

SUPPORTING STATEMENT
CW-1 APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION
OMB Control No. 1205-0534

This Information Collection Request (ICR) seeks to revise and renew the approval under the Paperwork Reduction Act (PRA) for *CW-1 Application for Temporary Employment Certification*, OMB Control Number 1205-0534 (OMB 1205-0534), which covers information collection tools statutorily required to request a CW-1 temporary labor certification for work in the Commonwealth of the Northern Mariana Islands (CNMI or Commonwealth). As part of this request to revise this information collection, the U.S. Department of Labor (Department or DOL) is amending the Form ETA-9141C, *Application for Prevailing Wage Determination* (Form ETA-9141C), and its instructions, to make sure this form, which is specific to the CW-1 program, conforms to the information collected through the general Form ETA-9141, *Application for Prevailing Wage Determination*, which is generally used by employers in connection with prevailing wage requests for other labor certification application programs and for labor condition applications. The information collected through the Form ETA-9142C, *CW-1 Application for Temporary Employment Certification* (Form ETA-9142C), and its appendices, remain unchanged.

The Department created Form ETA-9141C, and Form ETA-9142C, in April 2019, under emergency processing provisions outlined at 5 CFR 1320.13, to carry out the responsibilities created for the Department under the *Northern Mariana Islands U.S. Workforce Act of 2018* (Pub. L. 115-218). The following appendices support the information collected through Forms ETA-9142C and standardize the collection of information under CW-1 regulatory requirements:

- *Appendix A: Employer-Client Information*, which requires employers operating as job contractors to disclose the name and contact information of their employer-client(s);
- *Appendix B: Additional Worksite and Wage Information*, which requires employers to disclose multiple worksites on a single application and wage offers within the CNMI ; and
- *Appendix C: Attorney/Agent/Employer Declarations*, which requires an employer's attorneys or agents to attest to compliance with all terms, assurances, and obligations of the CW-1 program.

This information collection also contains the Department's Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification Approval*, which the Department issues electronically to employers granted temporary labor certification under the CW-1 program. This document, however, does not impose a burden on the employers that choose to participate in the CW-1 program because it is generated by the Department's electronic filing system once the application is processed and temporary labor certification is granted.

The information collection activities covered by OMB 1205-0534 include not only forms, but also recordkeeping requirements on which the Department relies for determining prevailing wages and issuing temporary labor certifications (TLC) in connection with the CW-1 program.

Lastly, these information collection tools permit employers to assure compliance with respect to the minimum terms and conditions associated with the Prevailing Wage Determinations (PWD)

and TLC processes, which include the rights and obligations of CW-1 workers and workers in corresponding employment, in addition to information regarding recordkeeping requirements associated with the CW-1 program.

A. Justification

A.1 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.

The Northern Mariana Islands U.S. Workforce Act of 2018 (the Workforce Act) extends the CW-1 program, a transitional visa program, through 2029 and requires that a CW-1 petition for temporary employment filed with the Department of Homeland Security (DHS) be accompanied by an approved TLC from DOL. *See* Pub. L. 115-218, sec. 3, 48 U.S.C. 1806. The Workforce Act encourages the hiring of U.S. workers in the CNMI workforce, and ensures that no U.S. worker is placed at a competitive disadvantage compared to a non-U.S. worker or is displaced by a non-U.S. worker. *See* Pub. L. 115-218, sec. 2. Furthermore, it provides that a petition to import a nonimmigrant worker under the CW-1 visa classification may not be approved by DHS unless the employer has received a TLC from DOL confirming that: (1) there are not sufficient U.S. workers in the CNMI who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and (2) the employment of a nonimmigrant worker who is the subject of a petition will not adversely affect the wages and working conditions of similarly employed U.S. workers. 48 U.S.C. 1806(d)(2)(A).

OMB 1205-0534 was created in connection with a Department's interim final rule (IFR) mandated under the Workforce Act, which required the Secretary of Labor (Secretary) to promulgate an IFR implementing the CW-1 temporary labor certification and related provisions no later than 180 days from the date of enactment. *See* Pub. L. 115-218, sec. 3(b)(2). The Department published the IFR on April 1, 2019, informing program users of the Department's statutory authority to implement the CW-1 TLC process, and the scope of the Department's role in receiving, reviewing, and adjudicating CW-1 applications, and upholding the integrity of the Department's CW-1 temporary program.

It is through the Department's CW-1 regulatory provisions at 20 CFR 655, subpart E, that the Secretary makes the statutory determination that: (1) there are not sufficient U.S. workers in the Commonwealth who are able, willing, and qualified, and who will be available at the time and place needed to perform the services or labor for which an employer desires to import foreign workers; and (2) the employment of the CW-1 worker(s) will not adversely affect the wages and working conditions of U.S. workers similarly employed. Additionally, these regulations set forth the Secretary's authority to promulgate minimum standards and obligations with respect to the terms and conditions of the temporary labor certification with which CW-1 employers must comply, as well as the rights and obligations of CW-1 workers and U.S. workers in corresponding employment.

The information collected through Form ETA-9141C is the basis for the Secretary's determination of the prevailing wage that employers must pay in the hiring of a foreign worker,

to protect against any adverse effect on U.S. workers' wages. Prior to submitting a CW-1 application for TLC, an employer must obtain a prevailing wage from the Department for the job opportunity based on the place of employment. Form ETA-9141C collects from the CNMI employer the information necessary for the Department to determine and issue a prevailing wage for the occupation and location of the job offer.

As provided in the Department's regulations at 20 CFR part 655, subpart E, the information collected through Form ETA-9142C, and its appendices, constitutes the basis for the Department's determination that an insufficient number of qualified U.S. workers are available to fill the employer's job opportunity and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of CW-1 workers. The Department must make this labor certification determination before a CW-1 petition may be approved by DHS.

