

SOFTWARE LOGIC IN FORM 9089

by Jake Lipman, Michele Kim, Sam Udani



Introduction

DOL's Permanent Electronic Review Management (PERM) is an electronic process marking the first time that the DOL has used the electronic process in immigration law. With any new process, discrepancies between the electronic procedure and the regulation itself are likely. Below are two examples in Form 9089 where software logic, legal logic, and plain language do not add up.

Example 1:

Fields

H4. Education: minimum level required: None, High School, Associate's, Bachelor's, Master's, Doctorate, Other

H4-A. If other is indicated in question 4, specify the education required.

H4-B. Major field of study.

Problem

If you check "Other" in Field H4 under section H4 for minimum level of education required, you must complete H4-A and specify the education required. The problem is that completion of H4-B is also required. The field cannot be left blank because this will result in the application being denied: ("incomplete applications will be denied" (656.17(a)(1)). Although it does not appear in Form 9089 instructions or the rule, the software requires completion of H4-B when "Other" is selected in H4.

Solution

If there is no major field of study in field H4-B, complete by indicating N/A.

Example 2:

Fields

H8. Is there an alternate combination of education and experience that is acceptable?

H8-A. If "Yes" specify the alternate level of education required:

H8-B. If "Other" is indicated in question 8-A, indicate the alternate level of education required:

H8-C. If applicable, indicate the number of years experience acceptable in question 8:

Problem

Here again, there are inconsistencies between plain language and software logic, as indicated by the table below:

The table is for a hypothetical where H8. is answered "Yes".

	H8A	H8B	H8C
Plain language	Must have	If applicable	If applicable
Software	Not required	If applicable	Must have

Solution

The proper procedure for completing this section differs depending on whether the form is completed online or mailed. In this example, there is a distinction between Form 9089: the mailed version and the online version of Form 9089.

A. Form Is Mailed

If the form is mailed, one should follow the plain language and H8-A must be completed. H8-C must be completed only if applicable.

B. Online Form

If the form is completed online, H8-A is not required. H8-C must be completed and N/A should be indicated if zero years of experience.

Conclusion

The fact that there are distinctions between software logic and legal logic may be a violation of the Administrative Procedures Act that DOL needs to address. Unfortunately, the distinctions between the software logic and the regulatory logic necessitate a different method of handling depending upon whether Form 9089 is mailed or completed online. The DOL's claim that the procedures are identical for processing forms, whether electronic or mailed, is bogus. To some degree, mailed in forms will have a higher degree of procedural rights and due process than electronic forms. This is an area that will likely see litigation in the coming years.

Note: Software changes are constantly being updated by DOL - these two examples are accurate as of June 2005 as determined by INS Zoom technical experts.

Attachments: screenshots of software logic embedded in Form 9089.

About the Author

Jake Lipman is an attorney and works in business development at INSZOOM.

Michele Kim is legal editor of Immigration Daily at ILW.COM.

Sam Udani has spoken before many bar associations throughout the country on labor certification and law practice management. In 1992, he co-founded Adnet Advertising Agency Inc, a company specializing in labor certification advertising and was involved with that company through 2000. In 1999, he acquired ILW.COM (which was founded in 1995), and propelled it into the leading immigration law publisher online. He is the publisher of ILW.COM's Immigration Daily which now reaches 16,000 subscribers every weekday. He has authored articles on labor certification in AILA Monthly Mailing, Bender's Immigration Bulletin, and Immigration Daily. Some material in this article was presented at the PERM workshop in Salt Lake City, UT. More information about the upcoming PERM workshop in New York City on December 7, 2005 can be found at: <http://www.ilw.com/workshops/december2005perm.shtm>.

Form ETA-9089 – User Guide

Page 1 section A & B.

OMB Approval: 1205-0451
Expiration Date: 03/31/2008

Application for Permanent Employment Certification

ETA Form 9089
U.S. Department of Labor



Please read and review the filing instructions before completing this form. A copy of the instructions can be found at <http://workforcesecurity.doleta.gov/foreign/>.

