



UNITED STATES DEPARTMENT OF LABOR

# **Office of Foreign Labor Certification CW-1 Nonimmigrant Visa Program**

## **Common Issues and Filing Tips**

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## Disclaimer

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## Introduction:

The purpose of this webinar is to provide technical assistance and helpful tips for preparing the *Application for Prevailing Wage Determination* (Form ETA-9141C) in support of the CW-1 visa program, *CW-1 Application for Temporary Employment Certification* (Form ETA-9142C), the CW-1 Job Vacancy Announcement, and to cover some of the most pressing and common filing issues encountered.

These issues include common form deficiencies such as job duties, varying tasks, and excessive qualifications and requirements that are not normal and accepted. Other common deficiencies are within the recruitment report content, recruitment requirements, and failure to establish sole employer status or comply with job contractor filing.



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## Terminology:

- **CO** – Certifying Officer of the CW-1 program
- **CW-1 Application** – Form ETA-9142C, inclusive of appendices, a valid PWD and all other supporting or required documentation.
- **FLAG** – Foreign Labor Application Gateway (FLAG) System
- **Form ETA-9141C** or **PWD** – Prevailing Wage Determination, Application for Prevailing Wage Determination in support of the CW-1 Visa Program
- **Form ETA-9142C** – CW-1 Application for Temporary Employment Certification
- **JVA** – Job Vacancy Announcement
- **MDE** – Minor Deficiency E-mail
- **NOA** – Notice of Acceptance
- **NOD** – Notice of Deficiency
- **OFLC** – Office of Foreign Labor Certification
- **OEWS** – Occupational Employment and Wage Statistics
- **RFI** – Request For Information



## *Application for Prevailing Wage Determination, Form ETA-9141C, in support of the CW-1 Visa Program*

### **Filing and Processing Tips**



## Form ETA-9141C: General Filing Tips

Vague job duties may result in an RFI. Provide specific job duties that will be performed by the worker for the employer addressing:

- Types of products
  - Projects or services
  - Processes
  - Materials
  - Equipment or tools
- ★ Reminder: The employer may elaborate on job duties in an RFI response but cannot remove duties.



## Form ETA-9141C: General Filing Tips, continued

- Do not use overly general statements that are not specific to the work being performed.
- Do not use all capital letters.
- Do not include irrelevant information such as the nature of the employer, weather related conditions, etc.



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## Form ETA-9141C:

### Answer the following, when applicable:

- What equipment or machines are being maintained and/or repaired?
- What types of vehicles being maintained and/or repaired? (truck, auto, bus, tractor, etc.)
- What type of engine is being maintained and/or repaired? (gasoline, diesel, etc.)
- Will the work be done at a manufacturing facility/repair shop or will it be done at a job site?
- When duties include driving a truck, what is the gross vehicle weight?
- What types of kitchen equipment and techniques are being used to prepare food?



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## Form ETA-9141C: All Requirements Must Match

Make sure each time you enter information about a requirement that you are not contradicting what you said before.

3. Is training for the job opportunity required? *		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3a. If "Yes" in question 3, specify the number of <u>months</u> of training required. § 24	3b. Indicate the field(s)/name(s) of training required. § (May list more than one related field and more than one type) Maintenance	
4. Is employment experience required? *		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4a. If "Yes" in question 4, specify the number of <u>months</u> of experience required. § 12	4b. Indicate the occupation(s) required. § Maintenance	
5. Special Requirements - List specific skills, licenses/certificates/certifications, and requirements of the job opportunity. * Completion of a nine-week training course in equipment maintenance. Must have at least two years work experience with maintaining equipment.		



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## Form ETA-9141C: Combinations of Occupations

- Many jobs include a variety of tasks that are in the definitions of several occupations.
- The determination will list the occupations and use the highest of those wages.
  - Found in Section F.d. and F.e.
  - Sometimes, this is shown as an addendum, so be sure to look towards the end of the PDF for the page that has all the occupations listed.



