, use this line to complete the street address.
7. Enter the city of the employer's point of contact. If the city and country are the same, the name must still be entered in both fields.
8. Enter the state of the employer's point of contact.
9. Enter the postal (zip) code of the employer's point of contact.
10. Enter the country of the employer's point of contact. If the city and country are the same, the name must still be entered in both fields.
11. Enter the province of the employer's point of contact, if applicable.
12. Enter the area code and business telephone number of the employer's point of contact. Include country code, if applicable.
13. Enter the extension of the telephone number of the employer's point of contact, if applicable.
14. Enter the business e-mail address of the employer's point of contact in the format name@emailaddress.top-level domain.

Section E
Attorney or Agent Information (if applicable)

Note: The attorney/agent information in this Section, specifically the name, telephone number, and email address, must be different from the employer's point of contact information in Section D, unless the attorney is an employee of the employer.

1. Identify whether the employer is represented by an attorney or agent in the process of filing this application. Only mark one box. If "Yes" complete the remainder of Section E. If "No" in question 1, skip questions 2 to 19 and continue to Section F.
2. Enter the last (family) name of the attorney/agent.
3. Enter the first (given) name of the attorney/agent.
4. Enter the middle initial of the attorney/agent.
5. Enter the street address of the attorney/agent.
6. If additional space is needed for the street address, use this line to complete the attorney/agent's street address.
7. Enter the city of the attorney/agent. If the city and country are the same, the name must still be entered in both fields.
8. Enter the state of the attorney/agent.
9. Enter the postal (zip) code of the attorney/agent.
10. Enter the country of the attorney/agent. If the city and country are the same, the name must still be entered in both fields.
11. Enter the province of the attorney/agent, if applicable.
12. Enter the area code and telephone number of the attorney/agent. Include country code, if applicable.

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Section E
Attorney or Agent Information (continued)

13. Enter the extension of the telephone number of the attorney/agent, if applicable.
 14. Enter the e-mail address of the attorney/agent in the format name@emailaddress.top-level domain.
 15. Enter the attorney/agent's law firm or business name.
 16. Enter the attorney/agent's law firm or business nine-digit FEIN as assigned by the IRS. Do not enter a social security number.
 17. Enter the attorney's state Bar number. If the attorney is licensed in more than one state, enter only one state Bar number. If submitting this form electronically and the attorney is licensed in a state which does not issue state Bar numbers, leave the field blank and once confirmed it will be automatically prepopulated with "N/A."
- Note:** The answers to questions 18 and 19 below should correspond to the same state for which a Bar number was provided in question 17, if any.
18. Enter the state of the highest court where the attorney is in good standing.
 19. Enter the name of the highest court in the state where the attorney is in good standing.

Section F
Rate of Pay

1. Enter the rate of pay to be paid to the foreign worker(s). If the wage offer is expressed as a range, enter the bottom of the wage range to be paid.

Enter the top of the wage range to be paid to the foreign worker(s). in the section indicating "Rate Up to (Optional)."
2. Enter whether the rate of pay is in terms of per year, month, two weeks, week or hour in the section indicating "Rate is Per."

Section G
Employment and Prevailing Wage Information

Note: *It is important for the employer to define the place of intended employment with as much geographic specificity as possible. The place of employment address listed must be a physical location and cannot be a Post Office (P.O.) Box. The employer may use this section to identify up to three (3) physical locations and corresponding prevailing wages covering each location where work will be performed. If the employer has received approval from the Department of Labor to submit this form non-electronically and the work is expected to be performed in more than one location, an attachment must be submitted in order to complete this section.*

a. Place of Employment

See the definition of "place of employment" in 20 Code of Federal Regulations (CFR) 655.715 and regulation concerning short term placement in 20 CFR 655.735.