Employing or continuing to employ an alien unauthorized to work in the United States is illegal and may subject the employer to criminal prosecution, civil monetary penalties, and debarment. **If Answer is Yes only then fill the info in 1-A & 1-B fields.**

A. Refiling Instructions

1. Are you seeking to utilize the filing date from a previously submitted Application for Alien Employment Certification (ETA 750)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1-A. If Yes, enter the previous filing date		
1-B. Indicate the previous SWA or local office case number OR if not available, specify state where case was originally filed: _____ If Yes Do not Submit the Form to DOL.		

B. Schedule A or Shepherd Information

1. Is this application in support of a Schedule A or Shepherd Occupation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If Yes, do NOT send this application to the Department of Labor. All applications in support of Schedule A or Shepherd Occupations must be sent directly to the appropriate Department of Homeland Security office.		

Page 1 section C

C. Employer Information (Headquarters or Main Office)			
1. Employer's name	Nexus One LLC		
2. Address 1	These fields must be filled with numbers only. No special characters, white spaces or characters.		
Address 2	This should be year entered in 4 'year' digits, for eg '1999'		
3. City	State/Province	Country	
4. Phone number	Extension		
5. Number of employees	6. Year commenced business		
7. FEIN (Federal Employer Identification Number)	8. NAICS code		
9. Is the employer a closely held corporation, partnership, or sole proprietorship in which the alien has an ownership interest, or is there a familial relationship between the owners, stockholders, partners, corporate officers, incorporators, and the alien?			<input type="checkbox"/> Yes <input type="checkbox"/> No

Page 1 section D.

This is a Compulsory Field. Please fill in all the Information in Section D.

D. Employer Contact Information (This section must be filled out. This information must be different from the agent or attorney information listed in Section E).					
1. Contact's last name	Shukla	First name	Sundeep	Middle initial	R
2. Address 1					
Address 2					
3. City	State/Province	Country	Postal code		
4. Phone number	Extension				
5. E-mail address	sundeep@nexus.com				

Note: Please add only numbers in Phone number, extension fields. No white spaces and characters are allowed.

Page 1 section E.

Please enter numbers for phone number, extension, Firm EIN and Prevailing Wage amount. For US addresses, please write state or else use Province.

E. Agent or Attorney Information (If applicable)

1. Agent or attorney's last name	R. Salinas(92345)	First name	Cassandra	Middle initial
2. Firm name	INSZoom Immigration Software Inc.			
3. Firm EIN	8888	4. Phone number	925- 244 0600	Extension
5. Address 1	5000 Executive Parkway			
	Address 2 375			
6. City	San Ramon	State/Province	CA	Country USA Postal code 94583
7. E-mail address	Swati.s@usnet.com			

F. Prevailing Wage Information (as provided by the State Workforce Agency)

1. Prevailing wage tracking number (if applicable)	2. SOC/O*NET(OES) code
3. Occupation Title	4. Skill Level
5. Prevailing wage	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
6. Prevailing wage source (Choose only one)	
<input type="checkbox"/> OES <input type="checkbox"/> CBA <input type="checkbox"/> Employer Conducted Survey <input type="checkbox"/> DBA <input type="checkbox"/> SCA <input type="checkbox"/> Other	
6-A. If Other is indicated in question 6, specify:	
7. Determination date	8. Expiration date

G. Wage Offer Information

1. Offered wage	To: (Optional)		Per: (Choose only one)
From: \$	\$		<input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year

Only numbers should be entered

H. Job Opportunity Information (Where work will be performed)

1. Primary worksite (where work is to be performed) address 1		
Address 2		
2. City	State	Postal code
3. Job title		
4. Education: minimum level required:		
<input type="checkbox"/> None <input type="checkbox"/> High School <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate <input type="checkbox"/> Other		
4-A. If Other is indicated in question 4, specify the education required:		
4-B. Major field of study		
5. Is training required in the job opportunity?	5-A. If Yes, number of months of training required:	
<input type="checkbox"/> Yes <input type="checkbox"/> No		

Page 2 section F.

F. Prevailing Wage Information (as provided by the State Workforce Agency)

1. Prevailing wage tracking number (if applicable)	Please check any one box as this is Mandatory Field.	O*NET(OES) code
3. Occupation Title		4. Skill Level
5. Prevailing wage	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	
6. Prevailing wage source (Choose only one)		
<input type="checkbox"/> OES <input type="checkbox"/> CBA <input type="checkbox"/> Employer Conducted Survey <input type="checkbox"/> DBA <input type="checkbox"/> SCA <input type="checkbox"/> Other		
6-A. If Other is indicated in question 6, specify:		
7. Determination date	8. Expiration date	If other option checked you need to specify in Field 6-A.