Statutory Authority: 48 U.S.C. 1806

Regulatory Authority: 20 C.F.R. 655, subpart E

A.2. 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 Employment and Training Administration (ETA)'s Office of Foreign Labor Certification (OFLC) will use this information collection to meet its statutory and regulatory responsibilities for administering the CW-1 temporary labor certification program. An employer seeking to employ CW-1 workers must first file Form ETA-9141C to obtain a PWD from OFLC's National Prevailing Wage Center. Once a PWD is issued, the employer then files a completed Form ETA-9142C, and all appropriate appendices, with the OFLC National Processing Center (NPC). These forms, along with any required appendices and supporting documentation, constitute the CW-1 application submitted by an employer to secure a CW-1 temporary labor certification from OFLC.

OFLC reviews an application submitted by an employer requesting temporary labor certification for compliance with all applicable program requirements and issues either a Notice of Deficiency (NOD) or Notice of Acceptance (NOA) on the application. Where deficiencies in the application are discovered, the NOD provides the employer with ten (10) business days to correct the deficiencies. OFLC may issue one or more additional NODs before issuing a decision. Where all program requirements are met, the NOA authorizes the recruitment of U.S. workers in the CNMI for the employer's job opportunity and requires the employer to provide a written report of its recruitment efforts to the NPC.

Upon review of the recruitment report, OFLC may grant a full or partial certification determination or deny the employer's CW-1 application. OFLC will grant a temporary labor certification only after the employer's CW-1 application has met all the requirements for approving a labor certification under 20 CFR part 655, subpart E. OFLC sends electronic certifications of CW-1 applications to the employer, and its attorney or agent, if applicable;

unless the employer files by mail, in which case, OFLC sends the certified application to the employer, and its agent, by first-class mail.

The *CW-1 Application for Temporary Employment Certification* and all supporting documentation must be retained by the employer for three (3) years from either: the date the certification expires (for approved applications); the determination date (for denied applications); or the date OFLC received the employer's withdrawal request (for withdrawn applications). Employers must be prepared to produce all information and records contained in this ICR for DOL or other federal agencies in the event of an audit examination, investigation, or other enforcement proceeding in the CW-1 program.

Specifically, OFLC uses the information collections in the manner described below:

Form ETA-9142C, *CW-1 Application for Temporary Employment Certification*

An employer must include basic information related to its business on the Form ETA-9142C to determine whether the establishment operating in the CNMI is *bona fide*, to provide contact information of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters is provided, and, if applicable, to provide contact information of an attorney or agent who is authorized to act on behalf of the employer in labor certification matters. Because the Department sends and receives communications during the course of processing an employer's application, Form ETA-9142C requires the entry of a valid email address from both the employer contact and, if applicable, the employer's authorized attorney or agent. For an employer who is represented in the filing of the application by an agent, the form collects information to assess whether the agent has provided the Department with a current agreement or other documentation demonstrating the agent's authority to represent the employer.

Form ETA-9142C also collects basic information related to the employer's job opportunity and need for CW-1 workers, including the job title and occupational classification, number of workers, period of intended employment, services or labor to be performed, and minimum job requirements. To ensure no adverse effect on the wages of similarly employed U.S. workers and that all work expected to be performed by CW-1 workers will be located within the Commonwealth, the form collects information on all places of employment (i.e., worksites) and the wage rates to be paid to workers at those worksites, the latter of which allows OFLC to compare the reported wage rates with the prevailing wage rates obtained by the employer for those worksites.

Form ETA-9142C, *Appendix A - Employer-Client Information for Job Contractors*

The Department's regulations require an employer filing as a job contractor and acting as a joint employer with its employer-client to submit a single application. In filing the application, the job contractor must disclose the identity and contact information of its employer-client by completing *Appendix A*. The information in *Appendix A* permits OFLC to verify whether the executed contracts or other agreements establishing the joint-employer relationship of the workers sought under the application are bona fide, and ensure that all advertising requirements unique to job contractors under the regulations are met. Additionally, the Department might use

this information in post-adjudication audit examinations and/or program integrity proceedings (e.g., debarment actions).

Form ETA-9142C, *Appendix B - Additional Place(s) of Employment and Wage Information*

In circumstances where work needs to be performed at worksite locations other than the primary one identified on main Form ETA-9142C, the employer must complete *Appendix B* identifying all places of employment and details about the wage offers for each of those places of employment. OFLC uses information on *Appendix B* to ensure all places of employment are located within the Commonwealth and that the employer is offering wages that are at least equal to the prevailing wage covering each place of employment. This information will only need to be provided by employers that have multiple worksites; thus only employers in the CNMI seeking to hire CW-1 worker who will perform their jobs at multiple sites will incur this burden. Additionally, the Department might use this information in post-adjudication audit examinations and/or program integrity proceedings (e.g., debarment actions); most specifically, should enforcement actions be necessary, the Department needs to know all locations where CW-1 workers will be performing their jobs.

Form ETA-9142C, *Appendix C - Attorney/Agent/Employer Declarations*

To obtain a temporary labor certification, the Department's regulations require an employer, and its attorneys or agents if applicable, to submit a completed *Appendix C* that attests to compliance with all terms, assurances, and obligations of the CW-1 program. For an employer operating as a job contractor seeking temporary labor certification, Form ETA-9142C requires disclosure and submission of a signed and dated *Appendix C* completed by the employer-client. Additionally, the Department might use this information in post-adjudication audit examinations and/or program integrity proceedings (e.g., debarment actions).

Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification Approval*

Where the employer's application has met all the regulatory requirements, the Department will issue and electronically send to the employer and, if applicable, the employer's authorized attorney or agent, a Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification*. This one-page certification form provides the official certification that a sufficient number of qualified U.S. workers have not been identified as being available at the time and place needed to fill the job opportunities for which certification is sought, and the employment of the CW-1 temporary workers in such labor or services will not adversely affect the wages and working conditions of U.S. workers similarly employed. The employer will use Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification*, as well as any other required documentation to support the filing of a CW-1 petition with DHS's United States Citizenship and Immigration Services (USCIS).

A.3. 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.

The regulations at 20 CFR 655.410(c) instruct an employer or, if applicable, the employer's agent or attorney, to electronically request and receive a PWD from the National Prevailing Wage Center (NPWC) then electronically file the CW-1 Application for Temporary Employment Certification with the NPC. The employer must file the request for a PWD and all required supporting documentation with the NPWC using the electronic method(s) designated by the OFLC Administrator. Employers that are unable to file electronically, either due to lack of internet access or physical disability precluding electronic filing, may file the application by mail. The mailed application must include a statement indicating the need to file by mail. The NPWC will return, without review, any application submitted using a method other than the designated electronic method(s), unless the mailed applications contains such a statement. OFLC will publish the address for mailed applications in the instructions to Form ETA-9141C.

Pursuant to 20 CFR 655.420(c), an employer or, if applicable, the employer's agent or attorney, must submit to the NPC a completed Form ETA-9142C and all required supporting documentation to the NPC using an electronic method(s) designated by the OFLC Administrator. Unless the employer is unable to electronically file due to a disability or inadequate access to electronic filing (e-filing) under paragraph 655.420(c)(2), the NPC will return, without review, any Form ETA-9142C submitted using a method other than the electronic method(s) designated by the OFLC Administrator.

To comply with the e-filing requirement, employers or, if applicable, their agents or attorneys will prepare and submit Forms ETA-9141C and ETA-9142C using OFLC's Foreign Labor Application Gateway (FLAG) System. In circumstances where the application is filed using the traditional paper-based method, OFLC staff will manually enter the data and information contained on the paper application into the FLAG System's internal case management system for processing in a similar manner as those filed electronically.

The FLAG System permits an employer or, if applicable, its authorized attorney or agent to efficiently prepare and submit CW-1 applications for processing by OFLC. During the preparation of applications, the FLAG System provides employers with a series of electronic data checks and prompts to ensure each required field is completed and values entered on the form are valid and consistent with regulatory requirements. OFLC's website and the FLAG System's CW-1 Case Preparation Module include detailed instructions designed to help employers understand what each form collection item means and what kinds of entries are required. Where it is not practical to collect supporting documentation using a standard OMB-approved appendix, the FLAG System permits an employer to upload documentation supporting the application in an acceptable digitized format (e.g., Adobe PDF, Microsoft Word, .TXT).

When the employer or, if applicable, its authorized attorney or agent initially enters contact information and establishes a FLAG System Account, the CW-1 Case Preparation Module automatically pre-populates all contact information on the draft Form ETA-9141C and Form ETA-9142C. This significantly reduces the time and burden for repeated online data entry, particularly for those employers who need to access the program to hire nonimmigrant workers that predictably recur each year. The submission of all required documentation at the time of filing the application facilitates a more efficient and consistent review of the employer's application, and reduces the incidence of OFLC returning an incomplete application without

further review or issuing a NOD to request missing documentation or corrections for obvious errors or inaccuracies.

In compliance with the Government Paperwork Elimination Act, ETA will continue to make all forms and appendices approved under this ICR easily accessible on both the FLAG System (<https://flag.dol.gov/>) and OFLC website (<https://www.dol.gov/agencies/eta/foreign-labor>) and electronically fillable and fileable. Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification Approval* is not made available in an electronically fillable format because it is for the Department's use only and not to be completed by the employer, or its authorized attorney or agent. Where the employer's application has met all regulatory requirements, the FLAG System will issue the one-page Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification Approval*, to the employer and, if applicable, its authorized attorney or agent by email and pre-populate it with key information reflecting OFLC's decision to grant approval of the employer's request for temporary labor certification. The employer will download, print, and submit Form ETA-9142C, *Final Determination: CW-1 Temporary Labor Certification Approval*, along with any other required documentation to USCIS to support the filing of a CW-1 petition.

A.4. 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 requested on Form ETA-9142C and accompanying appendices, as well as Form ETA-9141C, is sufficiently distinct to avoid duplication of activities within the Department for the CW-1 program. The information collections covered by this ICR apply only to entities seeking CW-1 workers; consequently, there is no duplication of information collection requirements.

A.5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collected under this ICR is required of small businesses who wish to employ temporary nonimmigrant workers under the CW-1 visa classification. The Department cannot make any exemptions or eliminate forms for small businesses; the statute does not create such an exemption, and the Department's regulations, in turn, require employers seeking temporary labor certification to make the necessary attestations and provide the information requested. This collection is not disproportionately more burdensome for small entities than large ones; the forms and accompanying appendices are easy to understand and provide all of the necessary attestations and assurances, so that the employer does not need to find the appropriate law or regulation to know how to request a temporary labor certification. It is not possible to reduce the burden on small entities by shortening the forms, because the forms collect from all employers the minimum information needed to determine program eligibility and issue a labor certification. The use of electronic filing and the collection of business email addresses on the forms minimize the burden on respondents by increasing the completeness and quality of applications received, and enhancing electronic communications during the application review process. Any recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes.

A.6. 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 collected under this ICR must be provided at the time an employer requests a PWD (e.g., when requesting a prevailing wage based on a Governor-reported survey) or TLC to employ nonimmigrant workers under the CW-1 visa classification. The Department would be in direct violation of its statutory and regulatory mandates if this information were not collected. The information must be collected to enable the Department to meet its obligation to determine: (1) whether an insufficient number of qualified U.S. workers in the CNMI are available to fill the employer's job opportunity; and (2) that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of CW-1 workers.

