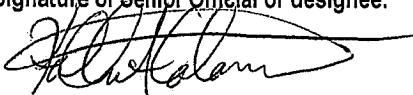


PAPERWORK REDUCTION ACT CHANGE WORKSHEET

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|---|---|---------------------------------------|--|
| Agency/subagency Department of Homeland Security, U.S. Citizenship and Immigration Services | | OMB Control Number 1615 - 0009 | |
| <i>Enter only items that change</i> | | | |
| | | Current record | New record |
| Agency form number (s) I-129 | | | |
| Annual reporting and recordkeeping hour burden Number of respondents Total annual responses Percent of these responses collected electronically Total annual hours Difference Explanation of difference Program change Adjustment | | | |
| | | | |
| | | | |
| | % | % | |
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| | | | |
| Annual reporting and recordkeeping cost burden (in thousands of dollars) Total annualized Capital/Startup costs Total annual costs (O&M) Total annualized cost requested Difference Explanation of difference Program change Adjustment | | | |
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| Other changes** USCIS must amend the Form I-129 to specifically ask whether a petitioner received funding under the Troubled Assets Relief Program (TARP). The provisions are contained in section 1611 of the Employ American Workers Act. See attached for more information. | | | |
| Signature of Senior Official or designee:  | | Date: 3-06-09 | For OIRA Use _____ _____ |

** This form cannot be used to extend an expiration date.

Statement of Need for I-129 Change

What amendment is being requested?

We need to add a new question to the Data Collection and Filing Fee Exemption Supplement of Form I-129, Petition for Nonimmigrant Worker, to ask whether the petitioner has received TARP funding.

Where will this amendment appear?

This amendment will appear as a new question #1(d) on the Data Collection and Filing Fee Exemption Supplement of Form I-129, Petition for Nonimmigrant Worker. A conforming amendment will be made on page 4 of the filing instructions to advise petitioners how to determine whether this question applies to them and if so, how to answer it.

Why is this amendment necessary?

The Troubled Assets Relief Program ("TARP"), as described in the Employ American Workers Act (sec. 1611 of Div. A, Title XVI of Public Law 111-5) was signed into law on February 17, 2009 and became effective on the date of enactment. Employers who receive TARP funding must comply with the H-1B Dependent Employer provisions of section 212(n)(3) of the Immigration and Nationality Act (Act). In general, section 212(n) of the Act requires H-1B petitioners to attest to prevailing wages and working conditions, by filing a Labor Condition Application (LCA) with the U.S. Department of Labor (DOL). H-1B petitioners who are subject to the H-1B Dependent Employer provisions, because they received TARP funds, must establish that they did not displace and will not displace any U.S. worker during the period beginning 90 days before, and ending 90 days after, the filing of an H-1B petition supported by the underlying LCA. The additional attestations for H-1B dependent employers are part of the LCA, and all H-1B petitions must be supported by a valid LCA. Therefore, USCIS must add a question to the Form I-129/Data Collection and Filing Fee Exemption Supplement, to specifically ask whether the petitioner has received TARP funds. This additional question on the Data Collection and Filing Fee Exemption Supplement of Form I-129 will prompt USCIS adjudicators to check the underlying LCA to ensure that the section regarding TARP funding and additional attestations have been completed.

When does the I-129 Amendment Need to Become Effective?

The amendment to the Data Collection and Filing Fee Exemption Supplement of Form I-129 to include the additional question regarding TARP funding (and the conforming amendment to the filing instructions) must become effective immediately. The next filing acceptance period for the FY '10 H-1B cap begins on April 1, 2009. This form change must be made in time for this filing acceptance period. Petitioners have already begun preparing their H-1B cap subject filings for this next filing acceptance period. As a result, the required form change must become effective immediately to ensure that petitioners submit the correct version of the Supplement with their FY '10 H-1B cap subject filings.