

**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 JOB OFFER AND REQUIRED WAGE DETERMINATION REQUEST FOR H-2A PROGRAM ONLY

A. Justification

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

The information collection associated with the H-2A Notice of Proposed Rulemaking is required by sections 214(c) and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. 1184(c), and 1188) and Title 8 CFR § 214.2 (h). 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 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.

This proposed rule is designed to obtain the necessary information for the Secretary to make an informed decision in meeting her statutory obligation. The information collected will be used, among other things, to inform U.S. workers of the job opportunity thereby testing the labor market, to determine whether or not the employer is offering the proper wage to all employees, to ensure that the employers, agents, or associations are qualified to receive foreign workers, to have written assurances from the employer of its intent to comply with program requirements, and to ensure program integrity.

Before any employer may petition for any temporary 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. The H-2A program currently utilizes the ETA Form-9142, Appendix A.1, and Appendix A.2 in the 1205-0466 information collection. It also utilizes information collected under OMB control number 1205-0134 Form ETA-790. This request for modification, which is associated with the proposed rulemaking, affects only these three forms in the information collection 1205-0466 and accounts for each of the burdens created by the proposed rule. Appendix A.1 will no longer be utilized due to the redesigned application process associated with the proposed rule. The additional burden created by the proposed rule that affect the Form ETA-790 have been accounted for in a recent submission for normal extension under control number 1205-0134.

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 information pertaining to employers seeking to import foreign labor. The Department will use the information collected to determine eligibility of an employer to sponsor H-2A nonimmigrant temporary agricultural workers.

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 forms are available via the Internet by download for manual filing by mail. Eventually, the Department intends to make the forms fillable and fileable on-line, but will seek OMB approval for such an electronic version prior to introducing the form for public use.

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

The information required in the ETA-9142 and Appendix A.2, for the most part, is sufficiently specific to avoid duplication of activities within or without the Department in the H-2A program. Appendix A.1, however, does require an agricultural employer with many crop activities to fill in the appendix and list all of the crop activities and the wage paid per crop also designating if it is a piece rate crop activity. This information is similar to that required on the ETA-790 question #11 (1205-0134). The new process created in the proposed rule requires the employer to send in the ETA-790 along with the ETA-9142 and Appendix A.2. Therefore, Appendix A.1 will no longer be used for this program or any other.

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 form for at least three years.¹

A.8. Summary of public comments.

The public will be given an opportunity to comment for 60 days on the proposed changes as part of the Notice of Proposed Rulemaking for the H-2A program (RIN 1205-AB55).

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 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 – H-2A Program only.

The Department is revising its hourly burden for the H-2A program based on the proposed rule published simultaneously with this submission. The Department previously estimated that it would receive 7,725 applications based on 2006 data. However, in FY 2008, the Department received 8,356 applications. The Department is also accounting for all information collections created by the proposed rule, which require submission of information by 10 or more people, but not necessarily on the ETA Form 9142 or Appendix A.2. By accounting for all of those submissions as part of this OMB control number, the Department plans to

¹ Other Office of Foreign Labor Certification programs except the H-1b program and PERM program have a three year retention policy. The H-1B program requires employers to keep records and supporting documents for one year beyond the validity of the certified Labor Condition Application; PERM requires records be kept five years.

eliminate OMB control number 1205-0404, which accounted for the letter writing required under the regulations that were in effect prior to January 17, 2009.

A. 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 (20 CFR 655.130-132). The form takes approximately one hour to complete. The Department previously estimated employers would file approximately 7,725 applications for a total burden of 7,725 reporting hours (7,725 applications x 1 hour = 7,725 hours). However, usage of the program has increased to 8,356, which is an additional burden of 631 reporting hours for a total of 8,356 reporting hours.