1. Enter the street address of the place of intended employment. If primary address is not known, please enter "N/A".
2. If additional space is needed for the street address, use this line.
3. Enter the city of the place of intended employment.
4. Enter the county of the place of intended employment. If there is no county designation or it is not known, please enter "N/A".
5. Enter the state/district/territory of the place of intended employment.

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6. Enter the postal (zip) code of the place of intended employment. If there is no postal code designation or it is not known, please enter "N/A".

Section G
Employment and Prevailing Wage Information (continued)

PREVAILING WAGE INFORMATION

7. If the employer received a Prevailing Wage Determination (PWD) from the State Workforce Agency (SWA) or an OFLC National Processing Center (NPC), enter the state/district/territory of the Agency which issued the PWD. If the employer did not obtain a PWD from the SWA or NPC, enter "N/A." **Use this field ONLY where the employer obtained a prevailing wage from the SWA or NPC.**
- 7(a). Enter the prevailing wage tracking number assigned by the SWA or NPC. If the SWA or NPC did not assign a prevailing wage tracking number **OR** the employer did not obtain a PWD from the SWA or NPC, enter "N/A". **Use this field ONLY where the employer obtained a prevailing wage from the SWA or NPC.**
8. If the employer received a prevailing wage from either the SWA, NPC or the Foreign Labor Certification Data Center Online Wage Library at <http://www.flcdatacenter.com>, identify whether the wage (skill) level of the job opportunity is a level I, II, III, or IV. Only mark one box. Otherwise, mark "N/A".
9. Enter the prevailing wage for the job opportunity.
10. Identify whether the prevailing wage is per hour, week, bi-weekly, month, or year. Only mark one box.
11. Identify whether the prevailing wage source is Occupational Employment Statistics (OES); Collective Bargaining Agreement (CBA); Davis-Bacon Act (DBA); McNamara-O'Hara Service Contract Act (SCA); or Other (includes employer-provided independent authoritative source survey). In accordance with 20 CFR 655.731, employers may use an independent authoritative wage source in lieu of a SWA or NPC prevailing wage determination or another legitimate source of wage information as long as the data source used meets all the criteria set forth under 20 CFR 655.731(b)(3)(iii)(B) or (C), as appropriate. **Only mark one box.**
- Note:** Mark "OES" in circumstances where the prevailing wage was obtained from either the SWA, NPC or the Foreign Labor Certification Data Center Online Wage Library at <http://www.flcdatacenter.com>
- 11(a). Enter the year in which the data source used to list the prevailing wage was published.
- 11(b). Specify the name of the company and exact wage survey used by the employer for the prevailing wage.

Note: This field should be used in circumstances where the employer has marked "Other" in question 11 **OR** "OES" in question 11 **and** the employer did not obtain a prevailing wage from the SWA or NPC. For example, if the employer obtained a prevailing wage using OES data from the Foreign Labor Certification Data Center Online Wage Library at <http://www.flcdatacenter.com>, then the words "OFLC Online Data Center" must be entered in the space provided

Section H
Employer Labor Condition Statements

The employer must read and agree to statements (1) and (4) below and demonstrate that agreement by marking "Yes" to Question 1 in Section H of the Form ETA 9035E and by signing the application. The employer agrees to develop and maintain documentation supporting labor condition statements (1) and (4) as specified in 20 CFR 655.731 and 655.734, and to make this document available to Department of Labor officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with the Department of Labor. This documentation must be retained for public examination at the place of employment or the employer's principal place of business as specified in Section J of this form.

- (1) **Wages:** The employer attests that H-1B, H-1B1 or E-3 foreign workers will be paid wages which are at least the higher of the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in

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question or the prevailing wage level for occupational classification in the area of intended employment. By marking "Yes" to Question 1 of Section H, the employer also attests that it will pay these nonimmigrants the required wage for time in nonproductive status due to a decision of the employer or due to the nonimmigrant's lack of a permit or license. The employer further attests that these nonimmigrants will be offered benefits and eligibility for benefits on the same basis, and in accordance with the same criteria, as offered to U.S. workers. See 20 CFR 655.731.

