**SUPPORTING STATEMENT**
**LABOR CONDITION APPLICATION FOR H-1B, H-1B1, and E-3 NONIMMIGRANTS and the NONIMMIGRANT WORKER INFORMATION FORM**
**OMB Control No. 1205-0310**

The Department of Labor (Department or DOL) requests an extension without change for this Information Collection Request (ICR), which includes Form ETA-9035 & 9035E, *Labor Condition Application Form for Nonimmigrant* Workers (LCA), Form ETA-9035 & 9035E, Appendix A, Form ETA-9035CP, *General Instructions for the 9035 & 9035E*, and Form WH-4, *Nonimmigrant Worker Information Form*.

Employers file the Form ETA-9035 & 9035E form, and related forms, with the Department's Employment and Training Administration (ETA) for H-1B, H-1B1, and E-3 nonimmigrant workers to perform certain work in specialty occupations or as fashion models of distinguished merit and ability in the United States. The public uses Form WH-4 to request that the Department's Wage and Hour Division (WHD) initiate investigations related to alleged violations of H-1B, H-1B1, and E-3 program requirements.

## A. Justification

*A1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990, an employer seeking to employ a foreign worker in a specialty occupation or as a fashion model of distinguished merit and ability on an H-1B visa is required to file an LCA with, and receive certification from, the Department before the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) may approve a petition for a foreign worker, affording the foreign worker the H-1B visa classification. The Department's LCA process is administered by the Office of Foreign Labor Certification (OFLC) within ETA.

Congress amended the INA and created the H-1B1 visa classification as part of its approval of the United States-Chile Free Trade Agreement and United States-Singapore Free Trade Agreement. The INA amendments took effect January 1, 2004. On May 11, 2005, Congress enacted Section 501 of title V of the REAL ID Act of 2005 (Division B) in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109-13, § 501, 119 Stat. 231, 278 (2005)), amending section 101(a)(15)(E) of the INA by establishing the E-3 visa classification for Australian nationals who enter the United States to perform services in specialty occupations in the United States. Under these INA amendments, the Department implemented the H-1B1 and E-3 visa programs using a similar LCA process to that administered for the H-1B visa program.

The WHD enforces employer compliance with the LCA. It may conduct investigations in four circumstances: (1) when it receives a complaint from an aggrieved party that is adversely affected by the employer's alleged non-compliance that provides reasonable cause to believe an H-1B program violation has occurred; (2) when it receives information from a known credible source that is likely to have knowledge of the employer's employment practices or its compliance with H-1B requirements that provides reasonable cause to believe specified H-1B program violations have occurred; (3) when the Secretary of Labor (Secretary) personally certifies that there is reasonable cause to believe that the employer is not in compliance (Secretary-certified); and (4) when it identifies certain willful violators for random investigations. *See* 8 U.S.C. §§ 1182(n)(2)(A), (F), and (G).

To administer these programs, ETA and WHD rely on the following forms: ETA-9035, *Labor Condition Application for Nonimmigrant Workers* (a fillable and printable form); ETA-9035E, *Labor Condition Application for Nonimmigrant Workers* (an electronic fillable ETA-9035 form); ETA-9035 & 9035E, *Appendix A* (an electronic fillable form, and a fillable and printable form), ETA-9035CP, *General Instructions for the 9035 & 9035E*; and the WH-4, *Nonimmigrant Worker Information Form* (a fillable and printable form).

**Statutory Authority:** 8 U.S.C. §§ 1101(a)(15)(H)(i)(B), (H)(i)(B)(1), and (E)(iii), 1182(n) and (t), and 1184(c).

**Regulatory Authority:**

A. Labor Condition Application (LCA) – 20 CFR 655.700, 655.705, 655.720, 655.730 through 655.739, and 655.760

Under the INA, an employer must submit to the Department an application stating that it agrees to certain conditions related to the employment of an H-1B, H-1B1, or E-3 foreign worker. *See* 8 U.S.C. § 1182(n). For this purpose, the Department uses the LCA, Form ETA-9035/9035E. Employers must include on the LCA basic information, including information about their business and, if applicable, authorized representation, the number of foreign workers sought in the visa classification, position details, the occupational classification in which the workers will be employed, the prevailing wage rate and rate of pay to the nonimmigrant worker(s), the intended place(s) of employment, and the conditions under which the nonimmigrant worker(s) will be employed. Employers who meet the statutory criteria for H-1B dependency or willful violators must generally make additional attestations that U.S. workers will not be displaced and that the employer will make good faith recruitment efforts for U.S. workers prior to filing the LCA.[1] Through the LCA, the employer attests that it has met the statutory requirements in 8 U.S.C. §§ 1182(n)(1)(A), (B), and (C), as well as the special requirements for willful violators and dependent employers (if applicable), as those requirements are explained in the

[1] The special requirements for willful violators and H-1B dependent employers apply unless those employers are hiring only exempt H-1B nonimmigrants. Throughout this supporting statement, where we refer to general requirements for willful violators and H-1B dependent employers, we refer to those employers who are not hiring only exempt H-1B nonimmigrant workers and claiming that exemption on the LCA.

Department's regulations. The employer must provide a copy of the LCA to the foreign worker beneficiary.

B. Documentation of Corporate Identity – 20 CFR 655.730(e)(3)

The Department's regulations at 20 CFR 655.730(e)(3) provide that where an employer undergoes a change in corporate structure, the employer must make and maintain a sworn statement by a responsible official of the new employing entity that it accepts all obligations, liabilities, and undertakings under the LCAs filed by the predecessor employing entity, together with a list of each affected LCA and its date of certification, and a description of the actual wage system and Federal Employer Identification Number of the new employing entity. *See* 20 CFR 655.730(e)(1). These documents are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn.