H-2A Labor Contractors (H-2ALC) have additional requirements under 20 CFR 655.132(b). They must submit the list of fixed site employers with whom they have contracted to provide H-2A workers along with copies of the contracts. They must provide copies of their Foreign Labor Contractor Certificate issued by the Wage and Hour Division, bond, drivers' licenses, and auto insurance policies. Finally, they must supply proof that the proposed housing for the workers complies with the applicable Federal, State, and local laws. The Department anticipates that it will take the 559 H-2ALC employers one hour and 20 minutes to comply with this requirements for a total burden of 745 reporting hours (559 applicants x 80 minutes ÷ 60 minutes = 745 hours)

There are times where employers miss the statutorily mandated deadline for filing an application due to unforeseen circumstances or because they are new to the program and did not realize there was a deadline. In such instances, the employer must request a waiver of the filing deadline (20 CFR 655.134(b)). In FY 2008 the Department received 151 such requests and this is not much different from other years. The Department estimates it will take employers 30 minutes to write a letter addressed to the Department explaining why they need such a waiver for a total burden of 66 reporting hours (151 requests x .5 hours = 66 hours).

Agents filing applications on behalf of employers must submit a letter authorizing such representation from the employer (20 CFR 655.133(a)). The Department believes it will take employers 30 minutes to produce such a letter and send it to the agent or attorney. In FY 2008 4,574 applications were filed by agents. Therefore, the hourly burden for this collection is 2,287 reporting hours (4,574 filers x .5 hours = 2,287).

Agents who are Farm Labor Contractors must provide a copy of their MSPA certificate (20 CFR 655.133(b)). The Department estimates it will take agents only 5 minutes to copy their certificate and attach it to the

application. In the past only 309 agents have been certified Farm Labor Contractors. Therefore the total reporting burden is 26 reporting hours (309 agents x 5 minutes ÷ 60 minutes = 26 hours).

If an application is deficient, the rule allows the employer to modify the application (20 CFR 655.144). The Department estimates that it will take an employer 30 minutes to modify its application. Last year the Department received 1151 applications requiring modification. Program experience shows that this number does not fluctuate much year to year, therefore, assuming the same rate in future years this would account for 576 reporting hours (1151 applications x .5 hours = 576 hours).

There are times when an employer needs to amend its application to increase or decrease the number of foreign workers requested or to change the dates of need due to weather or harvest conditions (20 CFR 655.145). The Department estimates it takes the employer 30 minutes to request such an amendment. Last year the Department received 668 such requests. Program experience shows that this number does not fluctuate much year to year, therefore, assuming the same rate in future years this would account for 334 reporting hours (668 requests x .5 hours = 334 hours).

B. Recruitment

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 § 655.151 and 152 of the proposed rule are 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 (20 CFR 655.154) must also 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 contact former employees as part of the recruitment (20 CFR 655.153) and to prepare the required recruitment report (20 CFR 655.156) is not excludable in compiling the burden under the regulation. The Department estimates it will take employers an average of 1 hour per application to contact old employees for a total hourly burden of 8,356 third party disclosure hours (8,356 applications x 1 hour = 8,356 hours)

Title 29 CFR 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 that are not immediately discarded), EEOC regulations requires that these records be preserved.

All employers that file applications under the H-2A process must prepare and retain a summary report under § 655.156 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 must then be submitted to the Certifying Officer by the

date indicated in the Notice of Acceptance. 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. Because the Department anticipates that 8,356 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 8,356 reporting hours ($8,356 \text{ applications} \times 1 \text{ hour} = 8,356$), which had previously been reported as 7,725 recordkeeping hours because the recruitment report was not submitted to the Department. Therefore, there is an increase in the reporting hours by 8,356 hours and a decrease of 7,725 recordkeeping hours from that previously reported.

C. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per application to retain the required wage rate determination, Application for Temporary Employment Certification, and 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 1,393 recordkeeping hours, which is an increase of 105 hours over that previously reported ($8,356 \text{ applications} \times 10 \text{ minutes} \div 60 \text{ minutes} = 1,393 \text{ hours} - 1,288 \text{ hours previously reported} = 105 \text{ hours}$).