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## Form ETA-9141C: Combinations of Occupations

OMB Approval: 1205-0534  
Expiration Date: 4/30/2026

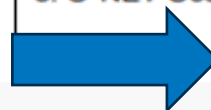
Application for Prevailing Wage Determination  
Form ETA-9141C  
U.S. Department of Labor



### F. Prevailing Wage Determination

#### FOR OFFICIAL GOVERNMENT USE ONLY

1. PWD Tracking Number [REDACTED]	2. PW Receipt Date 01/30/2025
3. SOC Code: 49-3031	a. SOC Occupation Title: Bus and Truck Mechanics and Diesel Engine Specialists
While all prevailing wages are issued at the six digit SOC code level, O*NET includes extended eight digit occupations. If applicable, the O*NET eight-digit extension code is listed below.	
b. O*NET Code: N/A	c. O*NET Occupation Title: N/A
When the job opportunity represents a combination of occupations, listed below are the other occupations.	
d. O*NET Code: 49-9031.00; 47-2152.00; 53-7051.00; 49-9099.00	e. O*NET Occupation Title: Home Appliance Repairers; Plumbers, Pipefitters, and Steamfitters; Industrial Truck and Tractor Operators; Installation, Maintenance, and Repair Workers, All Other





## Form ETA-9141C:

### Source of Wage

1. When OFLC accepts the Governor's Survey as a proper value for the occupation, that is the wage used as required by regulation 20 CFR 655.410(b).
2. The law recognizes that not all occupations will have a wage value in the Governor's Survey.
  - a) When there is an OEWS mean wage for workers in Guam, that is the wage used pursuant to regulation 20 CFR 655.410(b).
  - b) When the OEWS does not have a mean wage for workers in Guam, for a particular occupation, OFLC regulations use an adjusted wage based upon:
    - The mean wage for all workers in the U.S.
    - Multiplied by a factor calculated using the mean wage for all workers in Guam compared to the mean wage for all workers in the U.S.; we call this the OEWS Adjusted Wage.



## *CW-1 Application for Temporary Employment Certification, Form ETA-9142C*

### **Application Package Filing Tips**



## Introduction: Tips and Common Deficiencies

### **Form ETA-9142C Filing:**

- Important Note for Appealed Prevailing Wage Determinations
- Timing of Filing: The Recruitment Process
- Improperly Filed Job Contractor Applications and Recruitment
- Impermissible Qualifications and Requirements
- Incomplete or Improperly Filed Form ETA-9142C

### **Advertising and Recruiting:**

- Notice of Posting Common Deficiencies
- Job Vacancy Announcement Tips
- Inconsistencies within the JVA
- Inconsistencies between the JVA and Form ETA-9142C

### **Recruitment Report**

### **Appeal**



## **Filing Tips and Common Deficiencies**



## Important Note for Appealed Prevailing Wage Determinations

- When an employer files a CW-1 program application the employer has accepted the PW as initially determined.
- If the employer appealed a Prevailing Wage Determination (PWD) with the Division of Prevailing Wage but the PWD was used in support of a CW-1 application...
  - Any pending wage appeal will not be considered for purposes of the CW-1 program application.
  - Any PWD appeal decision issued after filing a CW-1 program application will not be considered for purposes of the CW-1 program application.



## Timing of Filing: The Recruitment Process

- When filing a CW-1 Application, employers must consider the time required to conduct recruitment procedures in relation to the Start Date Of Need.
- According to the regulations, the CW-1 Program is required to allocate 37 days to conduct recruitment procedures. This timeframe is crucial to ensure compliance and to carry out a thorough and effective recruitment process.
  - $14+21+2=37$
- Recruitment must commence within **14** calendar days from the date the Notice of Acceptance (NOA) (20 CFR § 655.433(b)(2) and § 655.440(b)),
- Recruitment must run for **21** consecutive calendar days
  - § 655.442(a) states that the employer must place an advertisement with the CNMI Department of Labor for a period of 21 consecutive calendar days satisfying the requirements set forth in § 655.441.
  - § 655.444 Notice of posting requirement states, "The notice must be posted for a period of 21 consecutive calendar days."
- Employer must wait **2** days after recruitment ends before it may submit a Recruitment Report (RR)
  - § 655.446(a) in part states, "No fewer than 2 calendar days after the last date on which the last advertisement appeared, ...the employer must prepare, sign, and date a recruitment report."



