

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

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**SUPPORTING STATEMENT FOR  
PAPERWORK REDUCTION ACT SUBMISSIONS:  
DOMESTIC AGRICULTURAL IN-SEASON WAGE REPORT  
OMB CONTROL No. 1205-0017**

**A. JUSTIFICATION**

*A.1 Circumstances Necessitating Data Collection*

The Department is requesting a 3-year extension of the Domestic Agricultural In-Season Wage Report, Form ETA-232, and the Wage Survey Interview Record, Form ETA-232A (both under OMB control number 1205-0017). This information collection request (ICR) is being submitted as a revision to implicate format changes to each form. No questions have been added to the forms, both forms questions remain the same. The Wagner-Peyser Act tasks the Department of Labor (Department) with “promoting uniformity in [State public employment services] administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.” 29 U.S.C. 49b(a). The prevailing rate is used to implement the Secretary's regulations on intrastate and interstate recruitment of farmworkers. 20 CFR 653.500, 655.150-158. Intrastate job orders must offer “wages and working conditions [that] are not less than the prevailing wages and working conditions among similarly employed agricultural workers in the area of intended employment or the applicable Federal or State minimum wage, whichever is higher.” 29 CFR 653.501(d)(4).

This information collection (IC) is required under 8 USC 1188 authorizing the Department of Labor to administer the H-2A program and Section 218 of the Immigration and Nationality Act authorizes the lawful admission into the United States of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature. In order for the Department of Labor to certify that there are not sufficient U.S. workers qualified and available to perform the labor involved in the petition and that the employment of the foreign worker will not have an adverse effect on the wages and working conditions of similarly employed U.S. workers, employers must demonstrate the need for a specific number of H2A workers. The section of the law authorize the agency to collect information for OMB control number 1205-0017 is the Wagner Peyser Act at 29 USC 49(f). Specifically, Congress appropriates funding through the Wagner-Peyser allocations under the State Unemployment Insurance Employment Service Operation Provisions, to meet certain obligations mandated by the INA.

The Department's Employment and Training Administration (ETA) is responsible for administering the H-2A program, which provides for the filing of temporary employment certification applications by employers who seek to use foreign workers in agricultural work. Regulations issued under the Immigration Reform and Control Act of 1986 for the

temporary employment of alien agricultural and logging workers in the United States, 20 CFR part 655, subpart B, require employers to pay “at least the [adverse effect wage rate], the prevailing hourly wage rate, the prevailing piece rate, the agreed-upon collective bargaining rate, or the Federal or State minimum wage rate, in effect at the time the work is performed, whichever is highest[.]” 20 CFR 655.122(l). Form ETA-232 and Form ETA-232A are the Department’s uniform administrative procedure for collecting information that will permit it to determine and publish prevailing wage rates in agricultural employment to be used in administration of the H-2A program.

In addition, the regulations require that “[e]ach job qualification and requirement listed in the [H-2A] job offer... be bona fide and consistent with the normal and accepted qualifications required by employers that do not use H-2A workers in the same or comparable occupation and crops.” 20 CFR 655.122(b). In order to determine whether certain working conditions meet these standards, State Workforce Agencies (SWAs) collect such information by either formally surveying employers’ prevailing practices or by conducting “ad hoc” surveys.

