



Labor Condition Application for Nonimmigrant Workers
ETA Form 9035 & 9035E
U.S. Department of Labor

Please read and review the filing instructions (ETA Form 9035CP) carefully before completing this form. A copy of the instructions can be found on the Office of Foreign Labor Certification's (OFLC) Web site at <http://www.foreignlaborcert.doleta.gov>. 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. For all submissions, both electronic (ETA Form 9035E) or paper (ETA Form 9035) (if the employer has received permission from the Department of Labor to submit this form non-electronically), ALL required fields/ items containing an asterisk(*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application
(Write classification symbol) *

B. Job Opportunity and Nonimmigrant Worker Information

1. Job Title (Employer's Title for the Job Opportunity)*

2. SOC code*

3. SOC occupation title*

4. Is this a full-time position?*

☐ Yes ☐ No

4a. Enter number of hours per week*
Basic:
Overtime:

Period of Intended Employment

5. Begin Date (mm/dd/yyyy)*

6. End Date (mm/dd/yyyy)*

7. Enter worker positions needed/basis for visa classification supported by this application. You may enter up to 10 positions per LCA filed.*

a. Total Worker Positions Being Requested for Certification*

Basis for the visa classification supported by this application
(indicate total workers in each applicable category)

b. New employment*

e. New concurrent employment*

c. Continuation of previously approved employment without change with the same employer*

f. Change in employer*

d. Change in previously approved employment*

g. Amended petition*

8. Nonimmigrant Worker Information

Enter the nonimmigrant worker's(s') information below. You may enter up to 10 nonimmigrant workers per LCA filed. If the employer has received approval from the Department of Labor to submit this form non-electronically, an attachment must be submitted in order to complete additional entries for this section.

a. Nonimmigrant worker's last (family) name*

b. First (given) name*

c. Middle name(s)

d. Date of Birth*

e. Country of Birth*

f. Country of Citizenship*

g. If currently in the U.S., most recent nonimmigrant visa status (if any)*

h. If a PERM application is currently pending, enter the application number*

i. OFLC H Number (if none, OFLC will provide)*

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Case Number: _____ Case Status: _____ Period of Employment: _____ to _____

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www.goellaw.com



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C. Employer Information

1. Legal business name*			
2. Trade name/Doing Business As (d/b/a), if applicable			
3. Address 1*			
4. Address 2			
5. City*		6. State*	7. Postal code*
8. Country*		9. Telephone number*	
10. Extension		11. Federal Employer Identification Number (FEIN from IRS)*	
12. NAICS code (must be at least 4-digits)*		13. Type of Business (Indicate NAICS Industry Name)*	
14. Year business established*	15. Current number of employees in the U.S.*	16. Gross annual income*	17. Net annual income*
18. Country of employer's business headquarters*			

D. Employer Point of Contact Information

Note: The information contained in this Section is only for the employer point of contact. The information provided in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For the purpose of this form, an attorney is considered an employee of the employer only if the attorney is in-house counsel or, otherwise, employed full-time by the employer.

1. The authorized employer point of contact provided in this section is:*		
<input type="checkbox"/> an employee of the employer not acting as an attorney for the employer <input type="checkbox"/> an in-house counsel employee of the employer		
2. Contact's last (family) name*	3. First (given) name*	4. Middle name
5. Contact's job title*		
6. Address 1*		
7. Address 2		
8. City*	9. State*	10. Postal code*
11. Country*	12. Province	
13. Telephone number*	14. Extension	15. Business E-Mail address*



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E. Attorney or Agent Information (If applicable)

Note: The information provided in this Section must be different from the employer point of contact information in Section D, unless the attorney is an employee of the employer. For the purpose of the LCA, an attorney is considered an employee of the employer only if the attorney is in-house counsel or, otherwise employed full-time by the employer.

1. Is the employer represented by an attorney in the filing of this application?*		<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Is the employer represented by an agent in the filing of this application?*		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes" to E.1, complete the remainder of Section E below. If "Yes" to E.2, complete Section E but skip E.18-E.20. If "No" to both E.1 and E.2, you may then skip this section.			
3. Attorney or Agent's last (family) name§		4. First (given) name§	
		5. Middle name(s)	
6. Address 1§			
7. Address 2			
8. City§		9. State§	10. Postal code§
11. Country§		12. Province	
13. Telephone number§	14. Extension		15. Law firm/ Business E-Mail address§
16. Law firm/Business name§		17. Law firm/Business FEIN§	
18. State Bar number§		19. State of highest court where attorney is in good standing§	
20. Name of the highest <u>State</u> court where attorney is in good standing§			

F. Employment and Wage Information

Note: The employer must define the place of intended employment with as much geographic specificity as possible. The place of employment address listed below must be a physical location and cannot be a P.O. Box. The employer may use this section to identify up to 10 physical locations with corresponding prevailing wages and rates of pay 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 containing the information below *for each location* must be submitted in order to complete this Section.

