

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 03 June 2011**

**OALJ Case No.: 2011-TLC-00356**  
ETA Case No.: C-11066-28351

*In the Matter of:*

**SCOTT LAMBERTH,**  
*Employer*

Certifying Officer: William Carlson  
Atlanta National Processing Center

**ORDER OF REMAND**

On March 21, 2011, the Certifying Officer (CO) issued a Notice of Deficiency (NOD) to Employer based on violations of 20 C.F.R. §§ 655.122(a), involving preferential treatment of aliens because Employer listed two different weightlifting requirements, and 655.122(b), relating to job qualifications because Employer included a grievance and arbitration procedure. On March 29, 2011, Employer filed a request for a de novo administrative hearing in the above-captioned temporary alien labor certification matter.

On April 6, 2011, based on the CO's review, the Solicitor requested remand for further processing for Employer. The Department of Labor's position with regard to each issue was unjustified and, thereby, improperly delayed Employer's application beyond the statutory processing deadline. The Department has reversed itself and agreed to accept the application as previously submitted by Employer. In light of the foregoing, it is hereby **ORDERED** that this matter is **REMANDED**.

**So ORDERED.**

**A**

**Larry W. Price**  
Administrative Law Judge