

**U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
Frequently Asked Questions
H-1B, H-1B1, and E-3 Programs**

March 27, 2012

Preliminary Note:

For purposes of these FAQs, “LCA” and “ETA Form 9035/9035E” are interchangeable.

GENERAL INFORMATION

Question: Is there a fee to file a Labor Condition Application (LCA) with the Department of Labor for the H-1B, H-1B1 or E-3 programs?

Answer: No. There is no fee to the employer or worker to file an LCA with the Department of Labor.

Question: As an employer, attorney or agent how do I change my iCERT System account access information?

Answer: To change your iCERT System account access information, the OFLC Portal Technical Help Desk will need the following information on the business letterhead of the account holder:

- 1) action to be taken on the account
- 2) reason for the account change
- 3) account username
- 4) full name of the original contact person on the account (if different from the requestor)
- 5) full name of the new contact person on the account (if applicable)
- 6) name of the business
- 7) current business phone number to contact
- 8) current business e-mail address to contact
- 9) Federal Employer Identification Number (FEIN)
- 10) effective date of the change

This request and any other technical assistance questions related to your iCERT System account may be e-mailed to the OFLC Portal Technical Help Desk at oflc.portal@dol.gov. Account change requests that cannot be e-mailed as PDFs may be sent to us via fax on (202) 693-2768 or U.S. mail to the following address:

Office of Foreign Labor Certification
Employment and Training Administration
200 Constitution Avenue, NW, Room C-4312
Washington, DC 20210
Attn: LCA Program iCERT Account

WAGES

Question: How can an employer enter an untitled custom survey on the LCA?

Answer: If an employer obtains and uses a custom-made survey that conforms to the prevailing wage source requirements contained at 20 CFR 655.731, the employer must mark “Other” in Item G.11 and specifically identify the prevailing wage source in Item G.11b of the ETA Form 9035/9035E. In Item G.11b, the employer must enter both the name of the company that provided the wage source, *and* the words “custom survey” to identify an untitled custom survey source. An employer may use acronyms and abbreviations to identify the company name so long as the employer includes sufficient information in Item G.11b to ensure that the company name is obviously recognizable and the words “custom survey” appear.

Important Note: The words “custom survey” may *only* be entered on the ETA Form 9035/9035E when the employer is identifying a custom-made wage survey it has obtained for the occupation.

Example: If the employer obtains and uses a custom-made wage survey conducted in 2012 from a company called “XYZ Wage Surveys, Incorporated”, the ETA Form 9035/9035E Section G.11 should be completed in the following manner:

Item	Form Item Name	Example Entry on ETA Form 9035/9035E
G.11	Prevailing wage source (choose only one)	Other
G.11a	Year source published	2012
G.11b	If “OES” and NPC did not issue prevailing wage OR “Other” in question 11, specify source:	XYZ Wage Surveys: Custom Survey

Question: As an employer filing an LCA, where can I obtain a list of acceptable prevailing wage source surveys for Section G of the ETA Form 9035/9035E?

Answer: The OFLC does not maintain a list of acceptable wage source survey instruments for purposes of processing the ETA Form 9035/9035E. An employer preparing an LCA must select a wage source that complies with the Department’s regulations at 20 CFR 655.731 and identify that wage source on the ETA Form 9035/9035E. This information must be obviously recognizable from a review only of the

information entered on the ETA Form 9035/9035E. When completing the application, the survey entry in Item G.11b must contain the name of the survey company *and* the exact title of the survey used. **The survey title entered must be for the most recent applicable survey published.**

While the OFLC does not maintain a separate list of acceptable wage source survey instruments, the OFLC publishes on our web site LCA Disclosure Data on a quarterly and annual basis which includes certified LCAs with their Item G.11b wage source entries. The LCA Disclosure Data can be found [here](#), and a table listing examples of commonly used prevailing wage surveys from FY 2011 LCAs is provided below. LCA Disclosure Data may be helpful to an employer as a list of potentially acceptable wage sources; however, the OFLC does not endorse specific wage source surveys or otherwise guarantee that wage source entries appearing in LCA Disclosure Data meet all regulatory requirements or will be approved in future-filed LCAs.

Each employer must ensure that the wage source it relies on meets the regulatory requirements. For example, a wage source entry that was acceptable in a previous year may no longer reflect the current title of the latest wage survey publication or may no longer meet the requirements under 20 CFR 655.731. Wage survey source entries in Item G.11b must correspond to survey instruments available in the year entered in Item G.11a; the OFLC will deny an LCA where the wage survey source entry in Item G.11b does not match the year in Item G.11a. Moreover, wage survey source entries in Item G.11b must reflect the most recent publication of the specific survey at the time of LCA submission. The OFLC will deny an LCA with an otherwise acceptable wage survey source entry where, in Items G.11a and G.11b, the LCA identifies a version of the survey other than the most recent publication.

Important Reminder: Acceptability of wage source entries in Item G.11b may vary due to abbreviations, spacing and special characters, since the OFLC’s review of Item G.11b of the ETA Form 9035/9035E, the prevailing wage source, is limited to the information entered by an employer on the application. Upon submission of the application, employers attest that the prevailing wage information entered on the application complies with the Department’s regulations at 20 CFR 655.731.

Table: Examples of Commonly Used Prevailing Wage Surveys on FY 2011 LCAs from the LCA Disclosure Data*

Item G.11a	Item G.11b
2011	AAMC Survey of Resident Fellow Stipends & Benefits
2011	Pearl Meyer & Partners CHIPS One Survey
2011	Radford Global Technology Survey
2011	Towers Watson General Industry Specialized Professional Compensation Survey Report
2011	Dietrich Associates Inc. Fall Engineering Salary Survey
2011	Human Resource Association of the National Capital Area Compensation

	Survey Report
2011	CUPA Mid Level Administrative and Professional Salary Survey
2011	Mercer US - Mercer Benchmark Database Finance, Accounting & Legal
2011	The Survey Group: Software and Technology Survey
2011	Culpepper Compensation Surveys & Services: Life Sciences Compensation Report

** Note: The Department does not endorse specific wage source surveys or otherwise guarantee that wage source entries appearing in the examples will be approved in future LCAs.*