

**SUPPORTING STATEMENT FOR
Nonimmigrant Petition Based on Blanket L Petition
OMB Control No.: 1615-0010
COLLECTION INSTRUMENT(S): Form I-129S**

A. Justification

- 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.**

Sections 214(c)(2) and 101(a)(15)(L) of the Immigration and Nationality Act (the “Act”) establishes a blanket petition process to allow certain businesses with significant past records of employing nonimmigrant intra-company transferees, to file a blanket L petition to address many of the issues surrounding eligibility and expedite the process when they identify an individual worker later. Under 8 CFR 214.2(l)(5)(ii)(C), when a qualifying organization seeks to transfer an alien to the United States against a blanket petition, the qualifying organization completes the Form I-129S. The alien must provide the consular officer with a completed Form I-129S on behalf of the petitioner, or certain visa-exempt aliens may present Form I-129S to U.S. Customs and Border Protection (CBP). Alternatively, the petitioner may file Form I-129S with U.S. Citizenship and Immigration Services (USCIS).

Authority: 8 U.S.C. § 1184(c).

- 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.**

Employers seeking to classify employees outside the United States as executives, managers, or specialized knowledge professionals, as nonimmigrant intra-company transferees pursuant to a previously approved blanket petition under sections 214(c)(2) and 101(a)(15)(L) of the Act, may file this form. USCIS uses the information provided through this form to assess whether the employee meets the requirements for L-1 classification under blanket L petition approval. Submitting this information to USCIS is voluntary. USCIS may provide the information provided through this form to other Federal, State, local, and foreign government agencies and authorized organizations, and may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

- 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.**

Form I-129S and its instructions are available at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=058d4154d7b3d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>. This collection of information has partial Government Paperwork Elimination Act (GPEA) compliance as the form can be accessed, completed and saved electronically. The requestor needs to submit the request by mail to USCIS as instructed. USCIS is in the process of converting forms to be electronically accessed, completed, and submitted by the respondent. At this time, there is no finalized timeframe for the form being submitted to be converted to the electronic environment but USCIS will provide an update when the information becomes available.

- 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.**

This collection of information is unique to USCIS and is not conducted elsewhere. Any information that is shared with other agencies, or any information collected by other agencies that is used by USCIS to adjudicate the benefit sought in this collection, is notated in Question 2 above.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

This collection of information does not have an impact on small businesses or other small entities.

- 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.**

Without this information collection, foreign-based businesses would be unable to establish businesses or transfer employees to related businesses the United States. This information collection is used by employers to classify employees outside the United States as executives, managers, or specialized knowledge professionals as nonimmigrant intra-company transferees pursuant to a previously approved blanket petition in accordance with sections 214(c)(2) and 101(a)(15)(L) of the Act.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. **If applicable, provide a copy and identify the data 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.**

On January 8, 2013 USCIS published a 60-day notice in the Federal Register at 78 FR 1218. USCIS did not receive comments after publishing that notice. On March 26, 2013, USCIS published a 30-day notice in the Federal Register at 78 FR 18361. USCIS received two public comments in connection with that publication to date.

One commenter requested that DHS suspend temporary employment-based immigration in order to preserve jobs for U.S. citizen workers. The commenter expressed concern regarding the hiring of foreign workers, in light of the high unemployment rate. Specifically, the commenter states that the availability of cheap foreign labor has a direct effect on the displacement of U.S. citizen workers.

USCIS thanks the commenter for his interest in this collection. USCIS, however, responds that this information collection notice requested comments on whether the proposed collection of information is necessary for the proper performance of the functions of the agency; on the accuracy of the agency's estimate of the burden of the proposed collection of information; on enhancing the quality, utility, and clarity of the information to be collected; and on minimizing the burden of the collection of information on the public. These comments are beyond the scope of this information collection. Since this commenter does not request any changes to the I-129, USCIS will not be making any changes as a result of this comment.

Another commenter applauded "USCIS for clarifying in the *What is the Filing Fee* section of the form instructions that the \$500 Fraud Prevention and Detection Fee only applies to cases for initial L-1 approval based on an approved blanket petition." The commenter "believes this change will decrease confusion and increase the number of petitions submitted with the appropriate fee."

USCIS thanks the commenter and indicates that the commenter should note DOS will collect an additional \$500 fee on each subsequent extension filing of the I-129S beyond the initial three years.

The same commenter stated that "[i]n the *Where To File* section of the instructions for Form I-129S, [the commenter] appreciates the new language regarding Canadian blanket applicants; however, upon further review, additional instructions should be included regarding obtaining a consular endorsed I-129S where a new visa is not needed but where the I-129S validity period has expired (e.g., a beneficiary with a five-year visa whose three-year I-129S may have expired)."

