

**SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL  
UNDER THE PAPERWORK REDUCTION ACT OF 1995**

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## **SUPPORTING STATEMENT**

### **APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION AND APPLICATION FOR PREVAILING WAGE DETERMINATION FINAL RULEMAKING FOR H-2B PROGRAM TECHNICAL CHANGES FOR H-1B, H-1B1, H-1C, E-3, AND PERM PROGRAMS**

#### **A. Justification**

##### *A.1. Circumstances that make the collection of information necessary.*

The information collection for the H-2B Final Rulemaking is required by sections 203(b)(3), 212(a)(5)(A), 212(m), (n), (t), and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1153(b)(3), 1182(a)(5)(A), 1182(m), (n), (t), and 1184(c)) and Title 8 CFR § 214.2 (h). The INA requires the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States for the purpose of performing certain skilled or unskilled labor will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. The Secretary must also certify that there are not sufficient U.S. workers able, willing, and qualified to perform such skilled or unskilled labor. Before any employer may petition for any temporary or permanent skilled or unskilled foreign workers, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and regulations, which differ depending on the visa program under which the labor is sought. The form currently in use for the temporary H-2A and H-2B programs is the ETA 750A (OMB control number 1205-0015) and the ETA 9089 (1205-0451) for the PERM program. In addition, before the Secretary of Labor can certify that wages for U.S. workers have not been adversely affected, she must ensure that the wages being paid the foreign workers are the same as those being offered and paid to U.S. workers. In the past, this task was delegated to the State Workforce Agencies (SWA). However, extensive program experience has shown that these methods need to be updated. This, together with the recent policy changes have made it necessary for the Department of Labor (Department) to streamline the processes and has led to the development of new forms and operations to take over these functions.

The Department is publishing amended regulations at 20 CFR Parts 655 and 656, which includes a Paperwork Reduction Act notice for these forms, outlining in detail the process for seeking temporary labor certification for foreign workers to be employed in the U.S. The information contained in the new forms ETA 9142 and ETA 9141 is the basis for the Secretary's determination of the wage employers must pay U.S. and foreign workers in order to not have an adverse effect on wages and determining that no U.S. workers are available.

The new Form ETA 9142 will be used instead of the ETA 750 to collect information to permit the Department to meet its statutory responsibilities for administering the H-2A

and H-2B temporary labor certification programs. The H-2A program enables employers to bring nonimmigrant foreign workers to the U.S. to perform agricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101 (a)(15)(H)(ii)(a). The Supporting Statement and hourly burden for that Final Rulemaking are in a separate IC in ROCIS, but under the same ICR and OMB control number (1205-0466) as this IC. The H-2B program enables employers to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101 (a)(15)(H)(ii)(b).

Prior to submitting a request for certification to the Secretary of Labor, the employer must obtain a prevailing wage for the place of employment in order to ensure that wages are not being adversely affected by bringing in foreign workers. Under the current regulations, employers contact their local State Workforce Agency (SWA) to obtain a prevailing wage for any labor certification issued by the Department. The Department has decided to federalize this process because the database used by the SWAs for determining the prevailing wage is produced by the Department. The Employment & Training Administration's National Processing Center (NPC) in Chicago, Illinois will be performing the necessary research and analysis to determine the wage employers must pay their foreign workers. To aid the NPC in the process, the Department has created a form for the collection of information necessary to accurately determine the nature of the job and its proper classification, which in turn will yield the proper wage to be paid. The form is attached to this Paperwork Reduction Act supporting statement.

The Final Rule for the H-2B program (the subject of this IC) also includes technical corrections to the H-1B (including H-1B1 and E-3), H-1C, and the PERM programs federalizing the prevailing wage determination process. Therefore, this information collection supporting statement includes the hourly burdens and costs for those programs as well. The PERM program establishes a means for employers to bring immigrant foreign workers to the U.S. to fill permanent full-time positions as defined in 8 U.S.C. § 1153(b)(3). The H-1B program establishes a means for employers to bring professional nonimmigrant foreign workers to the U.S. to fill temporary specialty occupations as defined in 8 U.S.C. § 1101(a)(15)(H)(i)(b), (H)(i)(b)(1), and 8 U.S.C. § 1101(a)(15)(E)(iii) and explained in 8 CFR § 214.2(h)(4). The H-1C program establishes a means for hospitals located in health professional shortage areas to hire foreign nurses as defined in 8 U.S.C. § 1101(a)(15)(H)(i)(c) and explained in 8 CFR 214.2(h)(3).