C. H-1B Employers Only: Determination of H-1B Dependency – 20 CFR 655.736

INA provisions for H-1B employers generally require additional recruitment and non-displacement requirements applicable to willful violators and H-1B dependent employers. H-1B dependency is based on the ratio between the employer's total work force employed in the United States, including both U.S. workers and nonimmigrant workers, and measured according to full-time equivalent employees) and the employer's H-1B nonimmigrant employees (a "head count" including both full-time and part-time H-1B employees).

The Department's regulations note that most employers need not calculate their dependency status as it is readily apparent. *See* 20 CFR 655.736(c)(1). Employers with borderline H-1B dependency status are permitted to use a "snap shot" test to determine whether a calculation of dependency is necessary and must retain a copy of the documents that allow the WHD to verify the snap shot test. *See* 20 CFR 655.736(c)(2). The employer must retain a copy of the full computation in specified circumstances that the Department believes will occur infrequently. *See* 20 CFR 655.736(d)(4). The full computation must be maintained if the employer changes status from dependent to non-dependent. *See* 20 CFR 655.736(d)(5)(ii). If the employer uses the Internal Revenue Code's single-employer test to determine dependency, it must maintain records documenting which entities are included in the single employer, as well as the computation performed, showing the number of workers employed by each entity that is included in the calculation. *See* 20 CFR 655.736(d)(7). Finally, if the employer includes workers who do not appear on the payroll, a record of computation must be kept. *See* 20 CFR 655.736(a)(2)(ii)(B).

All records supporting the employer's H-1B dependency status at the time of filing the LCA are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760.

D. H-1B Employers Only: List of Exempt H-1B Employees in Public Access File – 20 CFR 655.737(e)(1)

An employer that is H-1B-dependent or found to be in willful violation of H-1B program requirements in the prior five years ("willful violator"), as described at 20 CFR 655.736(f), may designate on the LCA that the LCA will only be used to support H-1B petitions and/or requests for extension of status for "exempt" H-1B nonimmigrants. Employers are required to include in their public access file a list of the H-1B nonimmigrants whose petitions and/or requests are supported by LCAs that the employer has attested will be used only for exempt H-1B nonimmigrants. These records are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760(c).

In accordance with regulatory requirements, the Form ETA-9035/9035E permits an H-1B dependent and/or willful violator employer to designate that the LCA will be used only to support "exempt" H-1B nonimmigrant workers and identify the statutory basis (*i.e.*, $60,000 or higher in annual wages, attainment of Master's degree or higher) for the exemption. For those H-1B dependent and/or willful violator employers designating an exemption based only on attainment of a Master's degree or higher, the employer must identify on the Form ETA-9035/9035E, Appendix A the academic and degree information for the exempt H-1B nonimmigrant worker(s) and provide a translated copy of the educational credential or alternative permissible documentation to the Department. This information is collected pursuant to 20 CFR 655.737(d) and (e) to ensure the education-based exemption designation is complete and without obvious errors or inaccuracies on the LCA, before a certification decision is issued and the employer files the H-1B petition with DHS. DHS is responsible for determining, upon request at the petition stage, whether the degree was attained in a specialty related to the occupation and, if obtained from a foreign academic institution, whether it is equivalent to a Master's or higher degree issued by a U.S. academic institution.

E. H-1B Employers Only: Record of Assurance of Non-Displacement of U.S Workers at Second Employer's Worksite – 20 CFR 655.738(e)

The INA generally prohibits an H-1B dependent employer or willful violator from direct displacement of U.S. workers in the employer's own workforce 90 days before and 90 days after the filing of an H-1B visa petition and from placement of an H-1B worker with a secondary employer unless it has first inquired of the second employer whether it will displace a U.S. worker in the period of 90 days before to 90 days after the date of the H-1B worker's placement with the other employer (secondary displacement). *See* 8 U.S.C. §§ 1182(n)(1)(E) and (F). The Department's regulations at 20 CFR 655.738(e) require such employers that seek to place an H-1B nonimmigrant worker with another employer to secure and retain either a written assurance from the second employer, a contemporaneous written record of the second employer's oral statements regarding non-displacement, or a prohibition of displacement in the contract between the H-1B employer and the secondary employer. *See* 20 CFR 655.738(e)(2) and (d)(5)(i). These

records are to be maintained in the employer's public access file for a period of one year beyond the last date on which any H-1B nonimmigrant worker is employed under the LCA or, if no H-1B nonimmigrant workers were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760.

F. H-1B Employers Only: Offers of Employment to Displaced U.S. Workers – 20 CFR 655.738(e)

The INA generally prohibits H-1B-dependent employers and willful violators from hiring an H-1B nonimmigrant worker if doing so would displace a U.S. worker from an essentially equivalent job in the same area of employment. *See* 8 U.S.C. §§ 1182(n)(1)(E) and (F). The Department's regulations generally require H-1B-dependent employers to keep certain documentation with respect to each former worker in the same locality and same occupation as any H-1B nonimmigrant worker, who left its employ 90 days before or after an employer's petition for an H-1B nonimmigrant worker. *See* 20 CFR 655.738(e). The employer must maintain the name, last-known mailing address, occupational title and job description, any documentation concerning the employee's experience and qualifications, and principal assignments; as well as all documents concerning the departure of such employee, and evaluations of his/her job performance. The employer is also required to maintain a record of the terms of any offers of similar employment to such U.S. workers and the responses to those offers. These records are necessary for the Department to determine whether the H-1B employer has displaced similar U.S. workers with H-1B nonimmigrant workers. These records are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760.