USCIS appreciates the commenter's suggestion for changes to this specific language and has revised the language in the instructions to form I-129S.

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

USCIS does not provide payments or gifts to respondents in exchange for a benefit sought by respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the

assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality. The system of record notice associated with this information collection is USCIS Benefits Information System, which was published in the Federal Register on September 29, 2008 at 73 FR 56596. The privacy impact assessment associated with this information collection is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum, dated September 5, 2008. See response to question 2 on how the information collected may be shared.

- 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.**

There are no questions of a sensitive nature asked.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14**

Type of	Form Name /	No. of	No. of	Avg.	Total	Avg.	Total
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Respondent	Form Number	Respondents	Responses per Respondent	Burden per Response (in hours)	Annual Burden (in hours)	Hourly Wage Rate *	Annual Respondent Cost
Businesses or Others for Profit	I-129S	75,000	1	1.5 hours	112,500	\$30.44	\$3,424,500
Total		75,000			112,500		\$3,424,500

**The above Average Hourly Wage Rate is the [May 2011 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$21.74 times the wage rate benefit multiplier of 1.4 (to account for fringe benefits) equaling \$30.44. The selection of “All Occupations” (for example) was chosen as the expected respondents for this collection could be expected to be from any occupation.*

NOTES ON BURDEN:

USCIS has sought comments in conjunction with other information collection requests on how the burden of the following information collection requirements affects respondents. USCIS will revise its burden estimates based on the public comments received, its own expert analysis, and informational resources.

1. Translations. Respondents might incur burden for translations of documents in foreign languages. USCIS will evaluate the burden associated with requiring translations of supporting documents.
2. Preparers. Some respondents may hire third parties for form completion so there may be a burden for a preparer to assist in the form completion process.
3. Records. Respondents might need to provide documents such as letters from the alien’s foreign qualifying employer, copies of the alien’s U.S. degree and foreign degree equivalent to a U.S. degree or other evidence establishing that the combination of the beneficiary’s education and experience is the equivalent of a U.S. degree, to demonstrate eligibility. There may be a burden associated with having to gather the required documentation

13. Provide an estimate of 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 shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995; (2) to achieve regulatory compliance with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the government; or, (4) as part of customary and usual business or private practices.**

There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in question 14. There is a \$500 fraud prevention and detection fee associated with the collection of this information. This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. USCIS has sought public comments on these subjects in connection with other information collections and will provide estimates in its next submission to OMB based on the results of public comments received and information that can be found from other resources on these costs:

Translations. Respondents might incur expenses for translations of foreign documents or documents prepared or issued in foreign languages. USCIS is currently evaluating the

estimated cost associated with this activity in connection with other information collections.

Preparers. Some respondents may hire third parties to assist in the request process and may incur costs to hire paid preparers for the preparation and submission of this form. USCIS is currently evaluating the estimated cost associated with this activity in connection with other information collections.

- 14. Provide estimates of annualized cost 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 also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Annualized Cost Analysis:

a. Printing Cost	\$ 680
b. Collecting and Processing	\$ 37,499,320
c. Total Cost to the Government	\$ 37,500,000

Government Cost

USCIS establishes its fees using an activity-based costing model to assign costs to an adjudication based on its relative adjudication burden and use of USCIS resources. Fees are established at an amount that is necessary to recover these assigned costs, plus an amount to recover unassigned overhead (which includes the clerical, officer, and managerial time with benefits) and immigration benefits provided for free. As a consequence of USCIS immigration fees being based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to USCIS. The fraud fee for Form I-129S is \$500, as established under 8 U.S.C. 1184(c)(12)(A) & (C).

The total estimated cost of the program to USCIS is then calculated by multiplying the estimated number of respondents (75,000) by the fee (\$500), which is \$37,500,000. This total includes the estimated annual overhead cost for printing, stocking, and distributing this form (\$680).

- 15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

There has been an increase of burden hours previously reported for this information collection by 88,014 burden hours. This change can be attributed to a projected increase in the estimated number of respondents from 42,000 respondents to 75,000 based on updated adjustment in agency estimates. The increase is also attributed to an increase in USCIS's estimates for the time burden associated with this collection from 35 minutes

(.583 hours) to 1 hour and 30 minutes (1.5 hours) due to the agency's improved reporting of time burden estimates.

USCIS is revising this information collection to clarify certain language in the form and add language to mirror L Supplement of Form I-129. Some of the mirroring language is required by law (See Pub. L. 111-230, as amended by Pub. L. 111-347).

- 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.**

This information collection will not be published for statistical purposes.

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

USCIS will display the expiration date for OMB approval of this information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

USCIS does not request an exception to the certification of this information collection.