*A.2. How, by whom, and for what purpose the information is to be used.*

In order to meet its statutory responsibilities under the INA, the Department needs to request a new collection of information pertaining to employers seeking to import foreign labor. The Department uses the information collected to determine eligibility of an employer for the H-2A nonimmigrant temporary agricultural worker program and the H-2B nonimmigrant temporary nonagricultural worker program and to

determine the appropriate wages that must be paid by an employer to both U.S. and foreign workers in all programs.

*A.3. Extent to which collection is automated, reasons for automation, and considerations for reducing impact on burden.*

In compliance with the Government Paperwork Elimination Act, the Department anticipates approval by the Office of Budget and Management (OMB) for this form to be available via the Internet and will be fillable and fileable on-line. However, until the computerized forms are fully operational, the forms will be available on-line as a fillable-printable form or by mail from the Department for manual filing.

*A.4. Efforts to identify duplication – why similar information already available cannot be used for purpose described in A.2.*

The information required is sufficiently specific to avoid duplication of activities within or without the Department for the H-2B, H-1B, H-1B1, E-3, H-1C, and PERM programs. The duplication found in the H-2A program was dealt with in that Final Rule and associated Supporting Statement and led to the Department's decision not to use the form ETA 9141 for that program. Therefore, the IC for the H-2A program does not contain the ETA 9141.

*A.5. Efforts to minimize burden on small businesses.*

The information collection is required of small businesses who want to import foreign labor. However, the recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes.

*A.6. Consequences to Federal program if collection not done or done less frequently and any technical or legal obstacles to reducing the burden.*

The Department would be in direct violation of law and regulations if this information was not collected.

*A.7. Special circumstances for conducting information collection.*

There are no special circumstances that would require the information to be collected or kept in any manner other than those normally required under the Paperwork Reduction Act except the regulatory requirement that employers retain the records and supporting documents used to fill in the forms for at least three years for the H-2B and H-1C programs, five years for the PERM program, and one year beyond the validity of the certified Labor Condition Application.

*A.8. Summary of public comments.*

The public was given the opportunity to comment on this ICR twice for a total of 120 days as part of the Notice of Proposed Rulemaking for the H-2A program (RIN 1205-AB55) and the H-2B program (RIN 1205-AB54). The comments received during the H-2A comment period are included in that IC. Six comments were received as part of the H-2B rulemaking and are dealt with in the preamble of the Final Rule. None of the comments dealt with the Department's methodology for calculating the hourly burden.

*A.9. Explanation of decision to provide any payment or gift to respondents.*

No payments or gifts will be made to respondents.

*A.10. Assurance of confidentiality provided to respondents.*

The information collected is not exempt from full disclosure under the Freedom of Information Act.

*A.11. Justification for any sensitive questions.*

The information collected does not involve sensitive matters.

*A.12. Estimated hourly burden by the H-2B final rule (RIN: 1205-AB54).*

Based on previous program experience, the Department estimates it will receive approximately 12,000 submissions for the H-2B program and 420,000 applications a year for the H-1B program, 172 applications a year in the H-1C program, and 100,000 submissions a year for the PERM program. The hourly burdens are separated by program.

I. The H-2B Program

A. Determination of prevailing wages for labor certification purposes

In order to recruit U.S. workers and complete the ETA 9142, an employer must obtain a prevailing wage from the Department. The Final Rule requires employers to obtain the prevailing wage determination in advance of recruitment by applying to the NPC and receiving a determination. The H-2B program also allows employers to appeal the prevailing wage determination. Program experience has shown that the majority of employers will accept the NPC's determination and will, therefore, only spend 45 minutes preparing and

submitting the Application for Prevailing Wage Determination (form ETA 9141) to the appropriate NPC. In the H-2B program, the employer also has the option of submitting its own survey if it meets the requirements of 20 CFR § 655.10(f) and requesting the NPC to validate it. If the NPC finds the survey provided by the employer unacceptable, the employer may submit supplemental information for the NPC's consideration. The Department has found that in the past employers challenged the SWA's determination and/or submitted supplemental information in approximately five percent of the prevailing wage determination requests and that it will take employers 45 minutes to prepare such requests and  $\frac{3}{4}$  of those appeal the decision of the Certifying Officer to the Board of Alien Labor Certification Appeals and spend 30 minutes for the appeal. The total annual burden of the prevailing wage determinations is  $(12,000 \times .75 \text{ hours}) + (600 \times .75 \text{ hours}) + (450 \times .5 \text{ hours}) = 9,675 \text{ hours}$  reporting.