Note: Please add number value only at prevailing wage column and mm/dd/yyyy for date fields.

Page 2 H.

H. Job Opportunity Information (Where work will be performed)		
1. Primary worksite (where work is to be performed) address 1		
Address 2		
2. City	State	Postal code
3. Job title		
4. Education: minimum level required:		
<input type="checkbox"/> None <input type="checkbox"/> High School <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate <input type="checkbox"/> Other		
4-A. If Other is indicated in question 4, specify the education required:		
4-B. Major field of study		
5. Is training required in the job opportunity?	5-A. If Yes, number of months experience required:	
<input type="checkbox"/> Yes <input type="checkbox"/> No		

If you check other in Field 4 under section H. Please specify the Education Required in Fields 4-A & 4-B.

Page 3 continued section H.

H. Job Opportunity Information Continued	
5-B. Indicate the field of training	6. Is experience in the job offered? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Is there an alternate field of study that is acceptable? <input type="checkbox"/> Yes	
7-A. If Yes, specify the major field of study:	
8. Is there an alternate combination of education and experience acceptable? <input type="checkbox"/> Yes <input type="checkbox"/> No	8-A. If Yes, specify the alternate level of education required:
<input type="checkbox"/> None <input type="checkbox"/> High School <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate <input type="checkbox"/> Other	
8-B. If Other is indicated in question 8-A, indicate the alternate level of education required:	
8-C. If applicable, indicate the number of years experience acceptable in question 8:	
9. Is a foreign educational equivalent acceptable? <input type="checkbox"/> Yes <input type="checkbox"/> No	10. Is experience in an alternate occupation acceptable? <input type="checkbox"/> Yes <input type="checkbox"/> No
10-A. If Yes, number of months experience in alternate occupation required:	

If Yes for the Field 6. Please specify the number of months Experience Required in the Field 6-A.

If other is checked in Field 8-A then specify the education required in the field 8-B.

If Yes for the Field 7. Please specify the Major Field of Study in the Field 7-A.

Page 3 section H.

7. Is there an alternate field of study that is acceptable?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
7-A. If Yes, specify the major field of study:			
8. Is there an alternate combination of education and experience that is acceptable?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
8-A. If Yes, specify the alternate level of education required:			
<input type="checkbox"/> None <input type="checkbox"/> High School <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate <input type="checkbox"/> Other			
8-B. If Other is indicated in question 8-A, indicate the alternate level of education required:		If Yes in field 8. Please specify the number of years experience in field 8-C.	
8-C. If applicable, indicate the number of years experience acceptable in question 8:			
9. Is a foreign educational equivalent acceptable?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
10. Is experience in an alternate occupation acceptable?		10-A. If Yes, number of months experience in alternate occupation required:	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
10-B. Identify the job title of the acceptable alternate occupation:		If Yes in field 10 then specify the number of months experience in field 10-A.	

Page 3 section H.

		If No in field 12 please refer to this.	
12. Are the job opportunity's requirements normal for the occupation?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If the answer to this question is No, the employer must be prepared to provide documentation demonstrating that the job requirements are supported by business necessity.			
13. Is knowledge of a foreign language required to perform the job duties?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If the answer to this question is Yes, the employer must be prepared to provide documentation demonstrating that the language requirements are supported by business necessity.			
14. Specific skills or other requirements – If submitting by mail, add attachment if necessary. Skills description must begin in this space.			
		If Yes in field 13 then please refer to this.	

Page 4 continued section H.

H. Job Opportunity Information Continued

15. Does this application involve a job opportunity that includes a combination of occupations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Is the position identified in this application being offered in Section J?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Does the job require the alien to live on the employer's premises?	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Is the application for a live-in household domestic service worker?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
18-A. If Yes, have the employer and the alien executed the required employment contract and has the employer provided a copy of the contract to the alien?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA

Page 4 section I.

