

OMB SUPPORTING STATEMENT
OMB 1205-0207:
Proposed Extension of Planning, Recordkeeping, and
Reporting Requirements
Labor Surplus Area

A. Justification

- 1. Explain the circumstances that make the collection 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.**

Under Executive Orders 12073 and 10582, the Secretary of Labor is required to classify labor surplus areas (LSAs) for the use of federal agencies in directing procurement activities and in locating new plants or facilities in areas of high unemployment. The LSA list is issued annually, effective October 1 of each year, and is based upon the average unemployment rate during the previous two calendar years for each area in comparison with the national average rate for the same period.

EO 12073 was signed by President Carter on August 6, 1978, and concerns federal procurement in labor surplus areas. It was published in the Federal Register August 18, 1978 (43 FR 36873).

EO 10582 was signed by President Eisenhower on December 17, 1954, and concerns uniform procedures for procurement under the Buy-American Act. It was published in the Federal Register on December 21, 1954 (19 FR 8723).

The Department of Labor's regulations for classifying LSAs are found at 20 CFR Part 654.1 to 654.14.

- 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.**

LSA classifications are used by federal, as well as, state and local governments for various purposes including procurement decisions, food stamp waiver decisions, certain small business loan decisions, as well as other purposes determined by the government agency.

To be classified as an LSA, the Department of Labor's regulations specify that an area have an unemployment rate during the previous two calendar years that was 20 percent or more above the national average unemployment rate for the same 24-month period. Such areas are then included on the annual LSA list. The Department's regulations also specify that updates may be made to the annual LSA list by adding areas under exceptional circumstances criteria. Such updates to the annual list are based upon information contained in petitions

submitted by state workforce agencies (SWAs) to the national office of the Employment and Training Administration (ETA).

The petitions submitted by the SWAs concern various aspects of unemployment and the economic condition for a specific area in order to provide justification for adding the area to the LSA list under the exceptional circumstances criteria. Under these criteria, an area may be determined eligible for classification as a LSA if it is experiencing a high rate of unemployment which is not temporary or seasonal and which was not adequately reflected in the unemployment data for the 2-year reference period. Instructions designed to assist SWAs in the preparation of such petitions are currently contained on the ETA Web site: <http://www.doleta.gov/programs/lsa.cfm>.

- 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.**

In order to comply with the Government Paperwork Elimination Act, the SWAs are encouraged by ETA to submit petitions and information including the LSA package in an electronic file or technique using electronic mail. ETA posts information and requirements for LSA on the ETA Web site: <http://www.doleta.gov/programs/lsa.cfm> .

- 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.**

Most of the information needed for a LSA petition submitted by SWAs is available from State sources, e.g., internal administrative reports, statistical programs, newspaper clippings, etc. The only information that SWAs may have to develop for use in the petition is the 12-month projection of the area's labor force and unemployment statistics. The Department of Labor, however, does not have ready access to these materials, and the SWAs are in a better position to compile this information. The petitions are intended to bring various types of information together in a single document so that a LSA classification determination can be made.

- 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.**

Collection of information does not impact 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.**

LSA classifications are used by Federal, as well as, state and local governments for various purposes including procurement decisions, food stamp waiver decisions, certain small business loan decisions, as well as other purposes determined by the governments. Regulations, procedures and processes are built around having the LSA designation information available. For example, the Department of Defense (DOD) uses the information as part of the basis for determining if DOD property should be transferred to state and local entities. The SBA Regulation at 13 CFR 121.301(e) allows small business in LSA areas to be 25 percent higher than the small business sales ceiling and still be classified a small business.

The LSA process is very efficient; only information that is necessary to make the determination is collected.

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 designated 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.

There are no "special circumstances" which would cause this information collection to be conducted in any manner listed above, with the exception of a requirement for a complainant who desires a hearing before an Administrative Law Judge to request it within 20 days of the certified date of the Assistant Secretary for Employment and Training's offer of a hearing. This requirement is contained in regulations 20 CFR 654.9.

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.

Describe efforts to consult with person 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 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, the Notice concerning this information collection request was published in the Federal Register on December 10, 2010 (Vol 75, p 77001). The public was given sixty days' notice to review and comment on this information collection request. No comments were received.

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

This item is not applicable. No payment or gift to respondents is included.

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

This information collection provides no assurances of confidentiality.

11. Provide additional justification for any guidance 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, explanation to be given to persons for whom the information is requested, and any steps to be taken to obtain their consent.

No information of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters commonly considered private is used or collected.

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 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.**

In the last three years, only three States per year have requested a petition for exceptional circumstances. The actual time to do the petition ranged from 1 to 3 hour(s) per state. Because the overall hours needed to produce the required information is calculated (conservatively) to be three hours altogether, ETA is requesting a three-hour annual burden to be in place for this collection of information.

The nature of the information collection differs from petition to petition even within a state. Therefore, the amount of time needed to complete the petition will vary from state to state. Based on consultation with less than nine states, the average time required to complete the petition is estimated to be three hours per request, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining information, completing and reviewing the application, and providing the notice of filing.

The overall hours needed for each respondent to produce the required information is 3 hours, and this is calculated at one respondent annually (three respondents total over the last three year time period).

1 X .5 hour (review instructions)	= 0.50
1 X 1.5 hour (compile info./file)	= 1.50
1 X .5 hour (complete/submit/provide notice)	= 0.50
1 X .5 hour (documentation/maintenance)	= 0.50

Total Annualized Hours for one respondent	3.0
Total Annualized Hours for three respondents	9.0

DOL has increased the December 2010 average hourly rate of \$27.34 for the professional and business services industry, as determined by the Bureau of Labor Statistics, by 40 percent, to account for fringe benefits (FB), in determining the value of a respondent time in responding to this information collection. See *The Employment Situation—February 2011*, Table b-3. p 32, available at http://www.bls.gov/news.release/archives/empst_03042011.pdf.

$\$27.34 \times 1.4 \text{ FB factor} \times 3 \text{ hours} = \$114.83.$

Based on the experience gained in the last three years, only three states per year requested adding areas to the labor surplus list. There for the total burden cost would be \$344.49 per year.

13. Provide an estimate of the total annual cost burden to respondents to 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 estimates 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 apart of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondent (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 other costs than those mentioned in item (12) above.

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.

The estimated annual cost to the Federal Government is \$68.27 per response. The petitions average 1 ½ hours of staff time to review, comment, clarify when necessary and determine final action. The calculation is \$45.51 (source: 2011 Federal pay schedule, Washington D.C. locality, http://www.opm.gov/oca/11tables/html/dcb_h.asp) per hour (GS-13 Step 3) x 1.5 per response = \$68.27, rounded to \$68. Based on the experience gained in the last three years, only three states per year requested adding areas to the labor surplus list. Therefore the total annual cost to the Federal government would be \$204.

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

The change in burden has risen slightly because in the last three years three states per year have requested a petition for exceptional circumstances.

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.

With the exception of posting newly designated LSA's on the DOL ETA website, collection of information will not be published. The information will be used solely for determining the eligibility of areas for classification as LSAs.

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.

Since there is no standard form for this data collection, the expiration date is included and displayed in the instructions for submitting a LSA petition for an exceptional circumstance on the ETA Web site.

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

There are no exceptions.

B. STATISTICAL METHODS

This information collection does not employ statistical methods.