#### B. Application for Temporary Employment Certification

Employers submit an Application for Temporary Employment Certification (form ETA 9142) when they wish to employ a nonimmigrant foreign worker. The form takes approximately one hour to complete. The Department estimates, based on its operating experience, that in the upcoming year employers will file approximately 12,000 applications for a total burden of 12,000 reporting hours  $(12,000 \text{ applications} \times 1 \text{ hour} = 12,000 \text{ hours})$ .

#### C. Temporary Need Statement

In order to qualify for the H-2B program an employer must have a temporary need. The DHS regulations at 8 CFR § 214.2(h)(6)(ii)(B) defines four different types of temporary need. Therefore, an employer is required to fill in a section of the form with a narrative statement explaining and justifying its temporary need. The Department estimates that it will take each applicant one-half hour to prepare the narrative for a total burden of 6,000 reporting hours  $(12,000 \text{ applications} \times .5 \text{ hours} = 6,000 \text{ hours})$ .

#### D. Recruitment

Recruitment activities, including advertising for workers and placing job orders is a usual and customary activity of employers. Recruitment activities, including advertising for workers and placing job orders, is a usual and customary activity of employers. Therefore, under the regulations of the Office of Management and Budget at 5 CFR §1320.3(b), the resources expended by employers to comply with the recruitment provisions at § 655.15 of the proposed rule is excluded in compiling the paperwork burden estimates under the proposed rule.

Similarly, since the records required to be kept by the employer to demonstrate compliance with the advertising requirements or to prepare the required recruitment report must be retained by employers under the regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR §1602.14 (OMB Control No. 3046 -- 0040), promulgated pursuant to Title VII of the Civil Rights Act and the American With Disabilities Act, and 29 CFR §1627.3(b)(3) (OMB Control No. (3046 -- 0018), promulgated pursuant to the Age Discrimination in Employment Act, at 29 CFR §1627.3(b)(3), the burden to maintain such records can be excluded in compiling the paperwork burden under the proposed rule. For example, § 1602.14 requires the employer to keep “(a)ny personnel or employment record made or kept by an employer (including but not limited to requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be kept for a period of one year from the date of making of the record or the personnel action involved, whichever occurs later. . . .”

The records that employers must maintain pursuant to 29 CFR §1627 (b)(3)(a) (1) that was promulgated pursuant to the Age Discrimination in Employment Act, includes but are not limited to the following:

- o Job applications, resumes or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual.
- o Promotion, demotion, transfer, selection for training, layoff, recall or discharge of any employee.
- o Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel and job openings.
- o Any advertisement or notice to the public or to employees relating to job openings, promotions, training programs, or to opportunities for overtime work.

However, the time required to prepare the required recruitment report is not excludable in compiling the burden under the regulation. Section 1602.14 does not require an employer to create any records, but rather requires an employer to preserve all personnel or employment records which the employer “made or kept.” Once made or kept (i.e., records received from others which are not immediately discarded) EEOC regulations requires that these records be preserved.

All employers that file applications under the H-2B process at 20 CFR § 655.20 must prepare and retain a summary report under § 655.15(i) signed by the employer describing the recruitment steps undertaken and the results achieved, including the number of hires, and if applicable the number of U.S. workers rejected, summarized by the lawful job related reasons. The recruitment report may be requested by the Certifying Officer along with the resumes or applications of U.S. workers sorted by the reasons they were rejected under § 655.23(c) – request for additional information and during an audit under § 655.24. The Department estimates that it will take an average of 1 hour for an employer to prepare a recruitment report for each application it files, and, if requested by the Certifying Officer, sort the resumes or applications it received by the reasons they were rejected. Since the Department anticipates that 12,000 Applications for Temporary Employment Certification will be filed with the Department of Labor, the total annual burden for preparing recruitment reports is estimated to amount to 12,000 recordkeeping hours (12,000 applications x 1 hour = 12,000 hours).

#### E. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per application to retain an application and required supporting documentation in the two years following the mandated one year retention for companies subject to Title VII and three years for all other employers. This results in an annual burden of 2,000 recordkeeping hours (12,000 applications X 10 minutes ÷ 60 minutes = 2,000 hours).