## Form ETA-9142C Filing Tips

- CW-1 employers must complete all required fields in the CW-1 Application, and upload in OFLC's FLAG system all required and relevant supporting documentation (e.g., Appendix B, job contractor agreement/contract, etc).
- Do not use ALL CAPITAL LETTERS when completing forms.
- Do not respond to notices of deficiency with the following:
  - A vague response that does not fully address the deficiency(s).
  - A vague request for OFLC to modify the Application. Responses should note the specific change requested for the specific location on the Form ETA-9142C and/or Appendices and give OFLC permission to make the change.



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## Form ETA-9142C Common Deficiencies: Job Contractor

- A job contractor (JC) contracts services or labor on a temporary basis to one or more employer-clients. Job contractors **do not** exercise substantial, direct day-to-day supervision and control in the performance of the services or labor to be performed. Job contractors hire, pay, and release the workers.
- ★ For example, filer, XYZ Corporation hires workers as temporary clerical staffing, that are sent to its client, Acme Company. Acme Company, will exercise direct day-to-day supervision and control over the workers' tasks. XYZ Corporation, hires/fires and pays the workers as its employees. Therefore, XYZ Corporation is a job contractor, Acme Company is an employer-client.



## Job Contractor, Employer-Client Relationship

- Employer-client is a client that has entered into an agreement with a job contractor, under which the job contractor provides services or labor to the employer-client on a temporary basis. The employer-client **will** exercise substantial, direct day-to-day supervision and control in the performance of the services or labor to be performed.
- Job contractors and their clients are joint employers. The job contractor and its employer-client are at all times responsible for compliance with CW-1 program obligations and assurances. If DOL determines a violation occurred, either or both employers can be found responsible to remedy the violations and related penalties.



**TIP:** The CW-1 Application must clearly identify the joint employers (the job contractor and its employer-client) and the employment relationship (including the place(s) of employment). The Appendix C must be signed by both the job contractor and the employer-client and include the contract or agreement that establishes the joint employers' relationship. **§ 655.421**



## Job Contractor Application Requirements

- Job Contractor (JC) filing requirements are listed in [20 CFR 655.421](#).
- A job contractor must have separate contracts with each different employer-client. A single contract or agreement may support only one CW-1 application for each employer-client job opportunity in the CNMI.
- Job contractor applications must provide an Appendix A identifying the employer-client information.
- Job contractor applications must submit two Appendix Cs. One Appendix C signed and dated by the job contractor and one Appendix C signed and dated by the employer-client.
- Common Deficiencies: The job contractor failed to indicate contractor status on the Form ETA-9142C, failed to provide a completed Appendix A, Appendix C for the employer-client, and/or failed to disclose a contract or agreement with the employer-client.



## Job Contractor Status

When an employer files as an individual employer, the CO may request clarification of the employer's status as possible job contractor based on the facts of the case, to include the following:

- The employer's industry classification (NAICS) code indicates it is a staffing company or temporary help services company.
- The employer has filed applications that include multiple dissimilar occupations and worksites.
- The employer submits a service agreement that indicates it will provide labor to a client.
- The employer refers to itself as a staffing company, or manpower agency, or similar.



## Job Contractor Status

The CO may issue a Notice of Deficiency (NOD) or Minor Deficiency Email (MDE) to ask the employer to provide additional information, including:

- The nature of the employer's business and explanation of the need for workers in varying occupations at varying worksites.
- The names of the supervisors and nature/extent of supervision of workers at each worksite and payroll documentation demonstrating that the employer on the application employs the supervisors.
- A copy of any service/client agreement related to the CW-1 employment.
- Information regarding who retains control to hire/fire, maintain payroll, provide uniforms and tools/supplies/equipment, maintain scheduling, etc.