(2) **Working Conditions:** The employer attests that H-1B, H-1B1 or E-3 foreign workers in the named occupation will not adversely affect the working conditions of workers similarly employed. The employer further attests that nonimmigrants will be afforded working conditions on the same basis, and in accordance with the same criteria, as offered to U.S. workers. See 20 CFR 655.732.

(3) **Strike, Lockout, or Work Stoppage:** The employer attests that on the date the application is signed and submitted, there is not a strike, lockout, or work stoppage in the course of a labor dispute in the named occupation at the place of employment and that, if such a strike, lockout, or work stoppage occurs after the application is submitted, the employer will notify the Employment & Training Administration (ETA) within three (3) days of such occurrence and the application will not be used in support of a petition filing with the United States Citizenship and Immigration Services (USCIS) for H-1B, H-1B1 or E-3 nonimmigrants to work in the same occupation at the place of the employment until ETA determines the strike lockout or work stoppage has ceased. See 20 CFR 655.733.

(4) **Notice:** The employer attests that as of the date of filing, notice of the Labor Condition Application (LCA) has been or will be provided to workers employed in the named occupation. Notice of the application shall be provided to workers through the bargaining representative, or where there is no such bargaining representative, notice of the filing shall be provided either through physical posting in conspicuous locations where H-1B, H-1B1 or E-3 nonimmigrants will be employed, or through electronic notification to employees in the occupational classification for which nonimmigrants are sought. The employer further attests that each nonimmigrant employed pursuant to the application will be provided with a copy (or original, as appropriate) of the certified Form ETA 9035E, or ETA 9035 (if applicable). As stated above for H-1B, H-1B1 or E-3 nonimmigrants, the employer must provide the certified LCA to the nonimmigrant, who must follow the H-1B, H-1B1 or E-3 procedures of USCIS and the Department of State. The notification shall be provided no later than the date the nonimmigrant reports to work at the place of employment. See 20 CFR 655.734.

1. Mark "Yes" or "No". The employer must agree to all four labor condition statements listed as (1) to (4). **Please note that marking "Yes" indicates that you have read and agree to the above-listed statements.**

Section I

Additional Employer Labor Condition Statements – H-1B Employers ONLY

All H-1B employers are required to complete Section I of this form in order for an application regarding an H-1B nonimmigrant to be processed. See 20 CFR 655.736 for more detailed guidance as to what constitutes an "H-1B employer" or a "willful violator."

a. Subsection 1

NOTE: The determination as to whether an employer is H-1B dependent is a function of the number of H-1B nonimmigrants employed as a proportion of the total number of full-time equivalent employees employed in the United States. The following table can be used to determine whether the employer is an H-1B dependent employer:

NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES (U.S. WORKERS AND H-1B WORKERS)	NUMBER OF H-1B NONIMMIGRANT EMPLOYEES
1 to 25	8 or more
26 to 50	13 or more
51 or more	15% or more of the workforce (US and H-1B workers)

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1. Mark "Yes" or "No" if the employer is H-1B dependent. The employer is an H-1B dependent employer if the number of H-1B nonimmigrants employed by the employer as a proportion of the total number of full-time equivalent employees employed in the United States matches the chart above.

If an employer marks "No" and is or becomes H-1B dependent, the submitted labor condition application shall be deemed invalid and may not be used in support of a new petition or extension of a petition for an H-1B nonimmigrant. By marking "No", the employer also acknowledges that if it uses this application despite its invalidity, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section H.

2. Mark "Yes" or "No" if the employer is a willful violator. The employer is willful violator if the employer has been found during the five (5) years preceding the date of the application (and after October 20, 1998) to have committed a willful violation or a misrepresentation of a material fact.