#### F. Supervised Recruitment

In cases where the employer did not comply with the terms of the program and the Department determines it to be appropriate, some employers will be required to be supervised during their next participation in the program. The Department estimates that employers will be required to conduct supervised recruitment with respect to five percent of the applications and the time required to conduct such recruitment will average one hour per application for an annual burden of 600 reporting hours (12,000 x 5% x 1 hour = 600 hours) with some employers expending five hours, while the majority expending one-half hour to place the advertisement, receive and analyze resumes and interview candidates. Employers will also be required to provide a recruitment report to the Certifying Officer that on average will take one hour to prepare for an annual burden of 600 reporting hours (12,000 x 5% x 1 hour = 600 hours). Therefore, it is estimated that the total annual burden associated with conducting supervised recruitment will amount to 1,200 reporting hours (600 + 600 = 1,200 hours).

Annual Burden Hours for H-2B Information Collections:  
Form ETA 9141 – 9,675 Reporting Hours



Form ETA 9142–19,200 Reporting and 14,000 Recordkeeping Hours

Average Time Per Application Process:

Form ETA 9141 – 45 minutes

Form ETA 9142 – 2.75 hours

II. The H-1B program (including H-1B1 and E-3)

A. Determination of wages to be paid for labor certification purposes

In order to complete the ETA 9035 (Labor Condition Application- OMB control number 1205-0310), an employer must determine the appropriate wage to pay foreign workers. The regulations require employers to obtain the appropriate wage in advance of submitting the Labor Condition Application (LCA). The employer may review wage information available through the Department of Labor Employment & Training Administration's on-line OES library, in consultation with the NPC, or utilize other legitimate sources. If the employer chooses to use the Department's on-line source or request a determination through the NPC using form ETA 9141, it will take employers 45 minutes to either file a request with the NPC or navigate the Web to find the Department's prevailing wage. Program experience has shown that at least 90% of applications use these two methods. The total annual burden of the prevailing wage determinations is 283,500 reporting hours (420,000 x .90 x .75 hours = 283,500 hours).

B. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per LCA to retain the prevailing wage determination and required supporting documentation during the requisite retention period. This results in an annual burden of 70,000 recordkeeping hours (420,000 applicants x 10 minutes ÷ 60 minutes = 70,000 hours).

Annual Burden Hours for H-1B Information Collections:

Form ETA 9141 only – 283,500 Reporting Hours and 70,000  
Recordkeeping Hours

Average Time Per Application Process:

Form ETA 9141 only – 55 minutes

III. The H-1C program

A. Determination of wages to be paid for labor certification purposes

In order to complete the ETA 9081 (Attestations for H-1C Nonimmigrant Nurses – OMB control number 1205-0415), an employer must determine the appropriate wage to pay foreign workers. The regulations require employers

to obtain the appropriate wage in advance of submitting theta 9081. Using form ETA 9141, it will take employers 45 minutes to either file a request with the NPC or to locate its collective bargaining agreement and request the NPC to validate the wage stipulated in the collective bargaining agreement. The total annual burden of the prevailing wage determinations is 129 reporting hours (172 x .75 hours = 129 hours).

#### B. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per ETA 9141 to retain the prevailing wage determination and required supporting documentation during the requisite retention period. This results in an annual burden of 29 recordkeeping hours (172 applications x 10 minutes ÷ 60 minutes = 29 hours).

Annual Burden Hours for H-1C Information Collections:

Form ETA 9141 only – 129 Reporting Hours and 29 Recordkeeping Hours

Average Time Per Application Process:

Form ETA 9141 only – 55 minutes

### IV. The PERM program

#### A. Determination of wages to be paid for labor certification

In order to recruit U.S. workers and complete the ETA 9089 (Application for Permanent Employment Certification – OMB control number 1205-0451), an employer must determine the appropriate wage to pay workers. The Department is considering amending its regulations to require employers to obtain the appropriate wage in advance of recruitment by applying to the appropriate NPC using form ETA 9141 and receiving a determination. Program experience has shown that the majority of employers will accept the NPC's determination and will, therefore, only spend 30 minutes preparing and submitting the Application for Prevailing Wage Determination (form ETA 9141) to the NPC. In the PERM program, the employer has the option of submitting its own survey if it meets the requirements of 20 CFR § 656.40(g) and requesting the NPC to validate it. If the NPC finds the survey provided by the employer unacceptable, the employer may submit supplemental information for the NPC's consideration. The PERM program also allows employers to appeal the prevailing wage determination. The Department has found that in the past employers challenged the SWA's determination and/or submitted supplemental information in approximately five percent of the prevailing wage determination requests and that it will take employers 45 minutes to prepare such requests and  $\frac{3}{4}$  of those appeal the decision of the Certifying Officer to the Board of Alien Labor Certification Appeals and spend 30 minutes for the appeal. The total annual burden of the prevailing wage determinations is

$(100,000 \times .75 \text{ hours}) + (5,000 \times .75 \text{ hours}) + (3,750 \times .5 \text{ hours}) = 80,625$  reporting hours.