D. Post-Certification Processes

After the Department has certified a labor certification for a certain period of employment, an employer may apply to the Department for an extension of that period of employment if the extension is needed because of weather conditions or other factor beyond the control of the employer (20 CFR 655.170). Such an extension is requested in writing. The Department estimates that it will take an employer 30 minutes to prepare and send such a request and 418 employers will make such requests annually for a total of 209 reporting hours ($418 \text{ requests} \times .5 \text{ hours} = 209 \text{ hours}$).

If an employer receives a denial of its request for a labor certification, the employer may appeal the process by filing a Notice of Appeal (20 CFR 655.171). Due to the nature of the agricultural business, the Department receives few appeals and estimates that it will receive approximately 70 appeals annually and that it will take employers 20 minutes to prepare and send the Notice of Appeal for a total hourly burden of 23 reporting hours ($70 \text{ appeals} \times 20 \text{ minutes} \div 60 \text{ minutes} = 23 \text{ hours}$).

On occasion an employer finds it necessary to withdraw an application (20 CFR 655.172). A withdrawal request may be sent by email, therefore, the

Department estimates that it will take employers approximately 10 minutes to prepare and submit a withdrawal request. The Department estimates it will receive 226 such requests annually for a total hourly burden of 38 reporting hours ($226 \text{ requests} \times 10 \text{ minutes} \div 60 \text{ minutes} = 38 \text{ hours}$).

The Department also proposes to use audits, revocation, and debarment to increase program integrity. All of these integrity measures require the employers to respond to notices by the Department. However, all of these responses are exempt from the hourly burden calculations. Title 5 CFR 1320.3(h)(6) and (9) exempt from collection requests that require facts or opinions be submitted, which are addressed to a single entity and facts or opinions obtained or solicited through non-standardized follow-up questions designed to clarify responses to approved collections of information. Likewise 5 CFR 1320.4(a)(2) exempts administrative actions such as audits of specific individuals or entities.

E. Notification Requirements

The proposed rule requires employers to notify its H-2A workers of their duty to depart the United States after the contract period ends (20 CFR 655.135(i)) and of their rights by posting a Department issued Workers' Rights Poster (20 CFR 655.135(l)). The rule also requires employers to contractually forbid their foreign labor recruiters from charging the H-2A workers any recruitment fees (20 CFR 655.135(k)).

The requirement to post a government provided poster for disclosure to the public is exempt from the hourly burden calculations because it is specifically excluded from the definition of "collection of information" under 5 CFR 1320.3(c)(2). However, the other two notification requirements are not exempt. The Department estimates that it will take each employer approximately 2 minutes to orally inform its H-2A workers of their duty to leave the U.S. during the workers' orientation at the beginning of the contract period for a total burden of 278 third party disclosure hours ($8,356 \text{ applications} \times 2 \text{ minutes} \div 60 \text{ minutes} = 278 \text{ hours}$).

The Department estimates that it will take 5 minutes for employers to ensure that the contracts they have with foreign labor recruiters comply with 20 CFR 655.135(k) each time they submit an application to the Department. The total burden will be 696 third party disclosure hours ($8,356 \text{ applications} \times 5 \text{ minutes} \div 60 \text{ minutes} = 696 \text{ hours}$).

F. Complaints

The proposed rule provides several avenues for aggrieved parties to complain to the Federal Government. The hourly burdens for three of those methods are calculated under other information collections. The

hourly burden in utilizing the Job Service Complaint System in 20 CFR 655.185 and 29 CFR 501.2 is accounted for under OMB control number 1205-0039. The hourly burden associated with filing complaints with the Wage and Hour Division of the Department is accounted for under OMB control number 1215-0001. Complaints of immigration discrimination in hiring practices can be filed with the Department of Justice's Office of Special Counsel for Immigration-related Unfair Employment Practices on either that office's Charge Form or in a letter addressed to the Special Counsel.