## Job Contractor Recruitment


- Job contractors (JC) and their clients are joint employers.
  - Either the job contractor or the employer-client must conduct recruitment.
  - Either one of the joint employers may assume responsibility for interviewing applicants.
  - Both of the joint employers must sign the recruitment report that is submitted to the NPC meeting the requirement set forth in [§ 655.446](#). (20 CFR 655.421(e)(1))



## Job Contractor Advertisement Requirements

(Joint Employers Advertisements 20 CFR 655.421(e)(1)(2))

- Either the job contractor or the employer-client may place the required advertisements as described in [§§ 655.442](#) through [655.445](#).
- All recruitment conducted by the joint employers must satisfy the job offer assurance and advertising content requirements identified in [§ 655.441](#).
- Must fully inform applicants of the job opportunity, the joint employment relationship, and establish how responsibilities, expectations, and reporting lines will be managed.
- Joint employer recruitment must clearly identify
  - both employers (the job contractor and its employer-client) by name and
  - the place(s) of employment where workers will perform labor or services.

 **Reminder:** *If an applicant fails to identify one or more specific work location(s), that applicant is presumed to have applied to all work locations listed in the advertisement.*



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## Job Contractor Advertisement Requirements

(Advertisements 20 CFR 655.421(e)(3)(i)(ii))

- When the job contractor has multiple job opportunities and multiple employer-clients, and the job opportunities have the same conditions listed below the job contractor may combine its joint employers' advertisements into one ad. The employer-clients' opportunities must have the same following items:
  - dates of employment,
  - occupation,
  - requirements, and
  - terms and conditions.
- When the job contractor has multiple job opportunities and multiple employer-clients, but the job opportunities **do not** have the same items listed above, the advertisements must be specific to each job opportunity. [§ 655.421\(e\)\(2\)](#)
- Each advertisement must fully inform potential workers of the job opportunity available with each employer-client and otherwise satisfy the job offer assurances and advertising content requirements identified in [§ 655.441](#).
- Combined advertisements such as the JVA “**Additional Job Information**” field must contain the job contractor statement: (20 CFR 655.421(e)(3)(ii))

“Applicants may apply for any or all of the jobs listed. When applying, please identify the job(s) (by company and work location) you are applying to for the entire period of employment specified.”



## Job Contractor Advertisement Requirements

(Advertisement 20 CFR 655.421(e)(3)(i)(ii))

➤ Advertisements must clearly identify the following:

- job contractor by name,
- the joint employment relationship, and
- the number of workers sought for each job opportunity, identified by employer-client names and locations.

**Example:** “...five openings with Employer-Client A (place of employment), three openings with Employer-Client B (place of employment).”

★ **Reminder:** *If an applicant fails to identify one or more specific work location(s), that applicant is presumed to have applied to all work locations listed in the advertisement.*



## Impermissible Qualifications and Requirements

- Excessive education and/or experience: The education and/or experience requirements submitted in the application exceed the normal requirements for the assigned occupation.
- A qualification is “necessary to the individual’s ability to perform the job...” A requirement is “a term or condition of employment which a worker is required to accept...to obtain the job opportunity.”
- Qualifications and requirements must be bona fide, normal, and accepted among non-CW-1 employers in the same occupation.



## Impermissible Qualifications and Requirements

- The employer may only include the minimum experience or education required to perform the job, not preferred experience or education that exceeds the minimum required. The “employer must forego some of its preferences for its usual recruitment practices” to “comply with [CW-1] regulations” and ensure the job is open to U.S. worker applicants.
- OFLC primarily refers to its published data to determine normal and accepted minimum education and experience requirements. OFLC refers to O\*NET and BLS data for occupation norms such as tools, and special requirements, except for education and experience. OFLC may consult other sources or information from CNMI DOL if necessary.
- However, the burden is on the employer to demonstrate qualifications and requirements are bona fide, normal, and accepted.



## Impermissible Qualifications and Requirements

**Example of Occupation Norms:** Occupation Code 35-9021, Dishwashers, is classified as Job Zone One, meaning little or no previous work-related skill, knowledge, or experience is needed for these occupations. For example, O\*NET Help Page states Job Zone One Related Experience as “a person can become a waiter or waitress even if he/she has never worked before.” The education level for 35-9021 is “None” no education.