G. H-1B Employers Only: Documentation of U.S Worker Recruitment – 20 CFR 655.739(i)

The INA establishes that H-1B-dependent employers and willful violator employers are generally required to make good faith efforts to recruit U.S. workers before hiring H-1B workers. *See* 8 U.S.C. 1182(n)(1)(G). Under 20 CFR 655.739(i)(1), those H-1B dependent employers are required to retain documentation of the recruiting methods used, including the places and dates of the advertisements and postings or other recruitment method used, the content of the advertisements and postings, and the compensation terms. Further, the employer must retain documentation or a simple summary of the principal recruitment methods used and the timeframe of the recruitment in the public access file. *See* 20 CFR 655.739(i)(4). In addition, the employer must retain any documentation concerning consideration of applications of U.S. workers, such as copies of applications and related documents, rating forms, job offers, etc. *See* 20 CFR 655.739(i)(2). This documentation is necessary for the Department to determine in an investigation whether the employer has made a good faith effort to recruit U.S. workers and for the public to be aware of the recruitment methods used.

With the exception of the list of records to be included in the public access file (where employers have the option of putting the actual records in the file), the Department does not require

employers to create any documents related to U.S. worker recruitment, but rather to preserve those documents, which are created or received. The only additional recordkeeping burden required by the regulations is that the public disclosure files contain a summary of the principal recruitment methods used and the timeframes in which they were used. Creating a memorandum to the file or the filing of pertinent documents may satisfy this recordkeeping requirement. All records under this section are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760.

H. Documentation of Benefits – 20 CFR 655.731(b)

Pursuant to the INA, all employers of H-1B, H-1B1, and E-3 nonimmigrant workers are required to offer benefits to these workers on the same basis and under the same terms as offered to similarly employed U.S. workers. *See* 8 U.S.C. §§ 1182(n)(2)(C)(viii) and (t)(1)(C)(viii) and 20 CFR 655.731(c)(3). Employers are required to make and retain copies of all benefit plans and any summary plan descriptions. *See* 20 CFR 655.731(b). The public access file must contain a summary of the benefits offered, usually set forth in the employee handbook or summary plan description. Where the employer is a multinational corporate entity that employed the worker in its home country, it may continue providing the benefits it provided to the worker in their home country. When it chooses to do so, the public access file need only contain a statement that the employer is maintaining the worker's home country benefit, in compliance with 20 CFR 655.731(c)(3)(iii). These records are to be maintained in the employer's public access file for a period of one year beyond the last date on which any nonimmigrant is employed under the LCA or, if no nonimmigrants were employed under the LCA, one year from the date the LCA expired or was withdrawn. *See* 20 CFR 655.760.

I. Employer Wage Record Keeping Requirements – 20 CFR 655.731

As part of the LCA, the employer attests that for the entire period of authorized employment of the H-1B, H-1B1, or E-3 nonimmigrant worker(s), the required wage rate will be paid to the nonimmigrant workers; that is, that the wage paid shall be the greater of the actual wage rate or the prevailing wage. *See* 20 CFR 655.731(a). The regulations require that all H-1B, H-1B1, and E-3 employers document the basis used to establish the actual wages for their U.S. workers and how it relates to the H-1B nonimmigrant worker's wage and to keep payroll records for workers that are not exempt under the Fair Labor Standards Act (FLSA), whether nonimmigrant workers or employees for the specific employment in question. *See* 20 CFR 655.731(b).

Employers are required to keep records of the hours worked by employees not paid on a salary basis and for part-time nonimmigrant workers, regardless of how they are paid. The additional recordkeeping burden over and above that required by the FLSA, and approved under OMB Approval No. 1235-0018, is for keeping records of hours worked by part-time, salaried nonimmigrant workers who are exempt from the FLSA. Required payroll records for the H-1B employees and other employees in the occupational classification shall be retained at the employer's principal place of business in the U.S. or at the place of employment for a period of

three years from the date(s) of the creation of the record(s), except that if an enforcement action is commenced, all payroll records shall be retained until the enforcement proceeding is completed through the procedures set forth in 20 CFR part 655, subpart I. *See* 20 CFR 655.760.

Employers are required to keep records for the determination of the prevailing wage. *See* 20 CFR 655.731(b)(3). The prevailing wage documentation shall be retained at the employer's place of business for a period of one year beyond the last date on which any H-1B employee is employed under the LCA, or one year from the date the LCA expired or was withdrawn if H-1B nonimmigrant workers were not employed. *See* 20 CFR 655.760.

J. Nonimmigrant Worker Information Form (WH-4)

The INA requires the Department to establish processes to allow individuals or entities to provide information alleging H-1B program violations. *See* 8 U.S.C. §§ 1182(n)(2)(A), (n)(2)(G)(iii), and (t)(3)(A). The Department's WHD uses Form WH-4 to meet these statutory requirements.

*A2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The Department's OFLC relies on Forms ETA-9035, ETA-9035E, ETA-9035/9035E - Appendix A, and ETA-9035CP to collect the necessary information from employers to adjudicate LCAs.

The INA provides that unless the LCA is incomplete or appears obviously inaccurate, the Secretary shall certify the application and return it to the employer within seven days. *See* 8 U.S.C. § 1182(n)(1)(G). The INA further requires the Department to make available for public examination on a current basis a list (by employer and by occupational classification) of LCAs filed by employers. *See id.* The records and information supporting the LCA attestations are reviewed by the WHD to determine employer compliance. The public access file is required by the INA so that the public has access to information to file complaints about violations.

Form WH-4 is a form the Department provides for anyone to report alleged violations of the INA provisions enforced by the WHD for these programs. WHD uses the information collected through the form to determine whether it has reasonable cause to commence an investigation.

*A3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.*

Since December 2005, the Department has mandated that the LCA must be filed electronically unless the employer has a disability or lacks internet access. Employers with a disability that prevents them from filing electronic applications or employers without internet access can file

the LCA by U.S. mail. The electronic filing of Form ETA-9035E is supported by the Department's Foreign Labor Application Gateway (FLAG), which is accessible at https://flag.dol.gov/.