#### B. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per application to retain an application and required supporting documentation in the four years following the mandated one year retention for companies subject to Title VII and five years for all other employers. This results in an annual burden of 1,667 recordkeeping hours ( $100,000 \text{ applications} \times 10 \text{ minutes} \div 60 \text{ minutes} = 16,667 \text{ hours}$ ).

Annual Burden Hours for PERM Information Collections:

Form ETA 9141 only – 80,625 Reporting Hours and 16,667  
Recordkeeping Hours

Average Time Per Application Process

Form 9141 only – 55 minutes

#### VI. Total Hourly Cost

Employers filing applications for temporary and permanent alien employment certification may be from a wide variety of industries. Salaries for employers and/or their employees who perform the reporting and recordkeeping functions required by this regulation may range from several hundred dollars to several hundred thousand dollars where the corporate executive office of a large company performs some or all of these functions themselves. However, the Department believes that in most companies a Human Resources Manager will perform these activities. In estimating employer staff time costs, the Department used the median hourly wage rate for a Human Resources Manager (\$42.55), as published by the U.S. Department of Labor's Occupational Employment Statistics OnLine,<sup>1</sup> and increased by a factor of 1.42 to account for employee benefits and other compensation for a total hourly cost of \$60.42. Total annual respondent hour costs for all information collections are estimated as follows:

H-2A	19,185	x \$60.42	= \$	1,159,158
H-2B	42,875	x \$60.42	= \$	2,590,507
H-1B	353,500	x \$60.42	=	\$21,358,470
H-1C	158	x 60.42	=	\$ 9,546
PERM	97,292	x \$60.42	= \$	5,878,382

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<sup>1</sup> Source: Bureau of Labor Statistics 2006 wage data.

A.13. *Estimated cost burden to respondents.*

a) Start-up/capital costs: There are no start-up costs. There is no obligation to own a computer to participate in the program. Anyone without computer access can request the form from OFLC. However, to participate in the program the employer is required to generate records and retain them. The only necessary supplies needed to store and maintain the records are filing cabinets and filing folders. 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.

b) 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, subject to OMB approval, the web-based data collection and reporting system.

A.14. *Estimated cost burden to the Federal government*

The average Federal Government cost for a year of operation is estimated on an hourly basis multiplied by an index of 1.69 to account for employee benefits and proportional operating costs, otherwise known as Fully Loaded Full Time Equivalent (FLFTE). The index is derived by using the Bureau of Labor Statistics' index for salary plus benefits and the Department's internal analysis of overhead costs averaged over all employees of OFLC. The total cost to the Federal Government for the H-2B program and prevailing wage determinations for H-1B, H-1B1, E-3, H-1C, and PERM is estimated at \$8,657,532 calculated as follows:

The H-2B program:

Estimated Hours - Data Entry/Review

<u>SWA Cost to Post Job Order and Refer Applicants</u>	\$619,920
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour	
\$51.66 x 12,000 = \$619,920	
<u>Data Entry</u>	\$1,480
(A small (1%) sampling of applications will be data entered for statistical purposes)	
Clerical (GS-6, Step 3 x 1.69 FLFTE) @ 30 minutes	
\$ 24.67 x 120 applications x .5 hour = \$1,480	
<u>Staff Cost for Adjudicating Applications</u>	\$929,880
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours	
\$51.66 x 12,000 x 1.5 hours = \$464,940	

Staff Cost for Appealed Required Wage Applications \$ 73,620  
 (5% of applications are appealed)  
 Manager (GS-14, Step 5 x 1.69) @ 45 minutes  
 $\$72.60 \times 600 \times .75 \text{ hours} = \$32,670$   
 (3.75% of applications are appealed to BALCA)  
 Administrative Law Judge (AL/C3 x 1.69) @ 1 hour  
 $\$91.00 \times 450 \times 1 \text{ hour} = \$40,950$

