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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 <http://www.foreignlaborcert.doleta.gov/>. 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 * Associate Director, Sales Engineering

2. SOC (ONET/OES) code *
13-1161.00

3. SOC (ONET/OES) occupation title *
Market Research Analysts and Marketing Specialists

4. Is this a full-time position? *
☒ Yes ☐ No

Period of Intended Employment

5. Begin Date * 4/26/2022
(mm/dd/yyyy)

6. End Date * 4/25/2025
(mm/dd/yyyy)

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)

0

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 *

1

c. Change in previously approved employment *

0

f. Amended petition *

C. Employer Information

1. Legal business name *
Nielsen Consumer LLC

2. Trade name/Doing Business As (DBA), if applicable
NielsenIQ

3. Address 1 *
200 West Jackson Boulevard

4. Address 2
Suite 26

5. City *
Chicago

6. State *
Illinois

7. Postal code *
60606

8. Country *
United States Of America

9. Province

10. Telephone number *
+1 (408) 425-5187

11. Extension

12. Federal Employer Identification Number (FEIN from IRS) *
84-5108832

13. NAICS code (must be at least 4-digits) *
541910

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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)
Saikia	Bikashita	
4. Contact's job title *		
Global Mobility and Immigration Lead		
5. Address 1 *		
200 West Jackson Boulevard		
6. Address 2		
Suite 26		
7. City *	8. State *	9. Postal code *
Chicago	Illinois	60606
10. Country *		11. Province
United States Of America		
12. Telephone number *	13. Extension	14. E-Mail address
+1 (408) 425-5187		bikashitaleema.saikia@nielseniq.com

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? *		☒ Yes	☐ No
If "Yes," complete the remainder of Section E below.			
2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name(s)	
Wilson	Ian		
5. Address 1 §			
7500 N Dreamy Draw Drive			
6. Address 2			
230			
7. City §	8. State §	9. Postal code §	
Phoenix	Arizona	85020	
10. Country §		11. Province	
United States Of America			
12. Telephone number §	13. Extension	14. E-Mail address	
+1 (602) 266-1825		NIQimmigration@fragomen.com	
15. Law firm/Business name §		16. Law firm/Business FEIN §	
Fragomen, Del Rey, Bernsen & Loewy, LLP		13-2726464	
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §	
41341		Washington	
19. Name of the highest State court where attorney is in good standing (only if attorney) §			
Washington Supreme Court			

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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 *		
1505 SW HAMILTON AVE		
5. Address 2		
6. City *		7. County *
BENTONVILLE		Benton
8. State/District/Territory *		9. Postal code *
Arkansas		72713
10. Wage Rate Paid to Nonimmigrant Workers *		10a. Per: (Choose only one)*
From* \$ 120000 . 00 To: \$.		☐ Hour ☐ Week ☐ Bi-Weekly ☐ Month ☒ Year
11. Prevailing Wage Rate *		11a. Per: (Choose only one)*
\$ 102170 . 00		☐ 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): §	b. Source Year §
	☐ I ☐ II ☐ III ☒ IV ☐ N/A	7/1/2021 - 6/30/2022
14. ☐	A PW obtained using another legitimate source (other than OES) or an independent authoritative source	
	a. Source Type (check one): §	b. Source Year §
	☐ CBA ☐ DBA ☐ SCA ☐ Other/ PW Survey	
	c. If responded "Other/ PW Survey" in question 14.a, enter the 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 <u>ONLY</u> 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 <u>ONLY</u> 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:
- Print and sign a hard copy of the LCA if filing electronically (20 CFR 655.730(c)(3));
 - Maintain the original signed and certified LCA in the employer's files (20 CFR 655.705(c)(2); 20 CFR 655.730(c)(3); and 20 CFR 655.760); and
 - Make a copy of the LCA, as well as necessary supporting documentation required by the Department of Labor regulations, available for public examination in a public access file at the employer's principal place of business in the U.S. or at the place of employment within one working day after the date on which the LCA is filed with the Department of Labor (20 CFR 655.705(c)(2) and 20 CFR 655.760).
- B. The employer must develop sufficient documentation to meet its burden of proof with respect to the validity of the statements made in its LCA and the accuracy of information provided, in the event that such statement or information is challenged (20 CFR 655.705(c)(5) and 20 CFR 655.700(d)(4)(iv)).
- C. The employer must make this LCA, supporting documentation, and other records available to officials of the Department of Labor upon request during any investigation under the Immigration and Nationality Act (20 CFR 655.760 and 20 CFR Subpart I).

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge, the information contained therein is true and accurate. I understand that to knowingly furnish materially false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001, 1546, 1621).

1. Last (family) name of hiring or designated official *	2. First (given) name of hiring or designated official *	3. Middle initial §
Saikia	Bikashita	
4. Hiring or designated official title *		
Global Mobility and Immigration Lead		
5. Signature *		6. Date signed *
		04/27/2022

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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 § Arcera	2. First (given) name § Venchelle	3. Middle initial
4. Firm/Business name § Fragomen, Del Rey, Bernsen & Loewy, LLP		
5. E-Mail address § varcera@fragomen.com		

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 4/26/2022 to 4/25/2025.


Department of Labor, Office of Foreign Labor Certification

4/21/2022
Certification Date (date signed)

I-200-22104-072935
Case number

Certified
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).

N. OMB Paperwork Reduction Act (1205-0310)

These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Your response is required to receive the benefit of consideration of your application. (Immigration and Nationality Act, Section 212(n) and (t) and 214(c)). Public reporting burden for this collection of information, which is to assist with program management and to meet Congressional and statutory requirements, is estimated to average 75 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Box PPII 12-200, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205-0310.) **Do NOT send the completed application to this address.**



WAGE RATE STATEMENT

Date: April 12, 2022

The employee(s) in this Public access File are paid a minimum of \$102,170 per year for his services in the position of Associate Director, Sales Engineering.