FLAG permits an employer or, if applicable, its authorized attorney or agent to efficiently prepare and submit LCAs for processing by OFLC. Since the Department's review of LCAs under the INA sections 212(n)(1)(G) and 212(t)(2)(c) is limited to only completeness and obvious inaccuracies, FLAG provides employers with a series of electronic data checks and prompts to provide that each required field on Form ETA-9035E is completed and values entered on the form are consistent with regulatory requirements. OFLC's website at https://www.dol.gov/agencies/eta/foreign-labor and FLAG's Form ETA-9035E Case Preparation Module include detailed instructions designed to help employers understand what each form collection item means and what kinds of entries are required. When the employer or, if applicable, its authorized attorney or agent, initially enter contact information and establish a FLAG account, the Form ETA-9035E automatically pre-populates contact information on the draft application, significantly reducing the time and burden for repeated online data entry. Additionally, the Form ETA-9035E provides employers with an option to "reuse" previously filed LCAs, which automatically copies information into a new draft application. Under this option, employers only have to change a limited set of information on the new LCA to accommodate the job opportunity such as the number of workers being requested for certification, period of employment, and the intended place(s) of employment. This option significantly reduces the time and burden for online data entry, particularly for those employers who need to access the program to hire nonimmigrant workers in a common set of occupational classifications. This process is designed to help employers provide accurate LCA information while providing employers with clear, immediate notice of the obligations. This collection is in full compliance with the Government Paperwork Elimination Act. The information collected in electronic format is substantially the same with the exception of some minor word changes to accommodate the type of submission.

The Department previously considered developing an automated complaint system for H-1B, H-1B1, and E-3 complaints, and determined at the time that it was not feasible. The Department continues to review options for the WH-4 information collection.

*A4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The information required on Form ETA-9035/9035E is not available from any other source at the time of filing. Collection of the prevailing wage tracking number is necessary to identify the Department's prevailing wage determination, if any, and associate the prevailing wage determination with the LCA.

The Department's regulations require the employer to place in its public access file a list of "exempt" H-1B nonimmigrants within one working day of filing the LCA if the employer is claiming the exemption. *See* 20 CFR 655.760(a). This means that the employer must have identified the H-1B nonimmigrant(s) subject to the education-based exemption and collected all

credential information justifying the basis of such exemption(s) at the time of filing the LCA. The Department requires submission of these educational credential documents to ensure the education-based exemption designation(s) on the LCA is complete and without obvious errors or inaccuracies before a certification decision is issued and the H-1B petition is submitted to DHS.

Many of the records required to be kept by the regulations are also required under the FLSA, administered by WHD, and by the Equal Employment Opportunity Commission, the Employee Benefits Security Administration, and the Internal Revenue Service. To avoid duplicating burden, the Department accepts applicable records normally maintained for other purposes to document compliance during an investigation conducted under the H-1B and related programs. The Department is not aware of any duplication of data collection for the WH-4 form.

*A5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The burden on small business concerns is minimal. Even though the information collection is required of small businesses who want to hire foreign workers, the recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes. As previously noted, the Department accepts applicable records normally maintained for other purposes, to document compliance during an investigation conducted under the H-1B and related programs

*A6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

The information on the Form ETA-9035/9035E collection is only conducted at the time an employer seeks an H-1B, H-1B1, or E-3 visa to employ foreign workers. The Department would be in direct violation of Federal law and regulations because without this information collection, it would not be able to administer the LCA process which is an essential part of the H-1B program.

The WH-4 form is the form that initiates the compliance review of a specific employer and facilitates aggrieved parties' ability to complete the process to file a complaint. Thus, the consequences of less frequent collection would undermine the Department's ability to identify possible violations, such as whether the employee is being paid the proper wage and whether the employee is working in the intended area of employment.

*A.7. Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5(d)(2).*

There are no special circumstances that would require the information to be collected or kept in a manner that requires further explanation pursuant to the regulations set forth at 5 CFR 1320.5(d)(2).

*A.8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

*Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.*

*Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.*

In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is giving the public 60 days to comment on the extension of this information collection. The Department will provide a summary of the public comments after receipt, and describe the actions taken by the Department in response to these comments.

*A9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are made to respondents in exchange for the information provided through these information collection tools.

*A10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

There are no assurances of keeping information provided by respondents covered under these information collection tools private except for the WH-4 form. With respect to the WH-4 form, WHD will keep the respondent's identity private to the extent possible under existing law. As a practical matter, information gathered during the course of an investigation of a complaint is disclosed to the extent required by the provisions of the Freedom of Information Act (FOIA), 5 U.S.C § 552; the Privacy Act, 5 U.S.C. § 552a; and related regulations, 29 CFR parts 70 and 71. Among other exclusions, FOIA provides agencies an exemption from disclosing records or information compiled for law enforcement purposes, to the extent that the production of such enforcement records or information could reasonably be expected to disclose the identity of a confidential source. *See* 5 U.S.C. § 552(b)(7)(D).

In accordance with the Privacy Act, 5 U.S.C. § 552a; and its respective regulations, the authority for these collections of information is derived from 8 U.S.C. § 1182. The Department will use this information to enforce employer compliance with the LCA. The information provided on

these forms will assist the Department in determining whether the named employer of H-1B, H-1B1 or E-3 nonimmigrant(s) has committed a violation of provisions of the applicable nonimmigrant program. With respect to routine uses, the information will be used by and disclosed to Department personnel and contractors or other agents who need the information to assist in activities related to employer compliance with the LCA and law enforcement. Additionally, the Department may share the information pursuant to its published Privacy Act system of records notice. Furnishing this information is voluntary; however, failure to furnish the requested information may result in an inability to initiate compliance review and/or identify potential violations.

*A11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

These information collections do not involve sensitive matters.

*A.12. Provide estimates of the hour burden of the collection of information.*

A. Labor Condition Applications[2] – 20 CFR 655.760

Employers submit LCAs to the Department to employ H-1B, H-1B1, or E-3 nonimmigrant workers. One hundred percent of employers currently file LCAs using FLAG. Based on the program's recent experience, ETA estimates that it will receive on average, approximately 550,028 LCAs each year from approximately 53,321 employers over the next three years.