## Impermissible Qualifications and Requirements

- Requirements listed in **E.b.12, *Special Requirements***, must be specific and measurable/testable.
- Requirements must clearly relate to the occupation. Any listed requirements for the position that are not normal and unrelated to the occupation would generate a NOD.



## Impermissible Qualifications and Requirements

### Examples of unacceptable ambiguous/subjective requirements

- Good moral character
- Good communication skills
- Honest and trustworthy
- Strong interpersonal skills
- Must be results oriented
- Exceptional organizational skills
- Basic carpentry skills
- Complex math skills
- “Creative skills in”
- Effective communication
- Excellent time management
- Familiarity with computer systems
- Mentally Fit
- Physically Fit
- “Proficiency in”
- Quickly Adjust
- “Routine knowledge of”



## Incomplete or Improperly Filed Form ETA-9142C

### ***Recruitment Information***

- **E.e.1**, missing specific days and hours for applicants to apply for the job opportunity. Indicate the days and hours during which applicants may apply for the job opportunity and may be interviewed for the job opportunity.
- Missing recruitment information or inconsistent phone numbers in items **E.e.1** and/or **E.e.2**.

e. Recruitment Information	
1. Explain <u>how</u> prospective U.S. applicants may be considered for employment under this job opportunity, including verifiable methods of contacting the employer, <b>and the days and hours applicants can apply for the job.</b> *	
2. Telephone Number to Apply *	3. Email Address to Apply *
4. Website address (URL) to Apply *	



## Incomplete or Improperly Filed Form ETA-9142C

### *Recruitment Information:*

- **E.e.1:** All recruitment information must be identified on the form. Entering “Please see Addendum” in Section E.e.1, instead of the required content is not acceptable.
  - Enter two verifiable methods by which prospective U.S. workers can contact the employer and apply for the job opportunity. These contact methods must be identified on the form.
  - “N/A” may be manually entered for either E.e.3 or E.e.4.
- Employers often enter Special Job Requirements for the job opportunity into Section E.e.1, instead of the proper Section E.b.12.



## Incomplete or Improperly Filed Form ETA-9142C

- Employers filing for new employment must file no more than 120 calendar days before the date of need. New applications filed outside of this timeframe will be rejected without review.
- Employers filing for employment extension must file no more than 180 calendar days before the date on which the CW-1 status expires. Applications filed for renewal of approved employment will be rejected without review if filed outside of this timeframe.
- Start Date of Need can NOT be BEFORE nor ON the Application Filing Date.



## Incomplete or Improperly Filed Form ETA-9142C: Inconsistent Information within the Form

- Employer's language on the application indicates it will provide housing or transportation, but **E.d.2, *Daily Transportation***, or **E.d.6, *Board, Lodging, or Other Facilities***, indicates "N/A"
- Employer charges workers for housing, thus **E.d.7, *Deductions from Pay***, must specify the amount of the deduction from a worker's pay. Additionally, E.d.7 must state that housing is optional.

★ **TIP:** Insert deduction type and amount then specify housing is optional (not mandatory).

7. **Deductions from Pay:** State all deduction(s) from pay and, if known, the amount(s). \*



## **Advertising and Recruiting Tips and Common Deficiencies:**



## Notice of Posting Common Deficiencies:

- Employer fails to post the *CW-1 Application* in **two conspicuous locations** for **21 consecutive calendar days**.
- Employers must post the **Form ETA-9142C CW-1 Application**. Employers cannot post the following in attempts to satisfy this requirement:
  - 'Help Wanted' notice
  - Copy of the ETA-9141C, Prevailing Wage Determination
  - Copy of the JVA or job advertisement
  - Unfiled version of the ETA-9142C
- ★ **Reminder:** The regulations define *CW-1 Application* as the *Form ETA-9142C* and appendices, valid PWD, and all supporting or required documentation.



## Job Vacancy Announcement (JVA) Tips:

- Employers should review the JVA instructions provided through CNMI DOL to make sure their advertisement includes all the required information.
- When there is a character limited field, or selection limited field, use a free text field in the JVA application such as the “**Additional Job Information**” section to enter required information.