I. Recruitment Information Recruitment Information section is Mandatory please fill in all the fields.

a. Occupation Type – All must complete this section

1. Is this application for a professional occupation, i.e. university teacher? Professional occupations are those for which a bachelor's degree (or equivalent) is normally required.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is this application for a college or university teacher? If Yes, complete questions 2-A and 2-B.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2-A. Did you select the candidate using a competitive recruitment and selection process?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2-B. Did you use the basic recruitment process for professional occupations?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Page 4 section I.b.

2. Is this application for a college or university teacher? If Yes, complete questions 2-A and 2-B below.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2-A. Did you select the candidate using a competitive recruitment and selection process?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2-B. Did you use the basic recruitment process for professional occupations?	<input type="checkbox"/> Yes <input type="checkbox"/> No

b. Special Recruitment and Documentation Procedures for College and University Teachers - Complete only if the answer to question I.a.2-A is Yes.

3. Date alien selected:
4. Name and date of national professional journal in which advertisement was placed:
5. Specify additional recruitment information in this space. Add an attachment if necessary.

Page 5 section I.d.

Note: Date 'From' and 'To' should be date format dd/mm/yyyy.

I. Recruitment Information Continued

12. Date of second newspaper advertisement or date of information section then fill all the fields of d or if I.a.2-B is Yes then fill all the fields in d. ion 11:

d. Professional Recruitment Information – Complete if the answer to question I.a.1 is YES or if the answer to I.a.2-B is YES. Complete at least 3 of the items.

13. Dates advertised at job fair From: To:	14. Dates of on-campus recruiting From: To:
15. Dates posted on employer web site From: To:	16. Dates advertised with trade or professional organization From: To:
17. Dates listed with job search web site From: To:	18. Dates listed with private employment firm From: To:
19. Dates advertised with employee referral program From: To:	20. Dates advertised with campus placement office From: To:
21. Dates advertised with local or ethnic newspaper From: To:	22. Dates advertised with radio or TV ads From: To:

Page 5 section I.e.

21. Dates advertised with local or ethnic newspaper From: To: 22. Dates advertised with radio or TV ads From: To:

e. General Information – All must complete this section.

23. Has the employer received payment of any kind for the submission of this application? Yes No

23-A. If Yes, describe details of the payment including the amount, date and purpose of the payment :

24. Has the bargaining representative for workers in the occupation in which the alien will be employed been provided with notice of this filing at least 30 days but not more than 180 days before the date the application is filed? Yes No NA

25. If there is no bargaining representative, has a notice of this filing been posted for 10 business days in a conspicuous location at the place of employment, ending at least 30 days before but not more than 180 days before the date the application is filed? Yes No NA

26. Has the employer had a layoff in the area of intended employment in the occupation involved in this application or in a related occupation within the six months immediately preceding the filing of this application? Yes No

26-A. If Yes, were the laid off U.S. workers notified and considered for the job opportunity for which certification is sought? Yes No NA

Page 5 section J.

J. Alien Information This section must be filled out. This information must be different from the agent or attorney information listed in Section E).

This section is mandatory. Please fill all the information.

1. Alien's last name Rajguru	First name Ajay	Full middle name s
2. Current address 1		
Address 2		
3. City	State/Province	Country Postal code
4. Phone number of current residence 25588889		
5. Country of citizenship	6. Country of birth	
7. Alien's date of birth	8. Class of admission	
9. Alien registration number (A#)	10. Alien admission number (I-94)	
11. Education: highest level achieved relevant to the requested occupation:		
<input type="checkbox"/> None <input type="checkbox"/> High School <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate <input type="checkbox"/> Other		

If you click other for this section, please specify info in question 11A

As mentioned above, all the information in this section is mandatory. For the question 16, please mention name of the State if filing with US address, else input province name.

J. Alien Information Continued			
11-A. If Other indicated in question 11, specify			
12. Specify major field(s) of study			
13. Year relevant education completed			
14. Institution where relevant education specified in question 11 was received			
15. Address 1 of conferring institution			These are compulsory fields to be checked as applicable
Address 2			
16. City	State/Province	Country	Postal code
17. Did the alien complete the training required for the requested job opportunity, as indicated in question H.5?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
18. Does the alien have the experience as required for the requested job opportunity indicated in question H.6?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
19. Does the alien possess the alternate combination of education and experience as indicated in question H.8?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
20. Does the alien have the experience in an alternate occupation specified in question H.10?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
21. Did the alien gain any of the qualifying experience with the employer in a position substantially comparable to the job opportunity requested?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
22. Did the employer pay for any of the alien's education or training necessary to satisfy any of the employer's job requirements for this position?			<input type="checkbox"/> Yes <input type="checkbox"/> No
23. Is the alien currently employed by the petitioning employer?			<input type="checkbox"/> Yes <input type="checkbox"/> No