ETA estimates that the completion and submission of an LCA takes 45 minutes (0.75 hours) for completion and submission by most employers and an additional 20 minutes (0.33 hours) for H-1B dependent employers or willful violator employers claiming degree-based exemptions (a total of 65 minutes or 1.08 hours); complying with recordkeeping requirements of creating a public access file takes five minutes (0.083 hours); and posting notice of the LCA filing in a conspicuous place or providing such notice to the collective bargaining representative and providing a copy of the LCA to each nonimmigrant worker takes five minutes (0.083 hours). This results in a total of 75 minutes (1.25 hours) per application. The total annual burden hours are 687,535 burden hours (550,028 x 75 minutes ÷ 60). The total annual burden hours include 595,863.66 reporting hours (550,028 x 65 minutes ÷ 60), 45,835.66 recordkeeping hours (550,028 x 5 minutes ÷ 60), and 45,835.66 third-party disclosure hours (550,028 x 5 minutes ÷ 60).[3]

[2] DOL LCA estimates are based on data from fiscal years (FYs) 2021, 2022, and 2023. Data is rounded to the nearest whole number in most instances. Where necessary to show mathematical expressions, additional decimal places are provided.
[3] Some numbers in this section are displayed with two decimal places for mathematical purposes. ETA estimates that the completion and submission of an LCA takes 45 minutes for most employers with an additional 20 minutes estimated for H-1B dependent employers or willful violator employers claiming degree-based exemptions; complying with recordkeeping

B. Documentation of Corporate Identity – 20 CFR 655.730(e)(3)

Pursuant to 20 CFR 655.730(e)(3), prior to the continued employment of the nonimmigrant worker when there is a corporate change and the new corporation agrees to assume the predecessor entity's obligations and liabilities under the LCA, the agreement to comply with the LCA for the future and to any liability of the predecessor under the LCA must be documented with a sworn statement in the public access file.

It is estimated that approximately 1,000 LCA employers will be required to file the documentation annually and that the recording and filing of each such document will take approximately 1 hour for a **total annual burden of 1,000 recordkeeping hours**.

C. H-1B Employers Only: Determination of H-1B Dependency – 20 CFR 655.736

The Department estimates an average burden of 30 minutes (0.5 hours), twice annually, for each employer that must document the dependency determination as outlined in 20 CFR 655.736. The Department estimates that 3,835 employers will make this determination for a **total annual burden of 3,835 recordkeeping hours** (3,835 x 30 minutes ÷ 60) (x 2 times annually).

The Department also estimates that no more than 5 percent of the total estimated 53,321 H-1B employers (2,666) will be required to retain copies of H-1B petitions and extensions that do not currently retain these documents for other purposes, for an average of 3 minutes (0.05 hours) per petition, for a **total annual burden of 133 recordkeeping hours** (2,666 x 3 minutes ÷ 60).

**The total annual burden for this item is 3,968 recordkeeping hours** (3,835 + 133 = 3,968).

D. List of Exempt H-1B Employees in Public Access File – 20 CFR 655.737(e)(1)

Under 20 CFR 655.737(e)(1), employers are required to include in their public access file a list of the H-1B nonimmigrants supported by any LCA attesting that it will be used only for exempt workers. The Department estimates that each list will take approximately 15 minutes (0.25 hours) to prepare and that 3,775 H-1B employers will prepare such a list annually for a **total annual burden of 944 recordkeeping hours** (3,775 x 15 minutes ÷ 60).

For those H-1B dependent/willful violator employers seeking an exemption based **only** on attainment of a Master's degree or higher, the employer must identify on the Form ETA-9035/9035E - Appendix A, the academic institution and degree information for the exempt H-1B nonimmigrant worker(s) and provide a copy of the educational credential documentation to the Department. This information is being collected pursuant to 20 CFR 655.737(d) and (e) to ensure the education-based exemption designation is complete and without obvious errors or inaccuracies on the LCA before a certification decision is issued and the employer files the H-1B

requirements of creating a public access file takes five minutes; and posting the LCA in a conspicuous place and providing a copy to each nonimmigrant worker takes five minutes, for a total of 75 minutes per application.

petition with DHS. DHS is responsible for determining, upon request at the petition stage, whether the degree was attained in a specialty related to the occupation and, if obtained from a foreign academic institution, is equivalent to a master's or higher degree issued by a U.S. academic institution. The Department estimates that the information collection of the Appendix A information and documentation will take approximately 20 minutes (0.33 hours) to prepare and that an estimated 484 LCAs prepared annually will include this information for a **total burden of 161 reporting hours** (484 x 20 minutes ÷ 60).

E. Record of Assurances of Non-displacement of U.S. Workers at Second Employer's Worksite

Generally, willful violators and H-1B dependent employers must attest that they will not place H-1B employees with other employers unless these employers have inquired about the displacement of U.S. workers at the second employer's place of business as described in 8 U.S.C. § 1182(n)(1)(F).[4] The Department estimates an average burden of 10 minutes (0.16 hours) per attestation or statement, and that 154 H-1B employers will document such assurance 5 times annually, for a **total annual burden of 128 recordkeeping hours** (154 x 10 minutes ÷ 60) (x 5 times annually).

F. Offers of Employment to Displaced U.S. Workers – 20 CFR 655.738(e)

It is estimated that 665 H-1B employers who are willful violators or H-1B dependent will make offers of employment to displaced U.S. workers five times annually and responses documented under the requirement in 20 CFR 655.738(e). Each such document is estimated to take 20 minutes (0.33 hours) for a **total annual burden of 1,108 recordkeeping hours** (665 x 20 minutes ÷ 60) (x 5 times annually)).