Staff Cost for Audited or RFI Applications \$753,948  
 (30% of applications are audited or need additional information)  
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 3 hours  
 $\$51.66 \times 3,600 \times 3 \text{ hours} = 557,928$   
 Manager (GS-14, Step 5 x 1.69) @ 45 minutes  
 $\$72.60 \times 3,600 \times .75 \text{ hours} = 196,020$

Staff Cost for Supervised Recruitment \$142,830  
 (5% of applications are required to do supervised recruitment)  
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 2.5 hours  
 $\$51.66 \times 600 \times 2.5 \text{ hours} = \$77,490$   
 Manager (GS-14, Step 5 x 1.69) @ 1.5 hours  
 $\$72.60 \times 600 \times 1.5 \text{ hours} = \$65,340$

Estimated Total Cost for H-2B  
 Staff = \$2,521,678  
 Printing/Mailing = \$ 13,900  
**\$2,535,578**

The H-1B program (including H-1B1 and E-3):  
 APPLICATIONS FOR PREVAILING WAGE ONLY  
 (Only 10% request determinations from the Department requiring staff time)

Staff Cost for Adjudicating Applications \$1,627,290  
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 45 minutes  
 $\$51.66 \times 42,000 \times .75 \text{ hours} = \$1,627,290$

Estimated Total Cost for H-1B **\$1,627,290**

The H-1C program:  
 APPLICATIONS FOR PREVAILING WAGE ONLY

Staff Cost for Adjudicating Applications \$6,664  
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 45 minutes

$$\$51.66 \times 172 \times .75 \text{ hours} = \$6,664$$

<u>Estimated Total Cost for H-1C</u>	<b>\$6,664</b>
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The PERM program:

APPLICATIONS FOR PREVAILING WAGE ONLY

<u>Staff Cost for Adjudicating Applications</u>	\$3,874,500
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 45 minutes	
$\$51.66 \times 100,000 \times .75 \text{ hours} = \$3,874,500$	

<u>Staff Cost for Appealed Applications</u>	\$ 613,500
(5% of applications are appealed)	
Manager (GS-14, Step 5 x 1.69) @ 45 minutes	
$\$72.60 \times 5,000 \times .75 \text{ hours} = \$272,250$	
(3.75% of applications are appealed to BALCA)	
Administrative Law Judge (AL/C3 x 1.69) @ 1 hour	
$\$91.00 \times 3,750 \times 1 \text{ hour} = \$341,250$	

<u>Estimated Total Cost for PERM</u>	<b>\$4,488,000</b>
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Total Cost to Federal Government	<b>\$8,657,532</b>
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*A.15. Reasons for any program changes reported in Items 13 or 14 of the OMB Form 83-1.*

The increase in burden through the use of a new form, ETA-9142, occurred because the form currently in use for the temporary H-2A and H-2B programs, ETA 750A (OMB control number 1205-0015), is no longer sufficient for the Secretary of Labor's foreign worker certification responsibilities. Thus the Department of Labor proposes that information previously collected by ETA 750A would now be collected by ETA-9142 for the H-2A and H-2B programs, and ETA-9141 would be used to collect the necessary information for the newly federalized process previously done by the State Workforce Agencies for the H-2A, H-2B, H-1B (including H-1B1 and E-3) and the permanent labor certification programs.

*A.16. Method for publishing results.*

OFLC discloses information about applicants to the public on its public access webpage at <http://www.flcdatacenter.com/CaseData.aspx>. For the H-2A program,

the name and address of the employer, the number of foreign workers requested and certified, the occupation, rate of pay and hours per week guaranteed along with final determination by the Department and the dates certification begins and ends are all disclosed on the website.

For the H-2B program, the name, address, phone, and contact person of the employer and its agent, the number of foreign workers requested, the occupation, salary proposed and prevailing wage along with final determination by the Department are all disclosed on the website.

For the H-1B program, the name and address of the employer, the number of foreign workers requested, the occupation, salary proposed and prevailing wage, its source and year of publication along with final determination by the Department and the dates of validity are all disclosed on the website.

For the PERM program, the name and address of the employer, the citizenship of foreign workers requested, the occupation, salary proposed and prevailing wage along with final determination by the Department are all disclosed on the website.

*A.17. If seeking approval not to display the expiration date for OMB approval, explain why display would be inappropriate.*

The Department will display the expiration date for OMB approval on the form.

*A.18. Explanation of each exception in the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions" on OMB Form 83-1.*

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

## **B. Collection of Information Employing Statistical Methods**

No statistical methods are employed.