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.

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 of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, the public will be allowed 60 days to comment in response to a *Federal Register* notice. The Department will address any substantive comments received in connection with the 60-day notice.

A.9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

A.10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No assurances of confidentiality are provided.

A.11. 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.

The information collections do not involve sensitive matters.

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

Based on its very recent experience with the CW-1 labor certification program, the Department estimates it will annually receive, on average, approximately 8,476 Form ETA-9142C, as well as 8,476 Form ETA-9141C, submissions, filed by approximately 1,310 employers. The estimated Time Reporting Burden per Form ETA-9142C continues to be 45 minutes, excluding appendices and recordkeeping requirements, as no changes have been made to the information that is collected through the form. The estimated time burden for the Form ETA-9141C continues to be 46 minutes. While actions associated with the form collection vary depending on the nature and complexity of the employer's job opportunity and need for temporary nonimmigrant workers, the estimated average hourly reporting burden includes those elements that are common to the majority of applications.

I. Hourly Burden Estimates

A. Agents and Recruiters

1. *Proof of Agent Relationship (20 CFR 655.404)*. The regulations require all agents (including attorneys) who file CW-1 applications on behalf of employers to demonstrate that a bona fide relationship exists between them and the employer. The Department is not requiring any specific form to document the employer-agent relationship and will accept a copy of the agent agreement or other document demonstrating the agent's authority to act on behalf of the employer. The Department estimates that it takes 30 minutes to write, print, sign, and deliver a letter confirming the relationship. Based on recent experience with the CW-1 program, the Department estimates there will be an average of 1,310 CW-1 employers per year over the FY 2021-2024 period. The Department also estimates that 678 agreements (approximately 196 employers might have to rely on agents, with a frequency of 3.46 per employer) would need to be created between agents or attorneys and their employers/clients and then copied and attached to applications, for an hourly burden

of 339 reporting hours (678 filings x 0.50 hours per filing = 339 hours).¹ See the table below.

2. Contracts with Third Parties to Comply with Prohibitions (20 CFR 655.423(o)). The Department requires employers to prohibit, by written contract, their international agents or recruiters from seeking or directly or indirectly receiving payments or other compensation from prospective CW-1 workers. The Department estimates 1,310 employers will utilize foreign agents or recruiters, and that it takes an employer an average of 15 minutes to comply with this requirement. Thus, the Department estimates the third-party disclosure burden for this collection to be 2,119 reporting hours (8,476 filings x 0.25 hours per filing = 2,119 hours). See the table below.

B. Prevailing Wage Determinations

1. Form ETA-9141C (20 CFR 655.410). The Department requires all employers participating in the CW-1 program to obtain a prevailing wage determination from NPWC. Based on program experience with other temporary foreign labor certification program applications, the form takes approximately 46 minutes to complete (or approximately 0.77 hours). The Department estimates 8,476 CW-1 labor certification applications will be filed annually. Each application requires a prevailing wage determination, and, for purposes of this ICR, the Department assumes that each application will require a new, unique prevailing wage determination request. Thus, the estimated total hourly burden for the filing of Form ETA-9141C is 6,526.52 reporting hours (8,476 prevailing wage determination applications x 0.77 hours per application = 6,526.52 hours). See table below.
2. Appeals (20 CFR 655.411). An employer that does not agree with a prevailing wage determination may apply for a new wage determination, appeal under 20 CFR 655.411, or accept the initial prevailing wage determination. Based on recent program experience with appeals, the Department estimates that only approximately 6 prevailing wage determination applications will be appealed annually. The Department estimates that it takes an employer approximately one hour to complete and submit an appeal from a Prevailing Wage Determination. Thus, the total hourly burden associated with PWD appeals is 6 reporting hours (6 appeals x 1 hour per appeal = 6 hours). See table below.
3. Retention of Documentation (20 CFR 655.410(h)). The employer must retain the prevailing wage determination for 3 years from the date of issuance or the date of a final determination on the *CW-1 Application for Temporary Employment Certification*, whichever is later. All employers are required to retain documents associated with the filing of their Form ETA-9141C. To print and store such documents will take ten minutes (or 0.17 hours). The Department estimates 8,476 applications will be filed annually. Therefore, the total hourly burden associated with

¹ Numbers are generally rounded to the next whole number in the burden table. In this instance, this figure is reflected as 339 in the burden table.

the recordkeeping requirement for Form ETA-9141C is 1,440.72 reporting hours (8,476 applications x 0.17 hours per application = 1,440.72 hours. See table below.