G. Documentation of U.S. Worker Recruitment – 20 CFR 655.739(i)

Pursuant to the Immigration and Nationality Act (INA), H-1B dependent employers and willful violators are generally required to make good faith efforts to recruit U.S. workers before hiring H-1B workers. *See* 8 U.S.C. § 1182(n)(1)(G). Under the regulations, those employers are required to retain documentation of U.S. worker recruitment. Under 20 CFR 655.739(i)(1), those employers are required to retain documentation of the recruiting methods used, including the places and dates of the advertisements and postings or other recruitment method used, the content of the advertisements and postings, and the compensation terms. Further, the employer must retain documentation or a simple summary of the principal recruitment methods used and the timeframe of the recruitment in the public access file. *See* 20 CFR 655.739(i)(4). In addition, the employer must retain any documentation concerning consideration of applications of U.S. workers, such as copies of applications and related documents, rating forms, job offers,

[4] The special requirements for willful violators and H-1B dependent employers apply unless those employers are hiring only exempt H-1B nonimmigrants. Throughout this supporting statement, where we refer to general requirements for willful violators and dependent employers, we refer to those employers who are not hiring only exempt H-1B non-immigrants and claiming that exemption on the LCA.

etc. It is estimated that 665 H-1B employers will file such documents or memoranda five times annually and that each recordkeeping will take 20 minutes (0.33 hours), for a **total annual burden of 1,108 recordkeeping hours** (665 x 20 minutes ÷ 60) (x 5 times annually).

H. Documentation of Fringe Benefits – 20 CFR 655.731(b)(1)(viii)

There are an estimated 10 percent of LCA employers (5,332) that provide fringe benefits, such as bonuses, vacations and holidays, not required by ERISA regulations to be documented. It is estimated to document these benefits as outlined in 20 CFR 655.731(b) would take 90 minutes (1.5 hours) per employer, for a **total annual burden of 7,998 hours** (5,332 employers x 90 minutes ÷ 60 = 7,998). It is further estimated that 25 percent of H-1B employers (13,330) are multinational employers and that a note to the file that these workers receive home country benefits would take 30 minutes per employer for a **total annual burden of 6,665 hours** (13,330 x 30 minutes ÷ 60 = 6,665 hours).

**The total annual burden for this item is 14,663 recordkeeping hours** (7,998 + 6,665 = 14,663).

I. Wage Recordkeeping requirements Applicable to Employers of H-1B Nonimmigrants – 20 CFR 655.731

The additional burden of keeping records documenting the determination of the actual wage and prevailing wage as defined in 20 CFR 655.731 is estimated at 150 minutes (2.5 hours) per employer for 53,321 employers for a **total annual burden of 133,303 recordkeeping hours** (53,321 x 150 minutes ÷ 60 = 133,303).

J. Information Form Alleging H-1B Violations (WH-4)

Based on program experience, the number of Forms WH-4 filed is estimated to be 97 annually and that each response will take approximately 20 minutes (0.33 hours), for a **total annual burden of 32 reporting hours** (97 x 20 minutes ÷ 60 = 32 hours).

*Important Note*: Where appropriate, burden estimates are rounded to the next whole number. Burden hours are estimated based on historical program data and the Department's experience administering the program.

Table 1

## BURDEN HOURS AND ANNUAL COST TO RESPONDENTS' ESTIMATES FORM ETA-9035/9035E BURDEN HOURS AND ANNUAL COST TO RESPONDENTS' ESTIMATES

| Type of Respondent | Information Collection Activity | No. of Respondents[5] | No. of Annual Responses per Respondent | Total Annual Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Compensation[6] | Total Annual Respondent Cost |
|---|---|---|---|---|---|---|---|---|
| Private Sector-Business or other for-profit; Not-for-profit organizations | Labor Condition Application (Form ETA-9035/9035E) | 53,321 | 10.31541 | 550,028 | 1.25[7] | 687,535 | $49.71 | $34,177,364 |
| **Unduplicated Totals** | | **53,321** | **10.31541** | **550,028** | **1.25** | **687,535** | **$49.71** | **$34,177,364** |

[5] DOL LCA estimates are based on data from FYs 2021, 2022, and 2023. Where necessary for mathematical expressions, additional decimal places are added.

[6] DOL believes that in most companies, a Human Resources Specialist will perform these activities. Previous estimates were based on Human Resource Managers performing the activities, however, the Department's OFLC has reevaluated its ICR figures and determined that the use of "Human Resources Specialist" is a more accurate representation of its application filings. To calculate the full cost to the employer, DOL combines the mean hourly wage of human resource specialists with the benefits and other compensation received by such employees. The national mean hourly wage for a human resource specialist (SOC code 13-1071) is $35.13. The average percentage of benefits in total is 41.5 percent. The total compensation is therefore $49.71 ($35.13 × 1.415) for a Human Resources Specialist. *See* https://www.bls.gov/oes/current/oes131071.htm. DOL estimates that a Human Resources Specialist will take time to complete and retain the forms and supporting documentation in the amount of 843,989 hours. *See Employer Costs for Employee Compensation – September 2023*, DOL, BLS, *available at* https://www.bls.gov/news.release/archives/ecec_12152023.pdf (Dec. 15, 2023).

[7] DOL estimates that the completion and submission of an LCA takes 45 minutes for most employers with an additional 20 minutes estimated for H-1B dependent employers or willful violator employers claiming degree-based exemptions; complying with recordkeeping requirements of creating a public access file takes five minutes; and posting the LCA in a conspicuous place and providing a copy to each nonimmigrant worker takes five minutes; for a total of 75 minutes per application. The estimate for Appendix A is separate from the LCA estimate of 75 minutes per application and is estimated as an additional 20 minutes for most employers who will need to complete the appendix. See the table for the additional burden hours and annual cost to respondents.