## Inconsistencies within the JVA

Many submitted JVAs show internal inconsistencies, such as:

- Education requirement in one section differs from education requirement listed in different sections (i.e. descriptive paragraphs or Additional Job Information).  
**Example:** The job requires a Bachelor's degree. The employer indicated a high school education is required in the Job Requirement free text field but then includes a Bachelor's degree requirement in the descriptive paragraph. The employer did not indicate its requirement of a Bachelor's degree clearly and concisely.
- Number of workers differs between the line item and the descriptive paragraphs.  
**★ TIP:** Leave these items out of your descriptions and narratives.
- The regulatory required statements are not listed in a free text field:
  - The three-fourths guarantee
  - Transportation and subsistence
  - Boarding, lodging, or other facilities, or assistance
  - Position is temporary
  - Paycheck deductions required by law and any deductions not required by law, such as any deductions for the reasonable cost of board, lodging, or other facilities.



## Inconsistencies Between the JVA and ETA-9142C

Many applications are denied due to discrepancies between the ETA-9142C and the JVA. When advertising the position after a Notice of Acceptance is issued, employers must *ensure that all information in the JVA is consistent with the ETA-9142C*.

### Examples of inconsistencies:

- Education, experience, training, and/or special requirements on the JVA do not match ETA-9142C and/or the JVA lists additional requirements not listed on the ETA-9142C.
- When the employer requires training obtained prior to hire, licensure, and/or certifications, these are considered job requirements. The employer must clearly specify training required prior to hire in the “**Job Qualification Requirements**” section of the JVA.
- On-the-job training (OJT): OJT is not the same as training required prior to hire. When the employer will provide on-the-job training to workers after they are hired, the employer must clearly specify OJT in the “**Additional Job Information**” section of the JVA.
- Special Requirements: When the employer lists Special Requirements in **E.b.12**, of the ETA-9142C the employer must clearly specify its special requirement(s) in the “**Job Qualification Requirements**” section of the JVA.



## Inconsistencies Between the JVA and ETA-9142C

### Examples of inconsistencies, continued:

- Offered Wage inconsistent.
  - Hourly: JVA wage is lower than the wage on ETA-9142C offered to foreign worker
  - Annual: If the employer is offering an annual salary or salary range, rather than an hourly wage, the employer should leave the hourly field blank or enter “N/A” and should instead complete the JVA salary field.
    - Annual: JVA wage is lower than the wage on ETA-9142C offered to foreign worker
    - Annual Wage or Annual Wage Range with Overtime: When the employer offers overtime, the employer must list the hourly overtime rate or overtime hourly rate range in the “**Additional Job Information**” field of the JVA.
  - Wage Range: When the offered wage on the ETA-9142C is a wage range, the JVA must list the full wage range. Listing only the low end of wage range is unacceptable.



## Inconsistencies Between the JVA and ETA-9142C

### Examples of inconsistencies, continued:

- Pay frequency inconsistent between ETA-9142C and JVA. (weekly vs bi-weekly)
- Day of pay: When the employer will pay workers weekly or over a different period (other than bi-weekly) the employer must then identify the day of pay in the “**Additional Job Information**” field of the JVA. The employer should not identify the day of pay when the employer intends to pay workers daily or bi-weekly.
- Number of workers sought on the ETA-9142C must match the number on the JVA.
- If the employer indicates provisions such as daily transportation to the worksite, a company vehicle, tools, equipment, supplies, and/or housing by marking “Yes” on ETA-9142C these provisions must also be listed on the JVA such as within the “**Additional Job Information**” section or any free text field.



## Inconsistencies Between the JVA and ETA-9142C

### Examples of inconsistencies, continued:

- Dates of Need inconsistent.
- Weekly work hours inconsistent between ETA-9142C and JVA (35 vs 40 hours per week)
- Hourly work schedule per day inconsistent between ETA-9142C and JVA (9:00 am – 5:30 pm vs 7:00 am – 3:30 pm)
- Workdays per week inconsistent between ETA-9142C and JVA (Monday – Friday vs Tuesday – Saturday).
- Contact information is inconsistent or is missing between ETA-9142C and JVA.