C. CW-1 Application for Temporary Employment Certification

1. Form ETA-9142C, Application for Temporary Employment Certification (20 CFR 655.420). The Department requires completion of Form ETA-9142C when an employer seeks a temporary labor certification to employ nonimmigrant workers under the CW-1 visa classification. Based on program experience with other temporary labor certification programs, the form takes approximately 45 minutes to complete. The Department estimates that 8,476 applications for temporary employment certification for CW-1 workers, will be filed annually. The total hourly burden for the filing of Form ETA-9142C is 6,357 reporting hours (8,476 applications x 0.75 hours per application = 6,357 hours). See table below.
2. Appendix A of Form ETA-9142C, Employer-Client Information of Job Contractor (20 CFR 655.421). The Department requires that when an employer submits a Form ETA-9142C requesting temporary labor certification, the employer filing as a job contractor must submit a completed *Appendix A* to disclose its employer-client and that it will jointly employ the workers under the application. The Department estimates it takes a job contractor approximately 15 minutes to disclose the required information about its employer-client on *Appendix A*. Based on recent experience, the Department also estimates 229 *Appendix A* forms will be filed annually. The total hourly burden for the filing of *Appendix A* is 57.25 reporting hours (229 appendices x 0.25 hours per appendix = 57.25 hours). See table below.
3. Appendix B of Form ETA-9142C, Additional Place(s) of Employment and Wage Information (20 CFR 655.420). The Department requires an employer submitting a Form ETA-9142C to also submit a completed *Appendix B* when workers will be expected to perform services or labor in geographic locations other than the primary place of employment disclosed on Form ETA-9142C. To clarify, this information will only need to be provided by employers that have multiple worksites; thus only employers in the CNMI seeking to hire CW-1 worker who will perform their jobs at multiple sites, will incur this burden. As explained above in this supporting statement, the collection of this information is necessary for program integrity purposes; most specifically, should enforcement actions be necessary, the Department will need to know about all locations where CW-1 workers will be performing their jobs. Based on recent experience with this program, the Department estimates that approximately 425 *Appendix B* forms will be filed annually, and it will take an estimated 20 minutes (or 0.33 hours) minutes to complete that form. The total hourly burden for the filing of *Appendix B* is 140.25 reporting hours (425 appendices x 0.33 hours per appendix = 140.25 hours). See table below.
4. Appendix C of Form ETA-9142C, Attorney/Agent/Employer Declarations (20 CFR 655.420). The Department requires that an employer filing a Form ETA-9142C attach a signed and dated *Appendix C* that declares an employer's compliance with the assurances and obligations of the CW-1 program. The Department estimates 8,476

Appendix C forms will be filed annually, and it will take 20 minutes to complete each one. The total hourly burden associated with *Appendix C* is 2,797.08 reporting hours (8,476 appendices x 0.33 hours per appendix = 2,797.08 hours). See table below.

5. *Waiver of Obtaining a Prevailing Wage Determination due to Emergency Situations (20 CFR 655.422)*. The Department permits an employer that, for good and substantial cause, is unable to obtain a prevailing wage determination prior to filing the *Application for Temporary Employment Certification* to request a waiver by submitting a letter of explanation along with the completed application. The Department estimates that it takes an employer approximately 30 minutes to compose, print, and send such a written request. Based on recent experience, the Department anticipates receiving approximately 28 emergency waivers, for a total burden of 14 reporting hours (28 requests x 0.50 hours per request = 14 hours). See the table below.
6. *Submission of a Modified Application or Job Offer (20 CFR 655.432)*. The Department permits CW-1 employers to modify and resubmit their applications to cure the deficiencies listed in the NOD. Based on its recent experience with this program, the Department estimates that approximately 2,827 applications that it will receive each year might require modification. Based on the CW-1 program recent experience, the Department estimates it takes one hour to respond to a NOD for a total burden of 2,827.39 reporting hours (2,827 applications x 1 hour per application = 2,827.39 hours). See the table below.
7. *Amending the Application (20 CFR 655.434)*. The Department permits employers to amend their applications at any time before the Department makes a final determination to grant or deny the application. The Department anticipates receiving amendments for 1,273 applications, and that it takes an employer 30 minutes on average to prepare and file an amendment, for a total burden of 636.50 reporting hours (1,273 amended applications x 0.50 hours per application = 636.50 hours). See the table below.

D. Recruitment of U.S. Workers

1. *Placing an Advertisement with CNMI Department of Labor (20 CFR 655.442)*. The Department's requirement is that an employer's advertisements meet the standards set forth in 20 CFR 655.441. The Department estimates that it takes employers one hour to complete and post an advertisement on the CNMI Department of Labor's job listing system, and ensure that it includes all required information and disclosures in compliance with 20 CFR 655.423 governing employer assurances and obligations. The total burden is 8,476 reporting hours (8,476 job advertisements x 1 hour per advertisement = 8,476 hours). See the table below.
2. *Contacting Former Employees (20 CFR 655.443)*. The Department requires employers to contact their former U.S. workers employed in CNMI in the same occupation during the previous year, including those who were laid off within 270 calendar days of the employer's date of need, unless they were dismissed for cause or

- abandoned the worksite prior to the completion of the last work period. The regulations require that employers contact these employees by mail or other effective means, disclose the terms of the *CW-1 Application for Temporary Employment Certification*, and solicit their return to the job. The Department continues to estimate that employers will need to contact such employees in connection with each application. Additionally, the Department estimates it takes, on average, employers one hour per application filed with the Department to contact former employees for a total burden of 8,476 burden hours (8,476 applications x 1 hour per application = 8,476 hours). See the table below.
3. *Notice of Posting Requirement (20 CFR 655.444)*. The employer must post the availability of the job opportunity in at least two conspicuous locations at the place of anticipated employment or in some other manner for 21 consecutive calendar days, in order to provide reasonable notification to all employees in the job classification and area in which the work will be performed by the CW-1 workers. The Department estimates employers will take 30 minutes per application to prepare and post the notice. The total disclosure burden is thus 4,238 hours (8,476 applications x 0.50 hours per application = 4,238 hours). See the table below.
 4. *Additional Employer-conducted Recruitment (20 CFR 655.445)*. The Department, at its discretion, may require employers to conduct additional reasonable recruitment. Based on its recent experience with the CW-1 temporary employment certification program, the Department estimates that, on average, Certifying Officers would require employers to conduct additional recruitment in connection with 1,971 applications. If the additional employer-conducted recruitment consists of placing an additional newspaper advertisement, the Department estimates that it takes an employer approximately 15 minutes to comply with this requirement for a total burden of 492.75 hours (1,971 applications x 0.25 hours per application = 492.75 hours). See the table below.
 5. *Recruitment Report (20 CFR 655.446)*. The time needed to prepare the recruitment report required by 20 CFR 655.446 is not excludable in estimating the PRA burden. Under this provision, employers must prepare, sign, and retain a written summary report describing the steps undertaken to recruit U.S. workers and the results achieved, including the number of hires and, if applicable, the number of U.S. workers not hired, and the lawful job-related reason(s) for not hiring those workers. The employer is required to provide a report of its recruitment efforts to the Department prior to certification no fewer than two calendar days after the date when the last advertisement with the CNMI Department of Labor appeared. *See* 20 CFR 655.446(a). Additionally, under the audit process described in 20 CFR 655.470, the Department may request that the employer submit the final recruitment report contained in the employer's files along with the résumés or applications of U.S. workers that were rejected, organized by the reasons they were rejected. Based on the new estimated number of CW-1 applications that would be filed, the Department estimates that employers will prepare approximately 8,476 reports. The Department estimates that it takes employers approximately 1 hour to prepare a recruitment report for a total burden of 8,476 hours (8,476 reports x 1 hour per report = 8,476 hours).

