

[REDACTED]

U.S. Department of Labor  
Employment & Training Administration  
Office of Foreign Labor Certification  
Atlanta National Processing Center  
Harris Tower  
233 Peachtree Street, Suite 410  
Atlanta, GA 30303

**RECRUITMENT REPORT FOR AUDIT FILE**

**Employer:**

**Alien:**

**Position:**

**Job Location:**

[REDACTED]

**I. EMPLOYER'S RECRUITMENT EFFORTS**

As is detailed below, [REDACTED] has recently conducted a recruitment campaign for the position of Educational Diagnostician, in Odessa, Ector County, Texas. This is a professional position because the attainment of a master's degree is a usual education requirement for this occupation. See 20 C.F.R. §656.3. This position falls within the occupational classification of Educational, Vocational, and School Counselors, which is listed on Appendix A to DOL's PERM regulation, and thus it is a professional position. The employer conducted the three additional steps required for professional positions.

**A. Mandatory Recruitment Steps:**

**1. Job Order**

A job order was placed with Texas Workforce Commission and was posted for a period of at least thirty days commencing on July 31<sup>st</sup>, 2015—as fully open to all general public—and ending August 30, 2015. See Exhibit A.

**2. Posting Notice at Work Location**

The position was posted for at least ten consecutive business days in a conspicuous and clearly visible place at the location where permanent employment is being offered. Specifically, the position was posted from October 12<sup>th</sup>, 2015 to October 27<sup>th</sup>, 2015 on the premises of [REDACTED] See Exhibit B.

### 3. Newspaper Advertisements

The position was advertised in the Odessa American newspaper, the newspaper of general circulation for the area of intended employment, on the following two Sundays: September 27<sup>th</sup>, 2015 and October 11<sup>th</sup>, 2015. See Exhibit C.

### 4. In-House Media

█ normally recruits for Educational Diagnostician positions or other similar positions through its electronic in-house media. As such, the position was posted on █ internal website for a period of at least ten consecutive business days. Specifically, the position was posted from October 21<sup>st</sup>, 2015 to November 3<sup>rd</sup>, 2015. See Exhibit D.

## **B. Additional Recruitment Steps for Professional Positions**

### 1. Employer's website

The position was posted on █ website █ from October 9<sup>th</sup>, 2015 and remains posted. The Application for Permanent Employment Certification, ETA Form 9089, stated the dates posted on employer website as follows: from 10/09/2015 to 12/03/2015 because █ intended to submit the Application on 12/03/2015, and the Form does not allow entry of the word "Present" or "Current" as an end date. However, the position remained posted on █ website beyond 12/03/2015 because it is customary for █ to keep its vacancies posted on its web site until filled. See Exhibit E.

### 2. Job Search Website

The position was posted on www.monster.com from October 14, 2015 to October 25, 2015. See Exhibit F. Additionally, it was posted on █ from October 4<sup>th</sup>, 2015 to October 20<sup>th</sup>, 2015 in conjunction with the newspaper advertisements. See Exhibit G.

### 3. Campus Placement Office

█ advertised for the position with the campus placement office of █ from October 12<sup>th</sup>, 2015 to October 23<sup>rd</sup>, 2015. See Exhibit H.

## **II. RECRUITMENT SUMMARY**

In response to █ various recruitment efforts for the Educational Diagnostician position in Odessa, Texas, █ received three (3) resumes from interested applicants prior to filing ETA Form 9089 for the Alien. After careful review of the qualifications of all three (3) applicants, ECISD determined that none were available, willing, minimally qualified or able for the position. We detail below the requirements for the Educational Diagnostician position, the results of the recruitment efforts and categorize the applicants by lawful, job-related reasons for rejection.

## **III. REQUIREMENTS OF THE POSITION**

The Educational Diagnostician position requires an applicant to possess the following qualifications and special skills: a minimum of a Master's degree or a foreign educational equivalent in Special Education or related field; certification by the State of Texas—Educational Diagnostician Certificate or eligibility for such certification; possess basic knowledge of special education. A foreign educational equivalent is acceptable if approved by Texas Education Agency. The requirements of this position are normal for the occupation.

#### IV. ASSESSMENT OF APPLICANTS

Below please find the three applicants sorted by the specific job-related reasons for rejection.

##### A. Applicants Lacking the Requisite Certification

Two (2) applicants were rejected because they lacked the requisite certification by the State of Texas—Educational Diagnostician Certificate and lacked eligibility for such certification.

Name of applicant	Date(s) and manner of contact with applicant	Date and manner of interview	Result of contact or interview	Lawful Job-related Reasons for Rejection
[REDACTED]	10/05/2015 (phone), 10/09/2015 (phone), 10/15/2015 (in person)	10/09/2015 (phone) and 10/15/2015 (in person)	Rejected	Lacks the requisite certification by the State of Texas—Educational Diagnostician Certificate and lacks eligibility for such certification
[REDACTED]	Was not contacted because not qualified on the face of her application	N/A	Rejected	Lacks the requisite certification by the State of Texas—Educational Diagnostician Certificate and lacks eligibility for such certification

##### B. Applicant Unavailable Due to a Contractual Commitment with a Staffing Agency

One (1) applicant was not eligible and not available for hire.

Name of applicant	Date(s) and manner of contact with applicant	Date of interview	Result of contact or interview	Lawful Job-related Reasons for Rejection
[REDACTED]	09/08/2015 (phone), 09/14/2015 (phone), 09/19/2015 (phone)	N/A	Not eligible for hire. Applicant also expressed disinterest in the job.	Applicant is an employee of a staffing agency and is not available for hire unless we bought out her contract from [REDACTED] staffing agency, which we are unable to do.

The Applicants rejected due to the lack of certification could not become qualified for the position following a reasonable period of on-the-job training because the State of Texas mandates that all teachers and instructional leadership professionals, including educational diagnosticians, be certified or eligible for certification as provided in the Texas Education Code and Texas Administrative Code *before* they may be hired by Texas school districts. Thus Texas Education Code provides in section 21.003:

CERTIFICATION REQUIRED. (a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, *educational diagnostician*, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

## V. CONCLUSION

There were no available, willing, minimally qualified, and able U.S. workers available for this position. As none of the applicants are qualified for the position of Educational Diagnostician, we respectfully request your favorable adjudication of our application for Alien Employment Certification.