ACTUAL WAGE STATEMENT

Employer: Nielsen Consumer LLC (DBA NIELSENIQ)

Position: Associate Director, Sales Engineering

This statement describes the methodology for establishing salaries for the position indicated above.

Within the above referenced category, salaries are determined by:

1. Prior Experience;
2. Educational Achievements;
3. Competitive factors in the marketplace;
4. Performance criteria;
5. Level of complexity and independence required;
6. Internal Equities;
7. Other business factors.

Salaries of employees are adjusted on an annual or periodic basis, based upon performance reviews and cost of living.

Please note that the employer applies the same methodology to all U.S. and nonimmigrant employees in this job classification when determining wages.



PREVAILING WAGE NOTICE

Pursuant to 20 C.F.R. Section 655.31, Nielsen Consumer LLC (DBA NIELSENIQ) has determined the prevailing wage based on OES.

Foreign Labor Certification Data Center Online Wage Library

www.flcdatacenter.com


Wage Library
Quick Search
Search Wizard

FLC Wage Results New Quick Search New Search Wizard

You selected the All Industries database for 7/2021 - 6/2022.

Your search returned the following: Print Format

Area Code: 22220
Area Title: Fayetteville-Springdale-Rogers, AR-MO
OES/SOC Code: 13-1161
OES/SOC Title: Market Research Analysts and Marketing Specialists
GeoLevel: 1
Level 1 Wage: \$20.23 hour - \$42,078 year
Level 2 Wage: \$29.86 hour - \$62,109 year
Level 3 Wage: \$39.49 hour - \$82,139 year
Level 4 Wage: \$49.12 hour - \$102,170 year
Mean Wage (H-2B): \$39.49 hour - \$82,139 year

Case Disclosure
Data Archive
 H1B Data
 H2A Data
 H2B Data
 Perm Data

Also available:
 File Archive

Skill Level
 Explanation

SVP Explanation

FLC Wage Data
 updated
 July 1, 2021

Job Zones updated
 July 1, 2021
 See change
 history

Technical Support
 & Help FAQ page.

This wage applies to the following O*Net occupations:

13-1161.00 Market Research Analysts and Marketing Specialists

Research market conditions in local, regional, or national areas, or gather information to determine potential sales of a product or service, or create a marketing campaign. May gather information on competitors, prices, sales, and methods of marketing and distribution.

O*Net™ JobZone: 4

Education & Training Code: No Level Set

For information on determining the proper occupation and wage level see the new Prevailing Wage Guidance on the Skill Level page.

The prevailing wage must be at, or above the federal or state or local minimum wage, whichever is higher. The federal minimum wage is \$7.25/hr effective July 24, 2009.

The Foreign Labor Certification Data Center is developed and maintained by the State of Utah under contract with the US Department of Labor, Office of Foreign Labor Certification.



LCA POSTING NOTICE

Notice of the filing of a Labor Condition Application for the position in this Public Access Folder was posted either electronically or manually at two conspicuous locations at the worksite located in BENTONVILLE, AR for at least ten business days.

Documents in support of this Labor Condition Application are kept at 200 West Jackson Boulevard, Suite 26, Chicago, Illinois 60606.

The ten-day posting period for this notice began on: 4/14/2022

Arcera, Venchelle

From: Bikashita (Leema) Saikia <BikashitaLeema.Saikia@nielseniq.com>
Sent: Thursday, April 14, 2022 11:30 AM
To: Arcera, Venchelle
Subject: Re: Posting Notice and LCA review: | C: 6449255 - EXTERNAL

Hi, NOF is posted as of today. Please proceed to DOL filing.

Bikashita Saikia (Leema)
Global Mobility and Immigration Lead
408.425.5187 (PST - San Francisco, CA)

NEXT OOO: April 20 - April 26.

[NielsenIQ.com](https://nielseniq.com)

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From: Arcera, Venchelle <varcera@fragomen.com>
Sent: Thursday, April 14, 2022 10:45 AM
To: Bikashita (Leema) Saikia <BikashitaLeema.Saikia@nielseniq.com>
Subject: RE: Posting Notice and LCA review: | C: 6449255 - EXTERNAL

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Leema,

Please kindly confirm when posting notice is posted.

Thanks,
Venchelle

Venchelle Arcera | Business Immigration Analyst

FRAGOMEN

T +1 480 305 2735

varcera@fragomen.com
www.fragomen.com | [LinkedIn](#)

Fragomen, Del Rey, Bernsen & Loewy, LLP
7500 N. Dreamy Draw Drive, Suite 230, Phoenix, AZ 85020, United States

For the latest immigration updates in relation to the crisis in Ukraine and impact on the surrounding region, see our dedicated page [Ukraine: What you need to know](#).



Notice of the Filing of a Labor Condition Application with the Employment and Training Administration

H-1B nonimmigrant workers are being sought by Nielsen Consumer LLC (DBA NIELSEN IQ) through the filing of a Labor Condition Application with the Employment and Training Administration of the U.S. Department of Labor.

LCA Identifier (case #)	Job Title/OES Classification	Number of workers sought	Job Location	Period of employment From	Period of employment To	Salary Range From
6449255	Associate Director, Sales Engineering	1	BENTONVILLE, AR	4/26/2022	4/25/2025	\$102,170

The Labor Condition Application is available for public inspection at the offices of NielsenIQ at 200 West Jackson Boulevard, Suite 26, Chicago, Illinois 60606.

Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor.