Labor Condition Application for Nonimmigrant Workers Form ETA-9035 & 9035E



U.S. Department of Labor

Please read and review the filing instructions carefully before completing the Form ETA- 9035 or 9035E. A copy of the instructions can be found at https://www.dol.gov/agencies/eta/foreign-labor/. 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 (DOL). For all submissions, both electronic (Form ETA- 9035E) or paper (Form ETA- Form 9035 where the employer has notified DOL that it will submit this form non-electronically due to a disability or received permission from DOL to file non-electronically due to lack of Internet access), https://www.access.org/licenses/eta/foreign-labor/. 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 (DOL). For all submissions, both electronic (Form ETA- 9035E) or paper Condition Applications (Holds) where the employer has notified DOL that it will submit this form non-electronically due to a disability or received permission from DOL to file non-electronically due to lack of Internet access), https://www.access.org/licenses/eta/foreign-labor/. In accordance with Federal Regulations at 20 CFR 655.730(b), incomplete or obviously incomplete or o

A. Employment-Based Nonimmigrant Vis	sa Information			
Indicate the type of visa classification su	upported by this application	on (Write classification	on symbol): *	H-1B
B. Temporary Need Information				
Job Title * Software Developer II				
2. SOC (ONET/OES) code * 15-1252.00	3. SOC (ONET/OES) of Software Developers	occupation title *		
4. Is this a full-time position? *			nded Employme	
☑ Yes ☐ No	5. Begin Date * 3/12/2 (mm/dd/yyyy)		6. End Date * (mm/dd/yyyy)	3/11/2028
7. Worker positions needed/basis for the v	isa classification support	ed by this applicati	on	
Total Worker Positions Be Basis for the visa classification supporte (indicate total workers in each applicable cat	ed by this application	ification *		
0 a. New employment *		0 d.	New concurrent	employment *
b. Continuation of previously approved employment without change with the same employer*				yer *
c. Change in previously approved employment * 1 f. Amended petition *				
C. Employer Information				
Legal business name * PERSISTENT SYSTEMS, INC.				
2. Trade name/Doing Business As (DBA),	if applicable			
3. Address 1 * 2055 LAURELWOOD ROAD				
4. Address 2 SUITE 210				
5. City * SANTA CLARA		6. State * California	7. Posta 95054	al code *
Country * United States Of America		9. Province		
10. Telephone number * +1 (650) 481-9180		11. Extension		
12. Federal Employer Identification Number 77-0584954	er (FEIN from IRS) *	13. NAICS code 541512	(must be at least 4	-digits) *

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



D. Employer Point of Contact Information

<u>Important Note</u>: The information contained 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 <u>must be different</u> from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer.

1. Contact's last (family) name * 2.	- : , / : \		
1. Contact s last (lanning) flame	First (given) n	ame *	Middle name(s)
TARDE PR	RAVIN		
4. Contact's job title * SENIOR GENERAL MANAGER - HUMAN RESO	OURCES		
5. Address 1 * 2055 LAURELWOOD ROAD			
6. Address 2 SUITE 210			
7. City * SANTA CLARA		8. State * California	9. Postal code * 95054
10. Country * United States Of America		11. Province	
12. Telephone number * 13	B. Extension	14. E-Mail address	
+1 (650) 481-9180		IMMIGRATION@PE	ERSISTENT.COM

E. Attorney or Agent Information (If applicable)

<u>Important Note</u>: The employer authorizes the attorney or agent identified in this section to act on its behalf in connection with the filing of this application.

Illing of this application.						
Is the employer represented by an attorne If "Yes," complete the remainder of Section		of this app	olication? *		☑ Yes	□ No
2. Attorney or Agent's last (family) name §	3. First (given) n	name §	4.	Middle n	ame(s)	
JETHMALANI	ANIL					
5. Address 1 § 42 BROADWAY						
6. Address 2 SUITE 1548						
7. City § NEW YORK		8. State		9. Post 10004	tal code §	
10. Country § United States Of America		11. Pro	vince			
12. Telephone number §	13. Extension	14. E-N	fail address			
+1 (212) 406-9257		rahul@j	nattorney.com			
15. Law firm/Business name §			16. Law firm/B	usiness F	FEIN §	
Jethmalani & Nallaseth PLLC			46-1090340			
17. State Bar number (only if attorney) §			ate of highest co		e attorney is ir	good
2136562		New Y	ng (only if attorney ork	7) §		
19. Name of the highest State court where a	attorney is in good star	nding (only	if attorney) §			
SUPREME COURT						

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR USE ONLY			Page 2 of 8
Case Number: I-200-25059-731732	Case Status: In Process	Period of Employment:	to	

