OMB Approval: 1205-0310
Expiration Date: 12/31/2024

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), 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)*: *	H-1B

B. Temporary Need Information

1. Job Title * Application Software Developer IV		
2. SOC (ONET/OES) code * 15-1252.00	3. SOC (ONET/OES) occupation title * Software Developers	
4. Is this a full-time position? * ☑ Yes ☐ No	**Period of Intended Employment**	
	5. Begin Date * *(mm/dd/yyyy)* 6/30/2023	6. End Date * *(mm/dd/yyyy)* 5/29/2026

7. Worker positions needed/basis for the visa classification supported by this application

1 **Total Worker Positions Being Requested for Certification ***

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

1	a. New employment *	0	d. New concurrent employment *
0	b. Continuation of previously approved employment without change with the same employer*	0	e. Change in employer *
0	c. Change in previously approved employment *	0	f. Amended petition *

C. Employer Information

1. Legal business name * Miami University		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1 * 501 E High Street		
4. Address 2		
5. City * Oxford	6. State * Ohio	7. Postal code * 45056
8. Country * United States Of America	9. Province	
10. Telephone number * +1 (513) 529-6734	11. Extension	
12. Federal Employer Identification Number (FEIN from IRS) * 31-6402089	13. NAICS code (must be at least 4-digits) * 611310	

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D. Employer Point of Contact Information

Important Note: 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 must be different 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. First (given) name *	3. Middle name(s)
Smart	Aimee	M
4. Contact's job title *		
Paralegal		
5. Address 1 *		
Miami University		
6. Address 2		
501 E High Street, 205 B Roudebush Hall		
7. City *	8. State *	9. Postal code *
Oxford	Ohio	45056
10. Country *	11. Province	
United States Of America		
12. Telephone number *	13. Extension	14. E-Mail address
+1 (513) 529-6734		smarta2@miamioh.edu

E. Attorney or Agent Information (If applicable)

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

1. Is the employer represented by an attorney or agent in the filing of this application? * If "Yes," complete the remainder of Section E below.	☑ Yes	☐ No

2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name(s)
Ares	Adam	
5. Address 1 §		
501 E High Street		
6. Address 2		
7. City §	8. State §	9. Postal code §
Oxford	Ohio	45056
10. Country §	11. Province	
United States Of America		
12. Telephone number §	13. Extension	14. E-Mail address
+1 (513) 529-6734		aresaj@miamioh.edu
15. Law firm/Business name §		16. Law firm/Business FEIN §
Miami University/Office of General Counsel		31-6402089
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §
100173		Ohio
19. Name of the highest State court where attorney is in good standing (only if attorney) §		
Supreme Court of Ohio		

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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

1. Enter the estimated number of workers that will perform work at this place of employment under the LCA.*	1
2. 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 secondary entity. §	
4. Address 1 * 3 Autumn Drive	
5. Address 2	
6. City * Oxford	7. County * Butler
8. State/District/Territory * Ohio	9. Postal code * 45056
10. Wage Rate Paid to Nonimmigrant Workers * From* $ 81266 . 00 To: $ 85000 . 00	10a. Per: (Choose only one)* ☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☑ Year
11. Prevailing Wage Rate * $ 81266 . 00	11a. Per: (Choose only one)* ☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☑ Year

Questions 12-14. Identify the source used for the prevailing wage (PW) *(check and fully complete only one)*: *

12. ☐	**A Prevailing Wage Determination (PWD) issued by the Department of Labor**	a. PWD tracking number §
13. ☑	**A PW obtained independently from the Occupational Employment Statistics (OES) Program**	
	a. Wage Level *(check one):* § ☐ I ☐ II ☑ III ☐ IV ☐ N/A	b. Source Year § 7/1/2022 - 6/30/2023
14. ☐	**A PW obtained using another legitimate source (other than OES) or an independent authoritative source**	
	a. Source Type *(check one):* § ☐ CBA ☐ DBA ☐ SCA ☐ Other/ PW Survey	b. Source Year §
	c. If responded "Other/ PW Survey" in question 14.a, enter the name of the survey producer or publisher §	
	d. If responded "Other/ PW Survey" in question 14.a, enter the title or name of the PW survey §	

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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.

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 Form ETA-9035CP – General Instructions for the 9035 & 9035E and the Department's regulations at 20 CFR 655 Subpart H. *	☑ Yes ☐ No

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

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? §	☐ Yes ☑ 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? §	☐ Yes ☐ 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. §	☐ $60,000 or higher annual wage ☐ Master's Degree or higher in related specialty ☐ Both
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 covering any H-1B nonimmigrant worker for whom the statutory exemption will be based **ONLY** on attainment of a Master's Degree or higher in related specialty. §	☐ Yes ☐ No ☐ N/A

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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 MUST 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. **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 Form ETA 9035CP – General Instructions for the 9035 & 9035E and the Department's regulations at 20 CFR 655 Subpart H. §	❑ 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 place of business ❑ Place of employment

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));
- o 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
- o 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).

1. Last (family) name of hiring or designated official *	2. First (given) name of hiring or designated official *	3. Middle initial §
Fahner	Dawn	
4. Hiring or designated official title *		
Assoc VP Academic Personnel		
5. Signature *	6. Date signed *	

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K. LCA Preparer

Important Note: 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 E (attorney or agent) of this application.

1. Last (family) name §	2. First (given) name §	3. Middle initial
4. 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 from _____ to _____.

Department of Labor, Office of Foreign Labor Certification	Certification Date (date signed)
I-200-23137-032179	In Process
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 DOL 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 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, Civil Rights Division, Immigrant 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 655.710(b) and 655.734(a)(1)(ii).

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