★ **Reminder:** The job application instructions must provide the days and hours during which applicants may be interviewed for the job opportunity. When the employer chooses to conduct interviews, it must conduct interviews of both CW-1 and U.S. workers using the same interview process.



## Inconsistencies Between the JVA and ETA-9142C

**Example:** Discrepancy between the anticipated hourly work schedule listed on the ETA-9142C and the work schedule advertised on the JVA. (11:00am – 5:00pm versus 10:00am – 1:30pm and 5:00pm – 8:30pm)

**Anticipated days and hours of work per week [E.b.6]**

<b>Total Hours [E.b.6.a]</b> 35	<b>Monday [E.b.6.c]</b> 5	<b>Wednesday [E.b.6.e]</b> 5	<b>Friday [E.b.6.g]</b> 5
<b>Sunday [E.b.6.b]</b> 5	<b>Tuesday [E.b.6.d]</b> 5	<b>Thursday [E.b.6.f]</b> 5	<b>Saturday [E.b.6.h]</b> 5
<b>Hourly Work Schedule [E.b.7]</b> 11:00 A.M. - 5:00 P.M.			

**Work Days Per Week:** Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday

**Work Hours Per Week:** 35

**Estimated Work Hours Per Day:** 7

**Hourly Work Schedule Per Day:**

Monday- 10:00am-1:30pm and 5:00pm-8:30pm

Wednesday- 10:00am-1:30pm and 5:00pm-8:30pm

Thursday- 10:00am-1:30pm and 5:00pm-8:30pm

Friday- 10:00am-1:30pm and 5:00pm-8:30pm

Sunday- 10:00am-1:30pm and 5:00pm-8:30pm



## Inconsistencies Between the JVA and ETA-9142C

**Example:** Required minimum education listed on the ETA-9142C is omitted from the job qualification requirements advertised on the JVA. Omission of an education requirement means no education required.

Education [E.b.8] High School/GED

Training Months 0  
[E.b.9]

Experience Months 24  
[E.b.10]

Supervise Others? No  
[E.b.11]

**Special Requirements [E.b.12]** MUST HAVE 24-MONTHS OF WORK RELATED EXPERIENCE. BASIC KNOWLEDGE EITHER IN MECHANICAL, OR ELECTRICAL AS A GENERAL MAINTENANCE.

**Job Qualification Requirements:**

MUST HAVE 24-MONTHS OF WORK RELATED EXPERIENCE. BASIC KNOWLEDGE EITHER IN MECHANICAL, OR ELECTRICAL AS A GENERAL MAINTENANCE



## Inconsistencies Between the JVA and ETA-9142C

**Example:** The ETA-9142C states the position requires a Bachelor's and 60 months of total work experience, inclusive of 24 months of experience as a Christian School Administrator; however, the JVA did not state anywhere in the advertisement that a **total** of 60 months work experience is required and instead only stated the 24 months of specific experience.

Education [E.b.8] Bachelor's


Training Months 0  
[E.b.9]

Experience Months 60  
[E.b.10]

**Special Requirements** [E.b.12] Bachelors degree in Theology (maybe foreign equivalent).  
24-months experience as Christian School Administrator.

### Job Qualification Requirements:

Bachelors degree in Theology (maybe foreign equivalent).  
24-months experience as Christian School Administrator.

 **TIP:** Proofread the advertisement and ensure all information in the JVA and in the ETA-9142C is consistent within each document, and consistent between the two documents.



## **Recruitment Report Tips and Common Deficiencies**



## Recruitment Report Tips:

- Employers should review the instructions in the Notice of Acceptance (NOA) and make sure their recruitment report includes all the required information.
- Employers should ensure the information in the recruitment report is consistent with information in the employer's Form ETA-9142C and JVA (i.e. number of workers requested, title of the offered position, etc).