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



F. Employment and Wage Information

Important Note: The employer must define the intended place(s) of employment with as much geographic specificity as possible. Each intended place(s) of employment listed below must be the worksite or physical location where the work will actually be performed and cannot be a P.O. Box. The employer must identify all intended places of employment, including those of short duration, on the LCA. 20 CFR 655.730(c)(5). If the employer is submitting 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. An employer has the option to use either a single Form ETA-9035/9035E or multiple forms to disclose all intended places of employment. If the employer has more than ten (10) intended places of employment at the time of filing this application, the employer must file as many additional LCAs as are necessary to list all intended places of employment. See the form instructions for further information about identifying all intended places of employment.

a. Place of Employment Information 1

	Enter the estimated number of workers that will perform work at this place of employment under the LCA.*					
	Indicate whether the worker(s) subject to this LCA will be placed with a secondary entity at this place of employment. *				☑ Yes	□ No
3. If	If "Yes" to question 2, provide the legal business name of the secondary entity. §					
Optu	m					
	ddress 1 * Bren Road East					
5. Ad	ddress 2					
6. Ci			County *			
	netonka		nepin	.		
	ate/District/Territory * lesota	553	Postal code 343	•		
10. V	Vage Rate Paid to Nonimmigrant Workers *	10a. Per:	(Choose onl	y one)*		
From	*\$ To: \$	☐ Hour ☐	□ Week □	Bi-Weekly □	I Month ☑	Year
11. F	Prevailing Wage Rate *	11a. Per:	(Choose onl	y one)*		
	\$ <u>103605</u> . <u>00</u>	□ Hour □	□ Week □	Bi-Weekly □	I Month ☑	Year
Ques	stions 12-14. Identify the source used for the prevailing wag	ge (PW) (che	eck and fully	complete onl	ly one): *	
12.	A Prevailing Wage Determination (PWD) issued by the De	partment of	Labor	a. PWD trac	king number	§
13. •	A PW obtained independently from the Occupational Emp	oloyment Sta	atistics (OE	S) Program		
ت	a. Wage Level (check one): §			b. Source Y	•	
	□I □II □II □IV □N/A			7/1/2024 - 6	6/30/2025	
14.	A PW obtained using another legitimate source (other tha	n OES) or a	ın independ	ent authorita	ative source	
Ш	a. Source Type (check one): § ☐ CBA ☐ DBA ☐ SCA ☐ Other/ PW Survey	,		b. Source Y	ear §	
	c. If responded "Other/ PW Survey" in question 14.a, enter the		e survey pro	ducer or publ	lisher 8	
	a 100pondou Odnom i vi Odnivoy in quoditori 14.d, oritor un	o namo or ur	io odivoj pie	adoor or publ		
	d If reappointed "Other/ DIM Surrey" in guaration 4.4 a criter th	a titla ar ram	as of the DIA	2		
	d. If responded "Other/ PW Survey" in question 14.a, enter th	e little or nam	ne or the PW	survey §		

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR U	Page 3 of 8	
Case Number: I-200-25059-731732	Case Status: In Process	Period of Employment:	to

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



G. Employer Labor Condition Statements

Important Note: 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; and
- (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.

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

Important Note: In order for your H-1B application to be processed, you MUST read Section H – Subsection 1 of the Form ETA 9035CP – General Instructions for the 9035 & 9035E under the heading "Additional Employer Labor Condition Statements" and answer the questions below.

a. Subsection 1

a. Subsection 1				
1. At the time of filing this LCA, is the employer H-1B dependent? §		☑ Yes	□ No	
2. At the time of filing this LCA, is the employer a willful violator? §			☑ No	
3. If "Yes" is marked in questions H.1 and/or H.2, you must answer "Yes" or "No" regarding whether the employer will use this application ONLY to support H-1B petitions or extensions of status for exempt H-1B nonimmigrant workers? §			□ No	
4. If "Yes" is marked in question H.3, identify the statutory basis for the exemption of the H-1B nonimmigrant workers associated with this LCA. §	e			ecialty
H-1B Dependent or Willful Violator Employers -Master's Degree or Higher Exemptions ONLY				
5. Indicate whether a completed Appendix A is attached to this LCA coveri nonimmigrant worker for whom the statutory exemption will be based Ol Master's Degree or higher in related specialty. §		□ Yes	□ No	☑ N/A

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR USE ONLY		
Case Number: 1-200-25059-731732	Case Status: In Process	Period of Employment:	to