Individuals who would like to complaint about unfair employment practices relating specifically to the withholding of U.S. workers until the H-2A workers have arrived in the United States under 20 CFR 655.157 must do so by filing a complaint with the Secretary. There is no form for this type of complaint. The Department estimates it would take an individual 30 minutes to prepare and send such a complaint. However, in over 20 years of program experience, the Department has never received such a complaint, therefore, we estimate that the burden is zero.

G. Meal Charges

Employers who provide three meals a day for their workers may deduct the cost of the meal from the employee's paychecks up to the maximum allowed by 20 CFR 655.173. However section 655.173 also allows an employer to petition for higher meal charges. The Department anticipates receiving 84 such requests and that it will take employers approximately 1 hour to prepare the petition for a total of 84 reporting hours (84 petitions x 1 hour = 84 hours).

The annual hourly burden and change from the previous submission are reflected in the chart below.

Hourly Burden

NPRM Section	IC Action	Req. to Rspnd ²	Covered under OMB#	Total # of Resp.	Current Hourly Burden	↑ or ↓ in Burden due to NPRM	Total Hours OMB Approved	Total Change Request in hours
655.130, 131, 132	Fill out 9142	M	1205-0466	8,356	1 hour	0	7,725	631
655.132 (b)(1)	List fixed site E'r	M	1205-0466	559	0	30 min.	0	280
655.132 (b)(2)	Submit FLC Cert.	M	1205-0466	559	0	5 min.	0	47
655.132 (b)(3)	Proof of Bond	M	1205-0466	559	0	5 min.	0	47

² Obligations to respond are either voluntary (V), mandatory (M), or required to receive the benefit (R).

655.132 (b)(4)	Contracts w/FSE	M	1205- 0466	559	0	30 min.	0	280
655.132 (b)(5)(i)	Housing Approval	M	1205- 0466	559	0	5 min.	0	47
655.132 (b)(5)(ii)	DL & Auto Ins.	M	1205- 0466	559	0	5 min.	0	47
655.133 (a)	Letter of Rep.	M	1205- 0466	4,574	0	30 min.	0	2,287
655.133 (b)	Agent's FLC Cert	M	1205- 0466	309	0	5 min.	0	26
655.134 (b)	Filing Waiver	R	1205- 0466	151	0	30 min.	0	76
655/135 (i)	Notify Duty to Depart	M	1205- 0466	8,356	0	2 min.	0	278
655.135 (j) & (k)	Inform of Fee Prohibition	M	1205- 0466	8,356	0	5 min.	0	696
655.144	Modify Applicatio n	R	1205- 0466	1151	0	30 min.	0	576
655.145	Amend Applicatio n	R	1205- 0466	668	0	30 min.	0	334
655.153	Contact old employee s	R	1205- 0466	8,356	0	1 hour	0	8,356
655.156	Recruitme nt Report	R	1205- 0466	8,356	1 hour	0	7,725	631
655.157	Withholdin g workers complaint s	V	1205- 0466	0	0	30 min.	0	0
655.167	Document retention	M	1205- 0466	8,356	10 min.	0	1,288	105
655.170	Extension Applicatio n	R	1205- 0466	418	0	30 min.	0	209
655.171	Notice of Appeal	R	1205- 0466	70	0	20 min.	0	23
655.172	Request withdrawal	R	1205- 0466	226	0	10 min.	0	38
655.173	Increase meal charges	R	1205- 0466	84	0	1 hour	0	84

The total annual hourly burden due to this NPRM is:

21,110 Reporting hours

1,393 Recordkeeping hours

9,330 Third Party Disclosure hours

Total: 31,833 hours

Monetized Hourly Burden

Employers filing applications for temporary 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 hourly wage rate for a Human Resources Manager (\$39.50), as published by the U.S. Department of Labor's Occupational Employment Statistics OnLine,³ and increased by a factor of 1.43 to account for employee benefits and other compensation for a total hourly cost of \$56.50.