Place of Employment

Worksite Information

1. Type of worksite location that best describes where work will be performed (choose only one)*
- a. ☐ Employer's business premises
 - b. ☐ Employer's private household
 - c. ☐ Worker's private residence (when work is performed directly out of the worker's residence)
 - d. ☐ Other business premises, enter type _____



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2a. Is this a placement at an end-client location?* <input type="checkbox"/> Yes <input type="checkbox"/> No	2b. If "Yes" (to Item F.2a.), enter the name of the end-client business§
3. Is this a bona fide job opportunity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is this the worksite where the nonimmigrant worker(s) will perform daily work activities? <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Number of nonimmigrant workers from Item B.7 (of this LCA) at this worksite:	
6. Address 1*	
7. Address 2	
8. City*	9. County*
10. State/District/Territory*	11. Postal code*
12. Rate of Pay a. Wage Rate (Required) From*: \$ _____ . ____ To (Optional): \$ _____ . ____	b. Per: (Choose only one)* <input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year
13. Prevailing Wage Information (corresponding to the place of employment location listed above)	
13a. Prevailing wage* \$ _____ . ____	13b. Per: (Choose only one)* <input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year
14-17. Prevailing Wage Source Information. Indicate the prevailing wage source used for the prevailing wage entered above in Item F.13. You must fully answer one item below based on the prevailing wage entered. <u>Answer either Item 14, 15, 16 or 17 in its entirety.</u>	
14. Indicate whether a prevailing wage was obtained from the National Prevailing Wage Center (NPWC)* <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", complete Item F.14 then move to Section G. If "No", skip to Item F.15.	14a. Enter the Prevailing Wage Determination (PWD) tracking number§ 14b. Enter the determination date of the PWD§ 14c. Enter the expiration date of the PWD§



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<p>15. Indicate whether an OES prevailing wage was obtained from the OFLC Online Wage Library at www.flcdatcenter.com or the http://icert.doleta.gov *</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "Yes", complete Item F.15 then move to Section G.</p> <p>If "No", skip to Item F.16.</p>	<p>15a. If OES, select the Wage Level§</p> <p><input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV</p> <p>15b. Enter the SOC Code§</p> <p>15c. Enter the Area of Intended Employment/ Metropolitan Statistical Area (MSA)§</p> <p>15d. Enter the year of the wage data§</p>
<p>16. Indicate whether the Prevailing wage was obtained from either a Collective Bargaining Agreement (CBA), Davis- Bacon Act (DBA), or McNamara- O'Hara Service Contract Act (SCA)*</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "Yes", complete Item F.16 Then move to Section G.</p> <p>If "No", skip to Item F.17.</p>	<p>16a. Select the prevailing wage source§</p> <p><input type="checkbox"/> CBA <input type="checkbox"/> DBA <input type="checkbox"/> SCA</p> <p>16b. Enter the prevailing wage source year§</p>
<p>17. Indicate whether the prevailing wage was obtained from a survey or another source (not listed above in 14-16)*</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "Yes", complete Item F.17. Then move to Section G.</p>	<p>17a. Select the prevailing wage source§</p> <p><input type="checkbox"/> Survey <input type="checkbox"/> Custom Survey <input type="checkbox"/> Other</p> <p>17b. Enter the date the prevailing wage source was published§</p> <p>17c. Enter the publisher of the prevailing wage source§</p> <p>17d. If survey, enter the survey title (For a custom survey enter "Custom Survey")§</p> <p>17e. If "Other" , enter source§</p>



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G. Employer Labor Condition Statements

! Please Note: In order for your application to be processed, you **MUST** read Section H of the Labor Condition Application – General Instructions 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 local prevailing wage or the employer's actual wage (as paid to the employer's other employees at the worksite with similar experience and qualifications for the specific employment in question), whichever is higher, and pay for non-productive time. The employer shall offer nonimmigrant workers benefits on the same basis as offered to U.S. workers.

(2) **Working Conditions:**

The employer shall provide working conditions for nonimmigrant workers which will not adversely affect the working conditions of U.S. workers similarly employed.