K. Alien Work Experience

List all jobs the alien has held during the past 3 years. Also list any other experience that qualifies the alien for the job opportunity for which the employer is seeking certification.

a. Job 1

1. Employer name Nexus One LLC			
2. Address 1			
Address 2			
3. City	State/Province	Country	Postal code
4. Type of business		5. Job title	
6. Start date	7. End date	8. Number of hours worked per week	

In the K section above, please fill all the jobs held by the alien in past 3 years. The next page has space to fill information about other experience. Please note that the date information should be entered in date format only.

This section lists information about previous 3 jobs along with space for work experience for the alien. Please fill all the information (as applicable) before proceeding to next page

U.S. Department of Labor

K. Alien Work Experience Continued

9. Job details (duties performed, use of tools, machines, equipment, skills, qualifications, certifications, licenses, etc. Include the phone number of the employer and the name of the alien's supervisor.)			

b. Job 2

1. Employer name			
2. Address 1			
Address 2			
3. City	State/Province	Country	Postal code
4. Type of business		5. Job title	
6. Start date	7. End date	8. Number of hours worked per week	
9. Job details (duties performed, use of tools, machines, equipment, skills, qualifications, certifications, licenses, etc. Include the phone number of the employer and the name of the alien's supervisor.)			

c. Job 3

1. Employer name			
2. Address 1			
Address 2			
3. City	State/Province	Country	Postal code
4. Type of business		5. Job title	
6. Start date	7. End date	8. Number of hours worked per week	

This is continuation of previous section. After all information is filled, it needs alien's declaration and signature of the case manager also.

K. Alien Work Experience Continued

9. Job details (duties performed, use of tools, machines, equipment, skills, qualifications, certifications, licenses, etc. Include the phone number of the employer and the name of the alien's supervisor.)

L. Alien Declaration

I declare under penalty of perjury that Sections J and K are true and correct. I understand that to knowingly furnish 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 a fine or imprisonment up to five years or both under 18 U.S.C. §§ 2 and 1001. Other penalties apply as well to fraud or misuse of ETA immigration documents and to perjury with respect to such documents under 18 U.S.C. §§ 1546 and 1621.

In addition, I further declare under penalty of perjury that I intend to accept the position offered in Section H of this application if a labor certification is approved and I am granted a visa or an adjustment of status based on this application.

Alien's name populates from master data

1. Alien's last name	Rajguru	First name	Ajay	Full middle name	s
2. Signature		Date signed			

Note – The signature and date signed do not have to be filled out when electronically submitting to the Department of Labor for processing, but must be complete when submitting by mail. If the application is submitted electronically, any resulting certification MUST be signed immediately upon receipt from DOL before it can be submitted to USCIS for final processing.

M. Declaration of Preparer

1. Was the application completed by the employer? If No, you must complete this section.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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I hereby certify that I have prepared this application at the direct request of the employer listed in Section C and that to the best of my knowledge the information contained herein is true and correct. I understand that to knowingly furnish 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 a fine, imprisonment up to five years or both under 18 U.S.C. §§ 2 and 1001. Other penalties apply as well to fraud or misuse of ETA immigration documents and to perjury with respect to such documents under 18 U.S.C. §§ 1546 and 1621.

2. Preparer's last name	R. Salinas(92345)	First name	Cassandra	Middle initial	
3. Title					
4. E-mail address	Swati.s@usnet.com				
5. Signature		Date signed			

Note – The signature and date signed do not have to be filled out when electronically submitting to the Department of Labor for processing, but must be complete when submitting by mail. If the application is submitted electronically, any resulting certification MUST be signed immediately upon receipt from DOL before it can be submitted to USCIS for final processing.

Please read the note above at the end of the 8th page.

After the declaration, please ensure alien's signature, as shown below.