## Recruitment Report Common Deficiencies:

- Contact information not provided for all applicants.
- Final disposition for all applicants not provided.
- Employer did not provide the specific dates of the postings and/or JVA posting.
- Employer did not clearly state the two separate locations of the postings.
- Missing statement regarding whether the employer had former U.S. employees to contact, and, if so, the final disposition of that contact.
- The means and dates of contacting former U.S. employees not provided when applicable.



## Recruitment Report Common Deficiencies:

- Recruitment Report not signed by the employer-client.
- Not submitting a CNMI DOL Job Vacancy Announcement (JVA) results page issued by the CNMI DOL that lists the JVA applicants.
- Applicant(s) listed on the JVA results page were not listed in the employer's Recruitment Report.
- Contradictory information - employer states no applicants in the recruitment report but the JVA results page shows there were applicants.
- Employers often submit recruitment reports which state that applicants were not hired because they either "did not meet job requirements" or were "not qualified." However, the employer do not indicate **which specific qualification(s) and/or requirement(s)** the applicant did not meet per each applicant. Regulatory requirements state that the lawful job-related reason(s) for not hiring the U.S. worker must be provided in the employer's recruitment report per applicant.



## Appeal Tips and Common Deficiencies



## Appeal Process (20 CFR 655.461)

- Once denied, employers cannot re-recruit for the denied application
- Employers can file a new application with corrections to its deficiencies
- CW-1 does not have a “reconsideration” process. Employers cannot request their denied application be reconsidered. The only options after denial are to file a new application or appeal with the Board of Alien Labor Certification Appeals (BALCA).
- Appeal: 20 CFR 655.453 and 655.454, The employer may appeal a denial or partial certification by requesting Administrative Review of the denial under 20 CFR 655.461.
  - To obtain this review, the request for review must be received by the BALCA and the Certifying Officer (CO) who issued the determination within 10 business days from the date of the denial letter or partial certification.
  - Employers cannot present new evidence. The appeal request may contain only such evidence as was actually before the CO at the time of the CO's determination. 20 CFR 655.461(a)(6).



## Filing References for Employers

### ▶ FLAG User Guide

- OFLC provides a user guide to assist in filing applications and navigating the FLAG system, available here:

<https://www.flag.dol.gov/programs/CW-1>.

### ▶ FLAG Processing Times

- OFLC provides application processing time information at

<https://www.flag.dol.gov/processingtimes>.

### ▶ CNMI DOL Job Vacancy Announcement Instructions (JVA)

- CNMI DOL provides guidance for filing the JVA applications, available here:

<https://labor.cnmi.gov/general-information/>

### ▶ ETA-9142C and 9141C Filing Guidance Presentation

- OFLC provides guidance for filing the Form ETA-9142C, available at:

<https://www.dol.gov/agencies/eta/foreign-labor/programs/cw-1/videos/form-9142-c>.

- Guidance for filing the Form ETA-9141C is available at:

<https://www.dol.gov/agencies/eta/foreign-labor/programs/cw-1/videos/form-9141C>.

Additional prevailing wage filing guidance and tips are available here:

<https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/CW-1-PW-Filing-Tips.pdf>



## Protecting Workers and Program Integrity

### ▶ Reporting Human Trafficking

- File a report with the National Human Trafficking Hotline (NHTH) by calling the toll-free helpline at **1-888-373-7888**.
- Visit the NHTH for more information at <https://humantraffickinghotline.org/>

### ▶ Reporting Violations of Discrimination Based on Immigration Status or Citizenship

- For questions about the anti-discrimination provisions of the INA, call the DOJ Immigrant and Employee Rights (IER) section using the toll-free helpline at **1-800-255-8155**.
- Visit the DOJ-IER to file a charge at <https://www.justice.gov/crt/filing-charge>

### ▶ Reporting DOL Immigration Fraud or Program Abuse

- File a report with the DOL Office of Inspector General (OIG) by calling the helpline at **1-202-693-6999** or toll-free at **1-800-347-3756**.
- Visit the DOL-OIG to file a report at <https://www.oig.dol.gov/hotlinecontact.htm>



## End of the Presentation

# THANK YOU