If an employer marks "No" and was found, prior to the date of filing, to have committed a willful violation or a misrepresentation, the submitted labor condition application shall be deemed invalid and may not be used in support of a new petition or extension of a petition for an H-1B nonimmigrant. By marking "No," the employer also acknowledges that if it uses this application despite its invalidity, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section I.

3. Mark "Yes" or "No" to this question after marking "Yes" to question 1 or 2 of Subsection 1 in Section I AND the employer intends to use this application ONLY to support H-1B petitions or extensions of status for expected H-1B nonimmigrants who will receive wages at a rate equal to at least \$60,000 per year, or have attained a master's degree (or equivalent or higher degree) in a specialty related to the employment. The employer also agrees to maintain documentation required by 20 CFR 655.737.

If an employer marks "Yes" the employer acknowledges that if it uses this application in support of a petition or extension of a petition of an H-1B nonimmigrant who is not exempt, it is required to comply with the Additional Employer Labor Condition Statements in Subsection 2 of section I with respect to all H-1B nonimmigrants supported by this application.

b. Subsection 2

All employers that are (1) H-1B dependent (as defined above) and/or (2) have been found to have committed a willful violation or a misrepresentation of a material fact during the five (5) year period preceding the date of this application (and after October 20, 1998), **must read and agree to statements (A) through (C) below and demonstrate that agreement by marking "Yes" in Subsection 2 of Section I of this application.** The employer agrees to develop and maintain documentation supporting labor condition statements (1) and (4) as specified in 20 CFR 655.738 and 655.739, and to make this document available to Department of Labor officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with the Department of Labor. This documentation must be retained for public examination at the place of employment or the employer's principal place of business as specified in Section J of this form. The employer agrees:

- (A) **Displacement:** The employer will not displace any similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the date of filing a petition for an H-1B nonimmigrant supported by this application.
- (B) **Secondary Displacement:** The employer will not place any H-1B nonimmigrant employed pursuant to this application with any other employer or at another employer's worksite UNLESS the employer applicant first makes a bona fide inquiry as to whether the other employer has displaced or intends to displace a similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the placement, and the employer applicant has no contrary knowledge.

If the other employer displaces a similarly employed U.S. worker during such period, the displacement will constitute a failure to comply with the terms of the labor condition application and the employer applicant may be subject to civil money penalties and debarment. See 20 CFR 655.738.

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- (C) **Recruitment and Hiring:** Prior to filing any petition for an H-1B nonimmigrant pursuant to this application, the employer took or will take good faith steps meeting industry-wide standards to recruit U.S. workers for the job for which the nonimmigrant is sought, offering compensation at least as great as required to be offered to the H-1B nonimmigrant. The employer will (has) offer(ed) the job to any U.S. worker who (has) applied and is equally or better qualified than the H-1B nonimmigrant

Under the Immigration and Nationality Act (INA) Section 212 (n)(1)(G)(ii), 8 U.S.C. 1182), this labor condition statement "C" does not apply to the employment of an H-1B nonimmigrant who is a "priority worker" (defined as a person with extraordinary ability, or outstanding professors or researchers, or certain multi-national executives or managers) within the meaning of Section 203 (b)(1)(A), (B), or (C) of the INA, 8 U.S.C. 1153.

4. Mark "Yes" or "No". The employer must agree to all four labor condition statements listed above #4 as (A) to (C) of Subsection 2 of Section I. Answer this question only if you marked "Yes" to either or both question one and two above in Section I indicating that you are either an H-1B dependent employer or a willful violator or both.

Section J
Public Disclosure Information

1. Please indicate whether the employer's required public disclosure information will be located at the employer's principal place of business AND/OR the place of employment.

Section K
Declaration of Employer

Note: If submitting this form non-electronically, the employer must sign and date the application prior to submission. If submitting this form electronically, the employer must sign and date the application immediately upon receipt of the certified application and before submission to USCIS. An attorney or agent should not sign this section unless the attorney or agent is an employee of the employer and has authority to sign as the employer.