See the table below.

E. Disclosure of Work Contract to U.S. and Foreign Workers

1. *Translating the Work Contract (20 CFR 655.423)*. The Department requires employers to provide a copy of the work contract to a CW-1 worker outside the United States no later than the time at which the worker applies for the visa, or to a worker in corresponding employment no later than on the day the work commences. For a CW-1 worker changing to another CW-1 employer, the work contract must be provided no later than the time the subsequent offer of employment is made. The work contract must be provided in a language understood by the worker and that such a translation must be made available for each application filed with DOL. The Department estimates that it takes employers one hour to translate the work contract for a total burden of 8,476 hours (8,476 reports \times 1 hour = 8,476 hours). See the table below.
2. *Reproducing the Work Contract (20 CFR 655.423)*. The Department requires employers to provide a copy of the work contract to CW-1 workers and U.S. workers in corresponding employment, which necessitates reproducing each work contract. The Department added the estimated number of CW-1 workers on whose behalf CW-1 petitions might be filed, on average, in the next three years, to the estimated number of corresponding U.S. workers, to project that 28,519 copies of the contract will be reproduced. The Department continues to estimate that it would take employers five minutes to reproduce each work contract for a total burden of 2,281.50 hours (28,524 copies of contracts \times 0.08 hour = 2,281.50 hours). See the table below.
3. *Mailing the Work Contracts (20 CFR 655.423)*. The Department requires employers to provide a copy of the work contract to CW-1 workers and U.S. workers in corresponding employment, which necessitates mailing work contracts to workers. Following the same methodology used to estimate the number of copies of contracts that would need to be provided to CW-1 workers and U.S. workers, the Department estimates that it would take employers ten minutes to mail each work contract (approximately 28,519 copies) for a total burden of 4,848.18 hours (28,524 copies of contracts \times 0.17 hour = 4,849.08 hours). See the table below.

F. Retention Requirements

1. *Retention of Form ETA-9142C Documents (20 CFR 655.410(h), and 655.456)*. The Department requires employers who file a *CW-1 Application for Temporary Employment Certification* (Form ETA-9142C and all appendices), and all supporting documentation to retain all such documents and records not otherwise submitted proving compliance with 20 CFR 655, subpart E. The Department estimates that employers will spend about ten minutes per year per application to comply with this recordkeeping requirement. This results in an annual burden of 1,440.92 hours for Form ETA-9142C and its accompanying documents (8,476 applications \times 0.17 hour = 1,440.92 hours). See the table below.

G. Post-certification Requirements

1. Notification of Abandonment or Termination (20 CFR 655.423(v)). The regulations require employers to notify the Department when any of their CW-1 workers voluntarily abandons the job or is terminated before the certified end date of employment. The Department estimates it takes employers an average of ten minutes to write an email to the Department to meet this requirement. The Department anticipates that employers will write such e-mails in connection with 103 applications, for a total burden of 17.51 reporting hours (103 notifications x 0.17 hour per notification = 17.51 hours). See the table below.
2. Extension of the Certified Period of Employment (20 CFR 655.460). The regulations permit employers, under certain circumstances involving weather conditions or other factors beyond the control of the employer, to request in writing an extension of the certified period of employment. Based on its most recent experience with the CW-1 program, the Department anticipates that employers will request extensions of certified periods of employment in connection with 277 applications each year. The Department also estimates that it takes an employer thirty minutes to comply with this requirement for a total burden of 138.50 reporting hours (277 requests x 0.50 hours per request = 138.50 hours). See the table below.
3. Administrative Appeals (20 CFR 655.461). The regulations permit an employer whose certification is denied to request administrative review of the decision by the Board of Alien Labor Certification Appeals. To do so, an employer must submit a written request for review within ten business days from the date of determination. Based on its most recent experience with the CW-1 program, the Department anticipates receiving 272 appeals each year. The Department also continues to estimate that it takes the employer one hour to comply with this requirement for a total burden of 272 reporting hours (272 appeals x 1 hour per appeal = 272 hours).
4. Request for Withdrawal (20 CFR 655.462). The regulations permit employers to request withdrawal of an application any time after it has been accepted for processing, as long as the employer complies with the terms and conditions of employment in the application and work contract with respect to all workers recruited and hired in connection with that application. Based on its recent experience with the CW-1 program, the Department anticipates approximately 917 withdrawal requests each year. The Department also estimates that it takes the employer 10 minutes to make a withdrawal request for a total burden of 155.89 reporting hours (916 notices x 0.17 hours per notice = 155.89 hours). See the table below.

H. Integrity Measures

1. Audit Examinations (20 CFR 655.470). The regulations authorize the Department at its discretion to audit applications to ensure program integrity. Based on the results of these audits or other information, the Department may revoke a certified application and/or place an employer, agent, or attorney in debarment proceedings. The audit process requires employers to respond to notices sent by the Department. However,

such responses are exempt from the paperwork burden under 5 CFR 1320.3(h)(6), (9) and 1320.4(a)(2). See the table below.