(3) **Strike, Lockout, or Work Stoppage:**

There is no strike, lockout, or work stoppage in the named occupation at the place of employment. The employer will notify ETA within 3 days of the occurrence of a strike or lockout in the named occupation and the LCA will not be used to support a petition filing with USCIS.

(4) **Notice:**

The employer provided notice to the union bargaining representative, if applicable, or to workers in the named occupation at the place of employment on or within 30 days before the date of the filing of this LCA. The notice was or will be posted for a total of 10 days. A copy of the notice documentation will be maintained in the employer's public access file. A copy of this form will be provided to each nonimmigrant worker employed pursuant to this application.

1. I have read and agree to Labor Condition Statements 1, 2, 3, and 4 above and as fully explained in Section G of the Labor Condition Application – General Instructions.*	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has the employer looked at its workforce to determine for the occupation listed in Item B.1 whether there are similarly employed U.S. workers in the employer's workforce?*	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. For the occupation listed in Item B.1, indicate the approximate number of U.S. workers similarly employed by the employer.*	

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

! Please Note: In order for your H-1B application to be processed, you **MUST** read Section H – Subsection 1 of the Labor Condition Application – General Instructions under the heading “Additional Employer Labor Condition Statements” and answer the questions below.

a. Subsection 1

1. At the time of filing, is the employer H-1B dependent? (See 20 CFR 655.736)	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. If “Yes”, indicate approximate number of H-1B nonimmigrant workers in U.S. §	_____
3. If “Yes”, indicate approximate number of total U.S. workforce (include U.S. and H-1B workers)§	_____
4. Indicate whether the H-1B dependency status determination was made using the snap-shot test instead of a full calculation*	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. At the time of filing, is the employer a willful violator? (See 20 CFR 655.736)	<input type="checkbox"/> Yes <input type="checkbox"/> No
6a. If “Yes in Item H.1 and/or Item H.5, will the employer use this application <u>ONLY</u> to support H-1B petitions or extensions of status for <u>exempt</u> H-1B nonimmigrant workers? §	<input type="checkbox"/> Yes <input type="checkbox"/> No



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6b. If "Yes" in Item H.6a, ("Yes" for exempt H-1B nonimmigrant workers), select the basis for the exemption of the nonimmigrant workers associated with this LCA§	<input type="checkbox"/> \$60,000 or higher annual wages <input type="checkbox"/> Master's Degree or higher in related specialty <input type="checkbox"/> Both
6c. If "No" in Item H.6a, ("No" for exempt H-1B nonimmigrant workers), specify solicitation method(s) or recruitment effort(s) made to recruit U.S. workers§	
6d. If "No" in Item H.6a, the employer attests that the recruitment obligation in 20 CFR 655.739 was met but the solicitation method(s) or recruitment effort(s) made did not result in finding an equally or better qualified U.S. worker for the position(s) requested on this LCA. § <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. The employer attests that all documentation related to Section H including recruiting methods will be made available in the employer's public access file. <input type="checkbox"/> Yes <input type="checkbox"/> No	

If you marked "Yes" to Item H.1 (H-1B dependent) and/or Item H.5 (willful violator) and "No" to Item H.6a (exempt H-1B nonimmigrant workers), you **MUST** read Section H – Subsection 2 of the Labor Condition Application – General Instructions under the heading "Additional Employer Labor Condition Statements" and indicate your agreement to all three (3) additional statements summarized below.

b. Subsection 2

- A. **Displacement:** Non-displacement of the U.S. workers in the employer's workforce 90 days before until 90 days after the filing of an H-1B petition
- B. **Secondary Displacement:** Non-displacement of U.S. workers in another employer's workforce; and
- C. **Recruitment and Hiring:** Recruitment of U.S. workers and hiring of U.S. workers applicant(s) who are equally or better qualified than the H-1B nonimmigrant(s).

8. I have read and agree to Additional Employer Labor Condition Statements A, B, and C above and as fully explained in Section H – Subsections 1 and 2 of the Labor Condition Application – General Instructions. §	<input type="checkbox"/> Yes <input type="checkbox"/> No
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I. Public Disclosure Information

! Please Note: You MUST choose at least one of the two options listed in this Section and provide a physical address. P.O. Boxes cannot be entered in the address field.