Table 2

## BURDEN HOURS AND ANNUAL COST ESTIMATES ON RESPONDENTS FOR ACTIVITIES RELATED TO FORM ETA-9035/9035E

| Type of Respondent | Information Collection Activity | No. of Respondents | No. of Annual Responses per Respondent | Total Annual Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Compensa-tion | Total Annual Respondent Cost |
|---|---|---|---|---|---|---|---|---|
| Private Sector—Business or other for-profit; Not-for-profit organizations | Documentation of Corporate Identity* | 1,000 | 1 | 1,000 | 1 | 1,000 | $49.71 | $49,710 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | H-1B Employers Only-Determination of H-1B Dependency* | 3,835 | 2 | 7,670 | 0.5 | 3,835 | $49.71 | $190,638 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | H-1B Employers Only-Determination of H-1B Dependency-Document Retention* | 2,666 | 1 | 2,666 | 0.05 | 133 | $49.71 | $6611 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | List of Exempt H-1B Employees in Public Access File* | 3,775 | 1 | 3,775 | 0.25 | 944 | $49.71 | $46,926 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | Appendix A Completion and Documentation: Educational Degree Attainment for Exempt H-1B Nonimmigrants | 153 | 3.163 | 484 | 0.3333 | 161 | $49.71 | $8,003 |

Table 2 Continued

| Type of Respondent | Information Collection Activity | No. of Respondents | No. of Annual Responses per Respondent | Total Annual Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Compensa-tion | Total Annual Respondent Cost |
|---|---|---|---|---|---|---|---|---|
| Private Sector—Business or other for-profit; Not-for-profit organizations | Record of Assurances of Non-displacement of U.S. Workers at Second Employer's Worksite* | 154 | 6.494 | 1,000 | 0.1667 | 167 | $49.71 | $8,302 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | Offers of Employment to Displaced U.S. Workers* | 665 | 5 | 3,325 | 0.3333 | 1,108 | $49.71 | $55,079 |
| Private Sector—Business or other for-profit; Not-for-profit organization | Documentation of U.S. Worker Recruitment* | 665 | 5 | 3,325 | 0.3333 | 1,108 | $49.71 | $55,079 |
| Private Sector—Business or other for-profit; Not-for-profit organization | Documentation of Fringe Benefits* | 5,332 | 1 | 5,332 | 1.5 | 7,998 | $49.71 | $397,581 |
| Private Sector—Business or other for-profit; Not-for-profit organization | Documentation of Fringe Benefits for Multinational Employers* | 13,330 | 1 | 13,330 | 0.5 | 6,665 | $49.71 | $331,317 |
| Private Sector—Business or other for-profit; Not-for-profit organization | Wage Recordkeeping requirements Applicable to Employers of H-1B Nonimmigrants | 53,321 | 1 | 53,321 | 2.5 | 133,303 | $49.71 | $6,626,492 |
| **Unduplicated Totals** | | **84,896** | **Varies** | **95,228** | **Varies** | **156,422** | **$49.71** | **$7,775,738** |

Table 3

## FORM WH-4 BURDEN HOURS AND ANNUAL COST TO RESPONDENTS ESTIMATES

| Type of Respondent | Information Collection Activity | No. of Respondents | No. of Annual Responses per Respondent | Total Annual Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Compensation | Total Annual Respondent Cost |
|---|---|---|---|---|---|---|---|---|
| Individuals or Households | Information Form Alleging H-1B Violations (WH-4)** | 97 | 1 | 97 | 0.3333 | 32 | $49.71 | $1,591 |
| **Unduplicated Totals** | | **97** | **1** | **97** | **0.3333** | **32** | **$49.71** | **$1,591** |

** This type of burden is not incurred by all employers. This specific burden hours estimate has been added to the total burden hours estimate. The total burden hours estimate reflects the burden incurred by all employers that file requests for labor certification applications.*

*** This burden estimate is not associated with the employers' filings of labor condition applications. Aggrieved parties who choose to file complaints incur this type of burden. This estimate, however, is part of the total burden hours estimate associated with this program.*

*~ Each individual employer that files an attestation may have a salary range that could be from several hundred dollars to several hundred thousand dollars for a CEO of a business. DOL believes that in most companies, a Human Resources Specialist will perform these activities. Previous estimates were based on Human Resource Managers performing the activities, however, the Department's OFLC has reevaluated its ICR figures and determined that the use of "Human Resources Specialist" is a more accurate representation of its application filings. To calculate the full cost to the employer, DOL combines the mean hourly wage of human resource specialists with the benefits and other compensation received by such employees. The national mean hourly wage for a human resource specialist (SOC code 13-1071) is $35.13. The average percentage of benefits in total is 41.5 percent. The total compensation is therefore $49.71 ($35.13 × 1.415) for a Human Resources Specialist. See https://www.bls.gov/oes/current/oes131071.htm. DOL estimates that a Human Resources Specialist will take time to complete and retain the forms and supporting documentation in the amount of 843,989 hours. See Employer Costs for Employee Compensation – September 2023, DOL, BLS, available at https://www.bls.gov/news.release/archives/ecec_12152023.pdf (Dec. 15, 2023).*

Table 4

**OVERALL TOTAL BURDEN HOURS AND ANNUAL COST TO RESPONDENTS ESTIMATES**

| Type of Respondent | Information Collection Activity | No. of Respondents | No. of Annual Responses per Respondent | Total Annual Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Compensa-tion | Total Annual Respondent Cost |
|---|---|---|---|---|---|---|---|---|
| Private Sector—Business or other for-profit; Not-for-profit organizations | Labor Condition Application (ETA 9035/9035E) | 53,321 | 10.3154104 | 550,028 | 1.25 | 687,535 | $49.71 | $34,177,365 |
| Private Sector—Business or other for-profit; Not-for-profit organizations | Related Activities | 84,896 | Varies | 95,228 | Varies | 156,422 | $49.71 | $7,775,738 |
| WH-4 Individuals or Households | Information Form Alleging H-1B Violations | 97 | 1 | 97 | 0.3333 | 32 | $49.71 | $1,591 |
| **Unduplicated Totals** | | **138,314** | **Varies** | **645,353** | **Varies** | **843,989** | **$49.71** | **$41,954,693** |

*A.13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).*

1. *Start-up/capital costs*: There are no start-up costs, as ETA provides a free, web-based data collection and reporting system to collect and maintain participant data.