Labor Condition Application for Nonimmigrant Workers Form ETA-9035 & 9035E



U.S. Department of Labor

If you marked "Yes" to questions H.a.1 (H-1B dependent) and/or H.a.2 (H-1B willful violator) and "No" to question H.a.3 (exempt H-1B nonimmigrant workers), you <u>MUST</u> read Section H – Subsection 2 of the Form ETA 9035CP – General Instructions for the 9035 & 9035E 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:** An H-1B dependent or willful violator employer is prohibited from displacing a U.S. worker in its own workforce within the period beginning 90 days before and ending 90 days after the date of filing of the visa petition. 20 CFR 655.738(c);
- B. **Secondary Displacement:** An H-1B dependent or willful violator employer is prohibited from placing an H-1B nonimmigrant worker(s) with another/secondary employer where there are indicia of an employment relationship between the nonimmigrant worker(s) and that other/secondary employer (thus possibly affecting the jobs of U.S. workers employed by that other employer), unless and until the employer subject to this LCA makes the inquiries and/or receives the information set forth in 20 CFR 655.738(d)(5) concerning that other/secondary employer's displacement of similarly employed U.S. workers in its workforce within the period beginning 90 days before and ending 90 days after the date of such placement. 20 CFR 655.738(d). Even if the required inquiry of the secondary employer is made, the H-1B dependent or willful violator employer will be subject to a finding of a violation of the secondary displacement prohibition if the secondary employer, in fact, displaces any U.S. worker(s) during the applicable time period; and
- C. Recruitment and Hiring: Prior to filing this LCA or any petition or request for extension of status for nonimmigrant worker(s) supported by this LCA, the H-1B dependent or willful violator employer must take good faith steps to recruit U.S. workers for the job(s) using procedures that meet industry-wide standards and offer compensation that is at least as great as the required wage to be paid to the nonimmigrant worker(s) pursuant to 20 CFR 655.731(a). The employer must offer the job(s) to any U.S. worker who applies and is equally or better qualified for the job than the nonimmigrant worker. 20 CFR 655.739.

6. <u>I have read and agree</u> to Additional Employer Labor Condition Stateme as fully explained in Section H – Subsections 1 and 2 of the Form ETA substructions for the 9035 & 9035E and the Department's regulations at 2	□ Yes □ No	
I. Public Disclosure Information ! Important Note: You must select one or both of the options listed in this Section	1.	
Public disclosure information in the United States will be kept at: *	☑ Employer's principal pl☑ Place of employment	ace of business
L North and College of the College o		

J. Notice of Obligations

- A. Upon receipt of the certified LCA, the employer must take the following actions:
 - o Print and sign a hard copy of the LCA if filing electronically (20 CFR 655.730(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); and
 - 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 statement or information is challenged (20 CFR 655.705(c)(5) and 20 CFR 655.700(d)(4)(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 supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001,1546,1621).

Last (family) name of hiring or designated official * Tarde	2. First (given) name of hiring or designated official * Pravin	3. Middle initial §
Hiring or designated official title * Senior General Manager - Human Resources		
5. Signature *	6. Date signed *	

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR USE ONLY		
Case Number: <u>I-200-25059-731732</u>	Case Status: In Process	Period of Employment: to	

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



K LCAD

655.710(b) and 655.734(a)(1)(ii).

	K. LCA Preparer				
	<u>Important Note</u> : Complete this section if the preparer of this point of contact) or E (attorney or agent) of this application.	s LCA is a person other than the one id	lentified in either Section D (employer		
1	. Last (family) name §	2. First (given) name §	3. Middle initial		
4	. Firm/Business name §	.1			
5	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 from	to	<u></u> .		
	Department of Labor, Office of Foreign Labor Certifica	ation Certifica	ation Date (date signed)		
	I-200-25059-731732	In Pro	cess		
	Case number	Case S	tatus		
	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 fille but MUST be complete when submitting non-electronically. signed immediately upon receipt from DOL before it can be so Complaints alleging misrepresentation of material facts in the WH-4 Form with any office of the Wage and Hour Division, Upotained at www.dol.gov/whd. Complaints alleging failure to	If the application is submitted electronic submitted to USCIS for final processing e LCA and/or failure to comply with the U.S. Department of Labor. A listing of the submitted to the submitted that the submitted thas the submitted that the submitted that the submitted that the s	cally, any resulting certification MUST be c). terms of the LCA may be filed using the the Wage and Hour Division offices can be		

and Employee Rights Section, 950 Pennsylvania Avenue, NW, # IER, NYA 9000, Washington, DC, 20530, and additional information can be obtained at www.justice.gov. Please note that complaints should be filed with the Civil Rights Division, Immigrant and Employee Rights Section at the Department of Justice only if the violation is by an employer who is H-1B dependent or a willful violator as defined in 20 CFR

For public burden statement information, please see Form ETA-9035CP General Instructions.