U.S. Department of Labor

N. Employer Declaration

By virtue of my signature below, I **HEREBY CERTIFY** the following conditions of employment:

1. The offered wage equals or exceeds the prevailing wage and I will pay at least the prevailing wage.
2. The wage is not based on commissions, bonuses or other incentives, unless I guarantees a wage paid on a weekly, bi-weekly, or monthly basis that equals or exceeds the prevailing wage.
3. I have enough funds available to pay the wage or salary offered the alien.
4. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.
5. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.
6. The job opportunity is not:
 - a. Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage; or
 - b. At issue in a labor dispute involving a work stoppage.
7. The job opportunity's terms, conditions, and occupational environment are not contrary to Federal, state or local law.
8. The job opportunity has been and is clearly open to any U.S. worker.
9. The U.S. workers who applied for the job opportunity were rejected for lawful job-related reasons.
10. The job opportunity is for full-time, permanent employment for an employer other than the alien.

I **hereby designate** the agent or attorney identified in section E (if any) to represent me for the purpose of labor certification and, by virtue of my signature in Block 3 below, I **take full responsibility** for the accuracy of any representations made by my agent or attorney.

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 herein is true and accurate. *I understand that to knowingly furnish 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 a fine or imprisonment up to five years or both under 18 U.S.C. §§ 2 and 1001. Other penalties apply as well to fraud or misuse of ETA immigration documents and to perjury with respect to such documents under 18 U.S.C. §§ 1546 and 1621.*

1. Last name	Shukla	First name	Sundeep	Middle initial	R
2. Title	Visa Program Manager				
3. Signature		Date signed			

Note – The signature and date signed do not have to be filled out when electronically submitting to the Department of Labor for processing, but must be complete when submitting by mail. If the application is submitted electronically, any resulting certification **MUST** be signed *immediately upon receipt* from DOL before it can be submitted to USCIS for final processing.

O. U.S. Government Agency Use Only

Pursuant to the provisions of Section 212 (a)(5)(A) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

<hr/>	<hr/>
Signature of Certifying Officer	Date Signed
<hr/>	<hr/>
Case Number	Filing Date

The section O is for US Govt. agency use only.

Please read the OMB information and Privacy Statement Information carefully before saving the information.

P. OMB Information

Paperwork Reduction Act Information Control Number 1205-0451

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Respondent's reply to these reporting requirements is required to obtain the benefits of permanent employment certification (Immigration and Nationality Act, Section 212(a)(5)). Public reporting burden for this collection of information is estimated to average 1¼ hours 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. Send comments regarding this burden estimate to the Division of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210.

Do NOT send the completed application to this address.

Q. Privacy Statement Information

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that the information provided herein is protected under the Privacy Act. The Department of Labor (Department or DOL) maintains a System of Records titled Employer Application and Attestation File for Permanent and Temporary Alien Workers (DOL/ETA-7) that includes this record.

Under routine uses for this system of records, case files developed in processing labor certification applications, labor condition applications, or labor attestations may be released as follows: in connection with appeals of denials before the DOL Office of Administrative Law Judges and Federal courts, records may be released to the employers that filed such applications, their representatives, to named alien beneficiaries or their representatives, and to the DOL Office of Administrative Law Judges and Federal courts; and in connection with administering and enforcing immigration laws and regulations, records may be released to such agencies as the DOL Office of Inspector General, Employment Standards Administration, the Department of Homeland Security, and the Department of State.

Further relevant disclosures may be made in accordance with the Privacy Act and under the following circumstances: in connection with federal litigation; for law enforcement purposes; to authorized parent locator persons under Pub. L. 93-647; to an information source or public authority in connection with personnel, security clearance, procurement, or benefit-related matters; to a contractor or their employees, grantees or their employees, consultants, or volunteers who have been engaged to assist the agency in the performance of Federal activities; for Federal debt collection purposes; to the Office of Management and Budget in connection with its legislative review, coordination, and clearance activities; to a Member of Congress or their staff in response to an inquiry of the Congressional office made at the written request of the subject of the record; in connection with records management; and to the news media and the public when a matter under investigation becomes public knowledge, the Solicitor of Labor determines the disclosure is necessary to preserve confidence in the integrity of the Department, or the Solicitor of Labor determines that a legitimate public interest exists in the disclosure of information, unless the Solicitor of Labor determines that disclosure would constitute an unwarranted invasion of personal privacy.