2. *Certifying Officer (CO)-ordered Assisted Recruitment (20 CFR 655.471)*. In cases where the employer violates the terms of the program and the Department determines that the violation does not warrant debarment, the CO may require the employer to undergo assisted recruitment for a defined period of time for any future *CW-1 Application for Temporary Employment Certification*. The Department estimates that assisted recruitment could be mandated connection with approximately 28 applications. The time required to conduct recruitment is already accounted for in the recruitment burden calculation in Subsection D, above. The Department estimates that an employer engaged in assisted recruitment will spend an additional hour on recruitment activities, resulting in a total of 28 reporting hours (28 assisted recruitment applications x 1 hour per application = 28 hours). See the table below.

Total Annual Burden Hours for the CW-1 Information Collection (OMB Control Number 1205-0534):

Total Burden Hours:	71,078.16 hours
Total Responses:	159,308 responses
Total Respondents:	1,310 respondents

II. Total Hourly Cost Estimates

The Department anticipates receiving applications requesting temporary labor certification under the CW-1 program from employers operating across a wide spectrum of industry sectors in the CNMI economy. The Department believes that in most companies, a Human Resources manager will perform these activities. Thus, to calculate the full cost to the employer, the mean hourly wage of Human Resources managers needs to be combined with the benefits and other compensation received by such employees. The Department used the

mean hourly wage rate for private sector Human Resources managers in the CNMI.² The prevailing wage rate for Human Resources managers in the CNMI is \$25.13,³ while benefits averaged 31.5 percent of total employee compensation.⁴ The estimated average hourly compensation for a human resources manager in the CNMI, including wages and benefits, is thus \$33.05 (\$25.13 + (\$25.13 x .315)).

The Department estimates that a Human Resources manager will take time to complete and retain the forms and supporting documentation in the amount of \$2,180,799.64.⁵

Table of Estimated Burdens

Information Collection Activity	Number of Respondents	Frequency	Total Annual Responses ⁶	Time Per Response (in hours)	Total Annual Burden (in hours)	Hourly Rate	Annual Cost (in dollars)
Proof of Agent Relationship	196	3.46	678	0.5	339	\$33.05	\$11,204
Contracts with Third Parties to Comply with Prohibitions	1,310	6.47	8,476	0.25	2,119	\$33.05	\$70,032.95
Form ETA-9141C	1,310	6.47	8,476	0.77	6,526.52	\$33.05	\$215,701.48
Appeal of Prevailing Wage Determination	6	1	6	1	6	\$33.05	\$198.3
Retention of 9141C Documents	1,310	6.47	8,476	0.17	1,440.92	\$33.05	\$47,622.40
Form ETA-9142C	1,310	6.47	8,476	0.75	6,357	\$33.05	\$210,098.85
Form ETA-9142C Appendix A	27	8.48	229	0.25	57.25	\$33.05	\$1,892.11
Form ETA-9142C Appendix B	83	5.12	425	0.33	140.25	\$33.05	\$4,635.26
Form ETA-9142C Appendix C	1,310	6.47	8,476	0.33	2,797.08	\$33.05	\$92,443.49
Waiver for Emergency Situations	6	4.67	28	0.5	14	\$33.05	\$462.7
Modify Application/Job Offer	437	6.47	2,827	1	2,827.39	\$33.05	\$93,445.23
Amend Application/Job Offer	197	6.46	1,273	0.5	636.50	\$33.05	\$21,036.32
Post Ad with CNMI Department of Labor	1,310	6.47	8,476	1	8,476	\$33.05	\$280,131.8
Contact Former Employees	1,310	6.47	8,476	1	8,476	\$33.05	\$280,131.8
Notice of Job Posting	1,310	6.47	8,476	0.5	4,238	\$33.05	\$140,065.9

² Source: 2016 CNMI Prevailing Wage and Workforce Assessment Study, <http://i2io42u7ucg3bwn5b3l0fquc.wpengine.netdna-cdn.com/wp-content/uploads/2017/09/2016-PWWAS-Report-One-Full-Report-v1.1-1-1.pdf>. The wage rates used here “include all applicable fringe benefits.”

³ *CW-1 Prevailing Wage Table – September 30, 2020*, U.S. Department of Labor, <https://www.dol.gov/agencies/eta/foreign-labor/programs/cw-1#wages>.

⁴ *Employer Costs for Employee Compensation – June 2020*, U.S. Department of Labor, Bureau of Labor Statistics, www.bls.gov/news.release/ecec.toc.htm.

⁵ Total cost is outlined in the chart below.

⁶ The figures provided for the total annual responses are rounded to the nearest whole number.

Additional Employer Recruitment	540	3.65	1,971	0.25	492.75	\$33.05	\$16,285.38
Recruitment Report	1,310	6.47	8,476	1	8,476	\$33.05	\$280,131.8
Translating Work Contract	1,310	6.47	8,476	1	8,476	\$13.19	\$111,798.44
Reproducing Work Contract	1,310	21.77	28,519	0.08	2,281.50	\$33.05	\$75,403.44
Mailing Work Contract	1,310	21.77	28,519	0.17	4,848.18	\$33.05	\$160,232.31
Retention of 9142C Documents	1,310	6.47	8,476	0.17	1,440.92	\$33.05	\$47,622.40
Notice of Abandonment or Termination	95	1.08	103	0.17	17.51	\$33.05	\$578.70
Extension Certified Time Period	77	3.60	277	0.5	138.50	\$33.05	\$4,577.42
Administrative Appeals	136	2.00	272	1	272	\$33.05	\$8,989.6
Withdrawal Request	314	2.92	917	0.17	155.89	\$33.05	\$5,152.16
CO-ordered Assisted Recruitment	8	3.50	28	1	28	\$33.05	\$925.4
TOTAL	1,310*		159,308		71,078.16		\$2,180,799.64

* The Department estimates that approximately 1,310 employers in the CNMI will request labor certifications annually under this program. As explained in this supporting statement, a CNMI employer seeking a labor certification from the Department under the CW-1 program must request a prevailing wage determination and a labor certification and comply with recordkeeping requirements. The estimated total number of respondents (e.g., employers) cannot be aggregated.