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR US	SE ONLY	Page 6 of 8
Case Number: 1-200-25059-731732	Case Status: In Process	Period of Employment:	_ to

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



F. Employment and Wage Information

Important Note: The employer must define the intended place(s) of employment with as much geographic specificity as possible. Each intended place(s) of employment listed below must be the worksite or physical location where the work will actually be performed and cannot be a P.O. Box. The employer must identify all intended places of employment, including those of short duration, on the LCA. 20 CFR 655.730(c)(5). If the employer is submitting 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. An employer has the option to use either a single Form ETA-9035/9035E or multiple forms to disclose all intended places of employment. If the employer has more than ten (10) intended places of employment at the time of filing this application, the employer must file as many additional LCAs as are necessary to list all intended places of employment. See the form instructions for further information about identifying all intended places of employment.

a. Place of Employment Information 2

	Enter the estimated number of workers that will perform work at this place of employment under the LCA.*				
	Indicate whether the worker(s) subject to this LCA will be placed with a secondary entity at this place of employment. *			□ Yes □	⊿ No
3. If	"Yes" to question 2, provide the legal business name of the second	ondary entity. §			
4 A	ddress 1 *				
	1 Tennyson Parkway				
	ddress 2				
6. Ci	€ 275 :•• *	7. County *			
Plan		Collin			
	tate/District/Territory *	9. Postal code	*		
Texa		75024	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \		
10. V	Nage Rate Paid to Nonimmigrant Workers *	10a. Per: (Choose on	•		
From* \$106000 . 00 To: \$ ☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☑ Year					ear
11. F	Prevailing Wage Rate *	11a. Per: (Choose on	v one)*		
	\$ 105997 00	☐ Hour ☐ Week ☐	•	onth ☑ Y	'ear
0	Ψ·		•		
	stions 12-14. Identify the source used for the prevailing wag	ge (PVV) (cneck and full)			`
12.	A Prevailing Wage Determination (PWD) issued by the De	partment of Labor	a. PWD tracking	number §	3
13. •	A W obtained independently from the occupational Employment otalistics (OEO) i fodiam				
ت	a. Wage Level (check one): §		b. Source Year	•	
			7/1/2024 - 6/30	/2025	
A PW obtained using another legitimate source (other than OES) or an independent authoritative source			source		
ш	a. Source Type (check one): §		b. Source Year	§	
	☐ CBA ☐ DBA ☐ SCA ☐ Other/ PW Survey				
	c. If responded "Other/ PW Survey" in question 14.a, enter the	e name of the survey pr	oducer or publishe	er §	
d. If responded "Other/ PW Survey" in question 14.a, enter the title or name of the PW survey §					

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR USE ONLY		I	Page 7 of 8
Case Number: I-200-25059-731732	Case Status: In Process	Period of Employment:	to	

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



F. Employment and Wage Information

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a. Place of Employment Information 3

	 Enter the estimated number of workers that will perform work at this place of employment under the LCA.* 				
	Indicate whether the worker(s) subject to this LCA will be placed with a secondary entity at this place of employment. *				
3. If	"Yes" to question 2, provide the legal business name of the second	ondary entity. §			
4. Ad	ddress 1 *				
	34 Talamore Lane				
5. Ad	ddress 2				
6. Ci	itv *	7. County *			
Frisc		Collin			
	tate/District/Territory *	9. Postal code	*		
Texa	Nage Rate Paid to Nonimmigrant Workers *	75035 10a. Per: (Choose on	\(\sigma_0^*\)		
	_	· ·	Bi-Weekly ☐ Month ☑ Year		
From	*\$	L Hour L Week L	Di-Weekly El World' El Teal		
11. F	Prevailing Wage Rate *	11a. Per: (Choose on	y one)*		
	\$ 105997 00	☐ Hour ☐ Week ☐	Bi-Weekly ☐ Month ☑ Year		
Ques	stions 12-14. Identify the source used for the prevailing way	ne (PW) (check and fully	complete only one): *		
12.			a. PWD tracking number §		
	A Prevailing Wage Determination (PWD) issued by the De	partment of Labor	g g		
13.	_ A W Obtained independently from the Occupational Employment olationed (OEO) Todiam				
ك	a. Wage Level (check one): §		b. Source Year §		
			7/1/2024 - 6/30/2025		
A PW obtained using another legitimate source (other than OES) or an independent authoritative source			lent authoritative source		
Ш	a. Source Type (check one): §		b. Source Year §		
	☐ CBA ☐ DBA ☐ SCA ☐ Other/ PW Survey				
	c. If responded "Other/ PW Survey" in question 14.a, enter the	e name of the survey pro	oducer or publisher §		
d. If responded "Other/ PW Survey" in question 14.a, enter the title or name of the PW survey §			/ survey §		
	1				

Form ETA- 9035/9035E	FOR DEPARTMENT OF LABOR USE ONLY		Page 8 of 8
Case Number: I-200-25059-731732	Case Status: In Process	Period of Employment:	to