1. Public disclosure information will be kept at:* <input type="checkbox"/> Employer's principal place of business in the U.S. <input type="checkbox"/> Place of employment in the U.S.			
2a. Address for the Public Disclosure Information*	2b. City*	2c. State*	2d. Postal Code*



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J. Declaration of Employer

By signing this form, I attest that the information and labor condition statements provided are true and accurate; that I have read Sections G and H of the Labor Condition Application – General Instructions, and that I agree to comply with the Labor Condition Statements as set forth in the Labor Condition Application – General Instructions and with the Department of Labor regulations (20 CFR part 655, Subparts H and I). I agree to 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. I understand that making fraudulent representations on this Form can lead to civil or criminal action under 18 U.S.C. 1001, 18 U.S.C. 1546, or other provisions of law.

I further attest:

1. I understand and agree that, upon my receipt of ETA's certification of this LCA, I must take the following actions at the specified times and circumstances:*

- Print and sign a hardcopy of the LCA if filing electronically;
- Maintain a signed hardcopy of this LCA in my public access files; and
- If a petition filing with the U.S. Citizenship and Immigration Services is appropriate, I will submit a signed hardcopy of the LCA to the U.S. Citizenship and Immigration Services in support of the I-129 petition, on the date of submission of the I-129 petition in accordance Department of Homeland Security and/ or Department of State regulations.

☐ Yes ☐ No

2. I understand that the job opportunity (or opportunities for multiple workers) listed on this form must meet the definition of specialty occupation as described in 20 CFR 655.715.*

☐ Yes ☐ No

3. I will provide a signed hardcopy of this LCA to the worker(s) working pursuant to this LCA at the time the worker(s) reports to work, or earlier.*

☐ Yes ☐ No

4. I will inform the worker(s) working pursuant to this LCA that the Department of Labor does not require a filing fee for this application.*

☐ Yes ☐ No

5. I understand the employer may 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 preparation and filing of LCAs and visa petitions.*

☐ Yes ☐ No

6a. I understand and agree that by filing this LCA, I attest that all of the statements in this LCA are true and accurate and that I am undertaking all the obligations that are set out in this LCA (9035/9035E) and the accompanying instructions (Form ETA 9035CP).*

☐ Yes ☐ No

6b. I hereby choose one of the following options with regard to the accompanying instructions (Form ETA 9035CP):*

☐ If filing electronically, I have read the instructions and choose to have the Form ETA 9035CP electronically attached to the certified LCA, and to be bound by the LCA obligations as explained on this form.

☐ If filing electronically, I choose not to have the Form ETA 9035CP electronically attached to the certified LCA, but I have read the instructions and I understand that I am bound by the LCA obligations as explained on this form.

☐ If not filing electronically, I have read the instructions and I understand that I am bound by the LCA obligations explained on this form.

7a. Last (family) name of hiring or designated official*	7b. First (given) name of hiring or designated official*	7c. Middle Name
7d. Hiring or designated official's title*		
7e. Signature*		7f. Date signed*



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K. LCA Preparer

Complete this Section if the preparer of this LCA is a person other than the one identified in either Section D (employer point of contact) or Section E (attorney or agent).

1. Last (family) name§	2. First (given) name§	3. Middle name
4. Law Firm/Business name§		5. E-Mail address§

L. U.S. Government Agency Use (ONLY)

By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid for the period of employment from _____ to _____.

Department of Labor, Office of Foreign Labor Certification

Certification Date (date signed)

Case number

Case status

The Department of Labor is not the guarantor of the accuracy, truthfulness, or adequacy of a certified LCA.

M. Signature Notification and Complaints

The signatures and dates signed on this form will not be filled out when electronically submitting to the Department of Labor for processing, but **MUST** be complete when submitting non-electronically. If the application is submitted electronically, any resulting certification **MUST** be signed *immediately upon receipt* from the Department of Labor before it can be submitted to USCIS for final processing. Complaints alleging misrepresentation of material facts in the LCA and/or failure to comply with the terms of the LCA may be filed using the WH-4 Form with any office of the Wage and Hour Division, U.S. Department of Labor. A listing of the Wage and Hour Division Offices can be obtained at <http://www.dol.gov/whd>. Complaints alleging failure to offer employment to an equally or better qualified U.S. worker, or an employer's misrepresentation regarding such offer(s) of employment, may be filed with the U.S. Department of Justice, Office of the Special Counsel for Immigration-Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW, Washington, DC, 20530. For additional information please visit the Department of Justice Web site at www.justice.gov. Please note that complaints should be filed with the Office of Special Counsel at the Department of Justice if the violation is by an employer who is H-1B dependent or a willful violator. (See 20 CFR 655.710(b) and 655.734(a)(1)(ii)).

N. OMB Paperwork Reduction Act (1205-0310)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour and 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW, * Washington, DC * 20210 or email ETA.OFLC.Forms@dol.gov. **Please do not send the completed application to this address.**