Total annual respondent hourly costs for the H-2A program under 1205-0466 are
31,833 hours x \$56.50 = \$1,798,565

Type of Collection	Hourly Burden	Cost Burden
Reporting	21,110	\$1,192,715
Record Keeping	1,393	\$ 78,705
Third Party Disclosure	9,330	\$ 527,145

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. However, there is a one-time fee the H-2A applicant must pay the

³ Source: Bureau of Labor Statistics 2009 OES wage data.

Department after its application has been approved. The proposed rule stipulates that the applicant who receives an approved labor certification must pay \$150 plus \$15 for each foreign worker requested with an overall cap of \$2,000 per application. Assuming a 95% approval rate and the same amount of approved foreign workers as in previous years at 94,445, the Department estimates the maximum cost to employers will be \$2,607,405 $[(8,356 \text{ applicants} \times .95 \times \$150) + (94,445 \text{ foreign workers} \times \$15)]$.

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 future 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). For State government workers working under Federal grant to perform the functions necessary under this proposed rule the FLFTE factor is 1.52. 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-2A program is estimated at \$1,448,659 calculated as follows:

Estimated Hours - Data Entry/Review

<u>NPC Staff Cost for Verifying the Prevailing Wage</u>	\$107,918
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 15 minutes	
$\$51.66 \times 8,356 \times 15 \text{ min} \div 60 = \$107,918$	

<u>SWA Cost to Post Job Order and Refer Applicants</u>	\$388,220
Staff (GS-12, Step 5 x 1.52 FLFTE) @ 1 hour	
$\$46.46 \times 8,356 = \$388,220$	

<u>Data Entry</u>	\$1,036
(A small (1%) sampling of applications will be data entered for statistical purposes)	
Clerical (GS-6, Step 3 x 1.69 FLFTE) @ 30 minutes	
$\$24.67 \times 84 \text{ applications} \times .5 \text{ hour} = \$1,036$	

<u>Staff Cost for Adjudicating Applications</u>	\$647,506
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours	

$$\$51.66 \times 8,356 \times 1.5 \text{ hours} = \$647,506$$

Management Review of Applications \$136,506

Manager (GS-14, Step 5 x 1.69) @ 45 minutes

$$\$72.60 \times 2,507 \times .75 \text{ hours} = \$136,506$$

Staff Cost for Receiving and Logging Notifications
(modifications, amendments, extensions, withdrawals) \$23,146

Staff (GS-9, Step 5 x 1.69 FLFTE) @ 15 minutes

$$\$37.59 \times 2,463 \times 15 \text{ minutes} \div 60 \text{ minutes} = \$23,146$$

Staff Cost for Adjudication of Extensions \$10,797

Staff (GS-12, Step 5 x 1.69 FLFTE) @ 30 minutes

$$\$51.66 \times 418 \times .5 \text{ hours} = \$10,797$$

Staff Cost for Preparing Appeal File \$3,616

Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour

$$\$51.66 \times 70 \times 1 \text{ hour} = \$3,616$$

Management Review of Petition for Meal Charges \$4,574

Manager (GS-14, Step 5 x 1.69) @ 45 minutes

$$\$72.60 \times 84 \times .75 \text{ hours} = \$4,574$$

Estimated Total Cost for H-2A

Staff = \$1,323,319

Printing/Mailing (average \$15 per application) = \$ 125,340

\$1,448,659

A.15. Reasons for any program changes reported in Items 13 or 14 of the OMB Form 83-1.

The changes are due to new rulemaking. Previously this ICR contained the burden and cost estimates for the H-2A and H-2B rulemaking that occurred in 2008 and became effective in January of 2009. The Department created two distinct ICs within the one ICR. The H-2A NPRM modifies the current H-2A regulations and the burden and cost estimates are being changed only in the IC for H-2A. The changes in the H-2A IC are due to new requirements in the proposed rule, better calculations of the information collections required, and updated data on program usage.

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.

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.