2. *Annual costs*: The Department estimates that the cost associated with the translation of Appendix A, educational credential documentation, will vary, based on a range of factors including free access to a translator, free translation tools, or paid translations which the Department estimates may cost up to $170. Therefore, the average estimated cost is $85 for translation and an annual estimated cost of $41,140 (484 Appendix A filings x $85 = $41,140).

*A14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.*

The Department estimates that the annual costs to administer the Form ETA-9035/9035E and WH-4 is $2,097,640. Federal administrative costs include IT systems that support application filing and case processing operations, rent, supplies, equipment, and agency indirect costs, which include support for human resources, financial and administrative oversight, and grants and contracts management. Based on past obligations and expenditures, the table below provides a detailed breakdown of the annualized costs associated with federal administration of the program by major cost category.

| **Major Cost Category** | **Cost Activities** | **Annualized Costs** *(estimated)* |
|---|---|---|
| Contracts for Services *(not technology related)* | Case processing and administrative support for operations<br>Mail and other clerical support services | $579,275 |
| Information Technology | Application development services & network infrastructure support<br>Hardware & software updates | $1,202,628 |
| General Services Administration Services & DHS Services | Rent payments for office space<br>Security clearance services | $21,513 |
| DOL Working Capital Assessment | Indirect costs associated with ETA and DOL administrative and executive management services | $281,243 |
| Supplies & Equipment | General office supplies<br>Computers, printers, and other office related equipment | $356 |
| Telecommunications | Telecommunication related charges | $382 |
| Other Costs | Other Government Agency Services<br>Training / Printing | $8,953 |
| **TOTAL COSTS - FEDERAL ADMINISTRATION (LCA)** | | **$2,094,350** |
| **WH-4** | 97 forms<br>Printing (97 x $0.05 = $ 4.85)<br>Mailing (approximately 30% of forms mailed to complainants with postage paid envelopes; Mailing costs are estimated to be $23 [29 forms x ($0.68 + $0.10 per envelope) x 2 directions = $23])<br>Staff processing of forms (estimated at $808)<br>Staff completion of the form approximately 70% of the time, each form takes approximately 20 minutes to complete and review (estimated at $ 2,454) | $3,290 |
| **TOTAL COSTS - FEDERAL ADMINISTRATION (LCA and WH-4)** | | **$2,097,640** |

*A15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.*

The Department currently proposes extensions of Form ETA-9035/9035E, Form ETA 9035/9035E, Appendix A, Form ETA-9035CP, and Form WH-4 without change. While there are not changes to the burden estimates associated with form changes, there are changes to the estimates based on increases in LCA filings, decreases to WH-4 complaint filings, and significant changes to the calculations because of the now standardized use of the hourly compensation rate for the Human Resources Specialist classification, rather than the Human Resources Manager classification.

The Department projects that the annual burden for LCA information collections will increase from 834,305 to 843,989 burden hours. The Department makes this projection based on an increase of LCA filings received in FY 2021, 2022, and 2023, which increased from the previous estimate of 543,085 to the new estimate of 550,028. There is a decrease in the projected estimates for the WH-4 complaint form from 218 filings to 97 filings, also based on filings received over the same fiscal year timeframe. (*See* Section A.12 above.) Factoring in the changes to the projected filings for the LCA and WH-4 forms, there is an increase in the estimated number of burden hours from 834,305 to 843,989.

As mentioned above, there is a significant decrease in the estimated burden costs to respondents resulting from the Department's change of the average hourly compensation rate for the burden calculations. The Department's OFLC is standardizing its information collections, as the job duties required for the burdens identified in the information collection more appropriately fall under the Standard Occupational Classification (SOC) Code 13-1071, Human Resources Specialist, rather than SOC Code 11-3121, Human Resources Manager. As the difference in the mean hourly wages between the two occupations is significant, the change in the hourly rate between the two occupations has resulted in a significant decrease in total burden costs as compared to previous years, despite the hourly program burdens increasing over the years, as it is affected by the volume of program applications. In addition, ETA is also standardizing the applicable benefits factor that applies for its information collections. The benefits factor is determined by dividing the most recent BLS Employer Costs for Employee Compensation (ECEC) by the wages and salary costs for a worker population. BLS provides three ECEC rates based on the worker population: (1) civilian workers; (2) private sector workers; and (3) state and local (*i.e.*, certain public sector) workers. OFLC has determined that the private sector worker ECEC is correct, as the burdens listed in A.12 being performed by Human Resources Specialists are almost exclusively performed by employers in the private sector. Accordingly, for this PRA package, as explained above, the hourly rate changed from $84.89 in the previous Supporting Statement for Human Resources Directors to the new rate of $49.71 for Human Resources Specialists. This reduction in the hourly rate of $35.18 ($84.89 - $49.71) per burden hour for human resources activities is responsible for the substantial decrease in total burden costs, which is down $28,869,457 under this ICR.

| OMB Control Number (1205-0310) | Previous Estimates | Current Estimates | Change |
|---|---|---|---|
| Annual Responses | 635,520 | 645,353 | + 9,833 |
| Burden Hours | 834,305 | 843,989 | +9,684 |
| Cost of Time | $70,824,150 | $41,954,693 | - $28,869,457 |

*A16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

No collection of information will be published.

*A17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

The Department will display the expiration date for OMB approval on the form and instructions and opening page of the website for electronic filing.

*A18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions,"*

The Department is not seeking any exception to the certification requirements.

**B. Collections of Information Employing Statistical Methods**

This information collection does not employ statistical methods.