1. Enter the last (family) name of the person with authority to sign as the employer.
2. Enter the first (given) name of the person with authority to sign as the employer.
3. Enter the middle initial of the person with authority to sign as the employer. In the absence of a middle name, enter N/A.
4. Enter the job title of the person with authority to sign as the employer.
5. The person with authority to sign as the employer must sign the application. Read the entire application and verify all contained information prior to signing.

The person with authority to sign as the employer must date the application. Use a month/day/full year (MM/DD/YYYY) format.

Section L
Preparer Information

This section must be completed if the preparer of this LCA is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application. For example, an employee of the attorney (e.g., paralegal) would complete the LCA preparer section. If the employer or attorney/agent contact listed in sections D and E was the person preparing and submitting the LCA, then this section will be left blank.

1. Enter the last (family) name of the person preparing this LCA by or on behalf of the employer.
2. Enter the first (given) name of the person preparing this LCA by or on behalf of the employer.
3. Enter the middle initial of the person with preparing this LCA by or on behalf of the employer.

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4. Enter the Firm/Business name of the person with preparing this LCA by or on behalf of the employer.
 5. Enter the email address of the person with preparing this LCA by or on behalf of the employer. Format must be in the format [name@emailaddress.top-level](#) domain.

Section M
U.S. Government Agency User ONLY

Read this section. No entries required.

Section N
Signature Notification and Complaints

Read this section. No entries required.

Section O
OMB Paperwork Reduction Act/Information Control Number 1205-0310

Read this section. No entries required.

Foreign Labor Certification Data Center Online Wage Library

www.flcdatacenter.com


Wage Library

Quick Search
Search Wizard

Case Disclosure

Data Archive

H1B Data
H2A Data
H2B Data
Perm Data

Also available:

File Archive

Skill Level

Explanation

SVP Explanation

FLC Wage Data

updated

July 1, 2019

Job Zones updated

September 30,
2019

See change
history

Technical Support & Help FAQ page.

FLC Wage Results [New Quick Search](#) [New Search Wizard](#)

You selected the All Industries database for 7/2019 - 6/2020.

Your search returned the following: [Print Format](#)

Area Code: 19820
Area Title: Detroit-Warren-Dearborn, MI
OES/SOC Code: 17-2141
OES/SOC Title: Mechanical Engineers
GeoLevel: 1
Level 1 Wage: \$31.94 hour - \$66,435 year
Level 2 Wage: \$39.02 hour - \$81,162 year
Level 3 Wage: \$46.09 hour - \$95,867 year
Level 4 Wage: \$53.17 hour - \$110,594 year
Mean Wage (H-2B): \$46.10 hour - \$95,888 year

This wage applies to the following O*Net occupations:

17-2141.00 Mechanical Engineers

Perform engineering duties in planning and designing tools, engines, machines, and other mechanically functioning equipment. Oversee installation, operation, maintenance, and repair of equipment such as centralized heat, gas, water, and steam systems.

O*Net™ JobZone: 4

Education & Training Code: 5-Bachelor's degree

17-2141.01 Fuel Cell Engineers

Design, evaluate, modify, or construct fuel cell components or systems for transportation, stationary, or portable applications.

O*Net™ JobZone: 5

Education & Training Code: No Level Set

17-2141.02 Automotive Engineers

Develop new or improved designs for vehicle structural members, engines, transmissions, or other vehicle systems, using computer-assisted design technology. Direct building, modification, or testing of vehicle or components.

O*Net™ JobZone: 4

Education & Training Code: No Level Set

For information on determining the proper occupation and wage level see the new Prevailing Wage Guidance on the [Skill Level page](#).

The prevailing wage must be at, or above the federal or state or local minimum wage, whichever is higher. The federal minimum wage is \$7.25/hr effective July 24, 2009.