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.

To participate in the program, the employer is required to generate records and retain them. The only supplies needed to store and maintain these records are filing cabinets and filing folders; however, employers have the option of maintaining records in an electronic format. The Department estimates that the initial cost to employers is minimal because it is a customary and usual business practice for businesses to have storage space, whether physical or electronic.

Annual Costs: There are no annual costs involved with operation and maintenance because ETA will be responsible for the annual maintenance costs for the free downloadable forms and the web-based data collection and reporting system.

However, there are several provisions that require employers to expend funds beyond their normal and usual business expenses. Specifically, all employers who use foreign workers who do not speak English will be required to translate their applications. These expenses are estimated to cost employers \$111,798.44 each year as described in the line item titled “Translating Work Contracts” in the table above.

Translation Costs: The Department estimates that, for translation of the Form ETA-9142C, employers will pay an average of \$13.19 per hour for one hour for an estimated annual cost of \$111,798.44 (\$13.19 x 8,476 applications).⁷

A.14. 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 approximately \$4,391,323 in annual costs will be required to administer the CW-1 program. This total comprises \$4,325,823 in federal administration costs and \$65,500 in Commonwealth-level costs funded by federal grants.

Federal administrative costs include salaries and expenses for the staff who process applications for CW-1 labor certifications and prevailing wage determinations; the IT systems that support application-filing and case-processing operations; rent; supplies; and agency indirect costs, which include support for human resources, financial and administrative oversight, and contracts management. The table below provides a detailed breakdown by major cost category of OFLC's annualized costs to administer the CW-1 labor certification and prevailing wage determination programs.

Major Cost Category	Cost Activities	Annualized Costs (estimated)
Federal Salaries & Benefits	<u>National Processing Centers</u> <ul style="list-style-type: none"> ▪ GS-12/13 staff processing applications ▪ GS-14/15 operations management ▪ Other federal administrative support <u>OFLC Headquarters</u> <ul style="list-style-type: none"> ▪ Management support, policy development, and stakeholder training ▪ Budget, contract and procurement management 	\$2,313,206
Contracts for Services (not technology related)	<ul style="list-style-type: none"> ▪ Mail, data entry, and other clerical support services ▪ Case processing and administrative support for operations 	\$983,191
Technology (IT) Contracts	<ul style="list-style-type: none"> ▪ Application development services & network infrastructure support ▪ Hardware & software updates 	\$230,710
GSA & DHS Services	<ul style="list-style-type: none"> ▪ Rent payments for office space ▪ Security services 	\$192,595
DOL Working Capital Assessment	<ul style="list-style-type: none"> ▪ Indirect costs associated with DOL administrative and executive management services 	\$582,054
Supplies & Equipment	<ul style="list-style-type: none"> ▪ General office supplies ▪ Computers, printers, and other office related equipment 	\$3,707
Mail, Printing and Telecommunications	<ul style="list-style-type: none"> ▪ Mail services ▪ Phone and telecommunication charges ▪ Security Paper for transmission of approved applications 	\$209

⁷ The Department used the prevailing wage rate for Interpreters and Translators in the CNMI. *CW-1 Prevailing Wage Table – September 30, 2020*, U.S. Department of Labor, <https://www.dol.gov/agencies/eta/foreign-labor/programs/cw-1#wages>.

Other Costs	<ul style="list-style-type: none"> ▪ Travel ▪ Training and other Government Agency Services 	\$20,151
TOTAL COSTS – OFLC FEDERAL ADMINISTRATION		\$4,325,823

Commonwealth-level CW-1 activities include, but are not limited to, reviewing and placing job orders to recruit U.S. workers, processing required notifications for amendments to job orders received from employers and the Department, and conducting prevailing wage and practice surveys. Staff from CNMI’s Department of Labor submits annual work plans to OFLC to establish continued eligibility for these grants. These work plans describe the specific activities and workload expectations of the CNMI’s Department of Labor during the upcoming year. Estimated costs for these Commonwealth-level activities are approximately \$65,500 per year.

A.15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

There are burden changes in connection with Forms ETA-9141C and ETA-9142C; specifically, the Department is reporting a decrease in the total annual burden hours have from 73,987 burden hours to 71,078.16 burden hours. The Department attributes these changes to the fact the CW-1 program has now been in place since April of 2019, and new estimates were based on most recent experience and good faith estimates derived through new methodology on how to project the future responses, per requirement and category, that might be received in the next three years. In addition, during this renewal cycle, the Department has made some necessary, clarifying changes to the Form ETA-9141C and its instructions, to make sure that form conforms to the general Form ETA-9141, which is used by employers in connection with most other foreign labor certification programs and for the labor condition application. These changes also improve readability and avoid grammatical errors or inaccuracies in the information collection tools. None of these changes prompted updates on the estimated time burdens disclosed.

A.16. 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.

OFLC discloses information about employer applicants to the public through its website at <https://www.foreignlaborcert.doleta.gov>. For the CW-1 program and except for Federal Employer Identification Numbers, information contained on employer applications for temporary labor certification (Form ETA-9142C) will be publicly accessible in easy-to-download Microsoft Excel format. For statistical purposes, information collected through this collection is periodically aggregated to provide the public with information on program usage on a quarterly and annual basis. This information is published at least quarterly.

A.17. 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.

A.18. 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. Collection of Information Employing Statistical Methods

This information collection does not employ statistical methods.