

## DOL-ETA/OFLC Teleconference

**Friday, July 31 , 2009**

NAFSA Questions

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### **I. Completing iCERT 9035s with TARP information**

The iCERT LCA does not have a separate field for TARP recipient employer attestations.

The DOL Web site and the system alerts in the [iCERT Portal](#) contain guidance only on how to complete the legacy LCA (at item F), not on how to complete the iCERT LCA.

- Can you clarify how an employer who has received TARP funding should complete the iCERT LCA form at item I, "Additional Employer Labor Condition Statements," subsections 1 and 2?

NAFSA summary of DOL response: DOL will take a look at this, and consider updating the guidance posted in the iCERT portal.

### **II. PERM recruitment: Web Site Ads**

20 CFR [656.17\(e\)\(1\)\(ii\)\(C\)](#) states that "the use of a job search Web site other than the employer's **can** be documented by providing dated copies of the pages from one or more web site(s) that advertise the occupation" [emphasis added].

- Since the regulation uses "can" rather than "must," wouldn't it be improper for a denial notice to indicate that the only acceptable proof is dated "screen shots" of the web site and disregard other probative evidence like an affidavit from the website host, an invoice for the ad, or perhaps even applications submitted in response to the web site ad? Also, since there is no requirement that the ad continue for a specific period, wouldn't it be improper to deny an application if the employer can document only the start and end dates of the ad with a "screen shot" but not all days in between (in other words, does the employer have to print a "screen shot" every day for 30 days if the ad continues for that period)?

NAFSA summary of DOL response: This question and the next question are similar, and were responded to jointly. DOL said that they are not trying to create an exclusive list. They have accepted alternative documentation that satisfactorily establishes the regulatory requirement.

### **III. PERM recruitment: Job Fairs**

20 CFR [656.17\(e\)\(1\)\(ii\)\(A\)](#) states that "recruitment at job fairs for the occupation... can be documented by brochures advertising the fair and newspaper advertisements in which the employer is named" [emphasis added].

- Again, since the regulation uses "can" rather than "must," wouldn't it be improper for a denial notice to indicate that the only acceptable proof is a brochure or newspaper ad (especially in light of the fact that brochures are apparently rarely if ever used) and disregard other probative evidence like a "screen shot" of the web ad for the fair, an invoice for participation, a "sign-in sheet" for employers in attendance at the fair, an affidavit from the organizer of the fair or the employer's representative?

See response in question II.