The Foreign Labor Certification Data Center is developed and maintained by the [State of Utah](#) under contract with the [US Department of Labor, Office of Foreign Labor Certification](#).

Foreign Labor Certification Data Center Online Wage Library

www.flcdatacenter.com



Wage Library

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Case Disclosure Data Archive

[H1B Data](#)
[H2A Data](#)
[H2B Data](#)
[Perm Data](#)

Also available: File Archive

[Skill Level
Explanation](#)

[SVP Explanation](#)

[FLC Wage Data
updated
July 1, 2018](#)

[Job Zones
updated
July 1, 2018
See change
history](#)

[Technical Support
& Help FAQ page.](#)

Education and Training Codes for Professional Occupations

One: First Professional Degree

First professional degree. Completion of the academic program usually requires of full-time equivalent academic study, including college study prior to entering degree program.

Two: Doctoral Degree

Completion of the degree program usually requires at least 3 years of full-time academic work beyond the bachelor's degree.

Three: Master's Degree

Completion of the degree program usually requires 1 or 2 years of full-time work beyond the bachelor's degree.

Four: Work Experience, plus a Bachelor's or Higher Degree

Most occupations in this category are managerial occupations that require experience in a non-managerial position.

Five: Bachelor's Degree

Completion of the degree program generally requires at least 4 years but not more than 5 years of full-time equivalent academic work.

NA: No Education and Training Code Set

The Foreign Labor Certification Data Center is developed and maintained in
contract with the [US Department of Labor](#), [Office of Foreign Labor](#)

Foreign Labor Certification Data Center Online Wage Library

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FLC Wage Data
updated
July 1, 2018

Job Zones
updated
July 1, 2018
See change
history

Technical Support
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O*Net™ Job Zones

JobZone One: Little or No Preparation Needed

Experience: Little or no previous work-related skill, knowledge, or experience is required for these occupations. For example, a person can become a waiter or waitress even if they have never worked before.

Education: Some of these occupations may require a high school diploma or GED.

Job Training: Employees in these occupations need anywhere from a few days to a few weeks of training. Usually, an experienced worker could show you how to do the job.

Examples: These occupations involve following instructions and helping others. Examples include counter and rental clerks, dishwashers, cashiers, furniture finishers, logging operators, and baristas.

SVP Range: Below 4.0

JobZone Two: Some Preparation Needed

Experience: Some previous work-related skill, knowledge, or experience is usually required. For example, a teller would benefit from experience working directly with the public.

Education: These occupations usually require a high school diploma.

Job Training: Employees in these occupations need anywhere from a few months to a few years of working with experienced employees. A recognized apprenticeship program may be associated with these occupations.

Examples: These occupations often involve using your knowledge and skills to help others. Examples include orderlies, forest firefighters, customer service representatives, upholsterers, and tellers.

SVP Range: 4.0 to < 6.0

JobZone Three: Medium Preparation Needed

Experience: Previous work-related skill, knowledge, or experience is required for these occupations. For example, an electrician must have completed three or four years of apprenticeship or several years of vocational training, and often must have passed an exam in order to perform the job.

Education: Most occupations in this zone require training in vocational schools, college, or job experience, or an associate's degree.

Job Training: Employees in these occupations usually need one or two years of training involving both on-the-job experience and informal training with experienced workers. A recognized apprenticeship program may be associated with these occupations.

Examples: These occupations usually involve using communication and organizational skills to coordinate, supervise, manage, or train others to accomplish goals. Examples include service managers, travel guides, electricians, agricultural technicians, barbers, and medical assistants.

SVP Range: 6.0 < 7.0

JobZone Four: Considerable Preparation Needed

Experience: A considerable amount of work-related skill, knowledge, or experience in these occupations. For example, an accountant must complete four years of college and several years in accounting to be considered qualified.

Education: Most of these occupations require a four-year bachelor's degree, but

Job Training: Employees in these occupations usually need several years of work experience, on-the-job training, and/or vocational training.

Examples: Many of these occupations involve coordinating, supervising, managing, or training others. Examples include accountants, sales managers, database administrators, designers, chemists, art directors, and cost estimators.

SVP Range: 7.0 < 8.0

JobZone Five: Extensive Preparation Needed

Experience: Extensive skill, knowledge, and experience are needed for these occupations. Most require more than five years of experience. For example, surgeons must complete four years of college and an additional five to seven years of specialized medical training to be qualified for the job.

Education: Most of these occupations require graduate school. For example, they may require a masters degree, and some require a Ph.D., M.D., or J.D. (law degree).

Job Training: Employees may need some on-the-job training, but most of these occupations assume that the person will already have the required skills, knowledge, work-related experience, and/or training.

Examples: These occupations often involve coordinating, training, supervising, or performing activities of others to accomplish goals. Very advanced communication and organizational abilities are required. Examples include librarians, lawyers, astronomers, biologists, clergy members, and veterinarians.

SVP Range: 8.0 and above

JobZone Not Available

Some occupations do not have a JobZone designation. The most common reason is that the occupation is a broad occupation that O*Net™ has broken out into detailed occupations. Another reason may be that the duties and requirements of the occupation are too broad or detailed to fit in one primary Job Zone.

Recent Changes O*Net™ Job Zones

The occupations listed below had their JobZone information updated in the latest version of the O*Net Database by the National O*NET Consortium. Neither the Office of Federal Education Certification nor the FLC Data Center set or modify JobZone information or make other changes made by the National O*NET Consortium.

Code	Title	Old Zone	New Zone
11-9051.00	Food Service Managers	3	2
11-9081.00	Lodging Managers	3	4
23-2093.00	Title Examiners, Abstractors, and Searchers	3	2
25-4031.00	Library Technicians	4	3
45-4023.00	Log Graders and Scalers	3	2
51-3023.00	Slaughterers and Meat Packers	1	2
51-7021.00	Furniture Finishers	1	2

53-7011.00 Conveyor Operators and Tenders	2	1
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The occupations listed below had their JobZone information added in version 13 of the O*Net Database by the National O*NET Consortium.

Code	Title	Job Zone
13-2099.01	Financial Quantitative Analysts	5
17-3029.11	Nanotechnology Engineering Technologists	4

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H-1B regulations require sponsoring employers to keep documentation in their Public Access File showing the basis used to establish the “actual wage” (i.e. how the wage for the H-1B worker logically relates to the wages paid to other individuals, with similar experience and qualifications, for the specific position, at the specific place of employment). The following is a sample memorandum for how you might generate that documentation. Of course, as always, please contact us with any questions or concerns.

ACTUAL WAGE MEMORANDUM

Labor Condition Application No: _____

As of _____ (current date), there were _____ (number) total _____s (LCA job title) employed by _____ (your company name) in _____, _____. (LCA worksite city, state)

The salaries for this group of employees range from \$ _____ to \$ _____. The specific salaries of individual employees in this group were determined on the basis of a number of normal, business factors including:

(include and/all factors below which apply to your company and this position)

- Level of education,
- Years of experience in the field
- Specific job/project responsibility
- Specialized knowledge or training
- Relative degree of independent authority
- *(list any additional, objective factors which explain the differences between individual salaries; examples might include the size of the group, the specialized nature of a project/role, or the financial significance of the area of responsibility)*

The salaries of our employees are adjusted on a(n) _____ (annual, periodic, etc.) basis, depending on _____. (performance reviews, cost of living adjustments, etc.) Finally, we note that the company applies the same methodologies to all U.S. and H-1B workers, when determining the wages to be paid to our employees.

(signatory name and title)

INSERT EMPLOYEE BENEFITS SUMMARY/MEMO

INSERT SIGNED COPY OF CERTIFIED LCA
AFTER DOL APPROVAL