#### *A.2 How, by Whom, and For What Purpose the Information is to be Used*

**Prevailing wage surveys.** Each year, SWAs provide the ETA Office of Foreign Labor Certification (OFLC) with plans for conducting agricultural wage surveys. Each plan identifies (1) the crop and geographic areas to be covered by the survey, (2) the sampling procedures to be used, and (3) any additional information that may be required by OFLC. OFLC staff reviews and evaluates each plan. The SWA then obtains information from farm employers by one or more of the following methods: personal interview, mail, e-mail, fax, or telephone interview. The SWA records the information it obtains on Form ETA-232A, Wage Survey Interview Record; a SWA completes one of these forms for each interview. The information collected includes the wage rates paid, the number of domestic workers, data related to productivity, and the hourly earnings of piece rate workers by crop area and crop activity. The ETA-232A data is evaluated, summarized, and arrayed onto Form ETA-232, Domestic Agricultural In-Season Wage Report, by the SWA staff; each SWA completes one of these forms for each crop and agricultural activity. The SWA computes the prevailing hourly wage rate and the prevailing piece rate for a given crop in a given geographic area and records these “findings” on Form ETA-232, which is used to report the prevailing wage rates and analysis to OFLC for approval.

**Prevailing practice surveys.** The prevailing practice survey information is used by the Department to determine the normal, common and/or prevailing employment practices in a specific occupational classification. The Department uses the collected prevailing practice survey information to ensure that an H-2A employer’s job qualifications and requirements are consistent with the normal and accepted job qualifications and requirements, as required by non H-2A employers or workers employed in the same or comparable occupations and crops. When the Chicago National Processing Center (CNPC) finds that a certain practice listed in an application is not something a SWA has

previously reported on, the CNPC orders an ad-hoc survey to determine whether or not the stated practice is truly a prevailing practice among non-H-2A employers in the area of intended employment.

### *A.3 Use of Technology to Reduce Burden*

Along with collecting data by personal visits, mail, and telephone, use of e-mails and faxes are now common methods of collecting information from farm employers. The OFLC has initiated the electronic transmission of certified prevailing wage surveys to its Chicago National Processing Centers (NPCs) to expedite the wage determination process. SWAs may submit a completed Form ETA-232 to the OFLC electronically or via fax. Information regarding the purpose, data collection procedures, and the resulting prevailing wage findings are available to the general public (including employers and workers) via the OFLC website at <http://www.foreignlaborcert.doleta.gov/> and the Agricultural On-line Wage Library at <http://www.foreignlaborcert.doleta.gov/aowl.cfm>.

### *A.4 Efforts to Identify Duplication*

There is no information being collected that could be used to determine prevailing wages other than through the Form ETA-232 and Form ETA-232A. The wage report is unique because it is the only survey conducted for a specific crop or livestock activity in a specific area for a specific period or point of time during the harvest or work season.

### *A.5 Methods to Minimize Burden on Small Businesses*

The efforts to streamline the information collection and reporting process and to reduce total employer respondent burden described above in item A.3 also apply to any small businesses responding to the collection effort.

### *A.6 Consequences of Less Frequent Data Collection*

**Prevailing wage data.** If the wage information collected in the Form ETA-232 and Form ETA-232A is not collected on an annual basis, the Department will be unable to administer the provisions of 20 CFR part 653, subpart F and part 655, subpart B. Because the vast majority of H-2A applications seeking temporary labor certification for agricultural workers under these regulations occur on an annual basis, current prevailing wage data are required each year in order to process the intrastate and interstate job orders. The use of wage data from earlier surveys would result in inaccurate wage determinations, wage distortions, and potential legal issues from the farmworker advocacy groups and the employer community.

**Prevailing practice data.** The secondary collection of data, pursuant to prevailing practice surveys, is required to assess employer practices with respect to job qualifications and requirements and working conditions. This provides the Department with current labor market information necessary to process H-2A labor certification

applications and ensure that there is no adverse effect on U.S. workers similarly employed. Less frequent collection of this information would be contrary to the Department's statutory mandate to ensure that the employment of H-2A workers would not have an adverse effect on the employment opportunities, wages, and working conditions of U.S. workers who are similarly employed.

#### *A.7 Special Circumstances for Data Collection*

These data collection efforts do not involve any special circumstances.

#### *A.8 Federal Register Notice and Consultation Outside the Agency*

In accordance with the Paperwork Reduction Act of 1995, the public was given 60 days to comment on the proposed revisions announced through a Federal Register notice, which published on May 5, 2016 (81 FR 27175). The Department received one comment that was not germane to this ICR.

#### *A.9 Payment or Gifts to Respondents*

There is no payment to respondents involved with this information collection.

#### *A.10 Confidentiality Assurances*

Although SWAs collect data about individual employers' practices, including name and address of employer, wage rates, units of production, and average hourly earnings, using Form ETA-232A, the Department does not receive this form or any individually identifiable employer data. The Department receives only aggregate summary data of all employers responding to a wage report contained in Form ETA-232. The instructions for Form ETA-232A state that the form "should be maintained in a confidential manner since it identifies specific employers and contains information which is confidential in nature."

#### *A.11 Additional Justification for Sensitive Questions*

There are no sensitive questions included in the proposed data collection.

#### *A.12 Estimates of the Burden of Data Collection*

The annual national burden for this information collection has the following components: (1) the Form ETA-232A reporting burden; (2) the Form ETA-232 reporting burden; (3) prevailing practice surveys; and (4) ad hoc employment practice surveys. This response provides a separate burden for each of the components.

(1). Form ETA-232A:<sup>1</sup>This report is usually completed by the employer unless the SWA

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<sup>1</sup> See Row 1 of Summary Table that appears on page 7.

conducts an in-person or telephone interview with the employer, in which case it is used as a record of the interview with each individual employer during the prevailing wage survey. Form ETA-232A has two burdens, one on the SWA, and one on the employer respondents. The SWA burden is accounted for below in #2. The hourly burden on the employer for this report is based on the actual experience of agricultural employers and remains unchanged from previous OMB packages. On average, agricultural employers spend approximately 15 minutes, or  $\frac{1}{4}$  hour, either completing the form or providing information to the SWA for inclusion on the Form ETA-232A. The SWAs receive 14,608 employer responses for this form yearly ( $14,608 \times .25$  hours = 3,652 total reporting burden hours). The total annual cost burden on respondents of collecting information on the Form ETA-232A –(\$112,664) is based on the average hourly rate of \$30.85 for Farm, Ranch, and Other Agricultural Managers published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/11-9013.02>.

(2). Form ETA-232:<sup>2</sup> SWAs aggregate information collected on Form ETA-232As on the Form ETA-232. The information contained on Form ETA-232 is compiled within two weeks after the completion of the Form ETA-232As. The hourly burden for this report is based upon the actual experience of SWA staff in collecting the Form ETA-232A (whether conducting the interviews directly with the employer or mailing and receiving the form) and aggregating the individual results by area and by crop activity for reporting to the Department. On average, SWA staff spends approximately 11 hours collecting Form ETA-232As and then completing, validating, and submitting information on the Form ETA-232 of which OFLC receives 600 per year ( $600 \times 11 = 6,600$  total reporting burden hours). The total annual cost of collecting information on the Form ETA-232 (\$171,072) is based on the average hourly rate of \$25.92 for survey researchers based on the median national wage as published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/19-3022.00>.

(3). Prevailing practice surveys:<sup>3</sup> There are 54 SWAs in States and territories that conduct prevailing employment practice surveys of agricultural employment, but not necessarily each year. Each year the Department receives prevailing employment practice surveys from an average of 30 States and territories; however some SWAs conduct over 300 surveys per year. The average is 15 surveys per reporting SWA per year. On average 20 employers respond to each survey. It is estimated that it takes employers 30 minutes to fill out and return the written survey. The total burden is 4,500 reporting hours ( $15$  surveys  $\times$   $30$  SWAs  $\times$   $20$  employers  $\times$   $30$  minutes = 4,500 hours). The total annual cost of collecting information (\$138,825) is based on the average hourly rate of \$30.85 for Farm, Ranch, and Other Agricultural Managers published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/11-9013.02>.

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2 See Row 2 of Summary Table that appears on page 7.

3 See Row 3 of Summary Table that appears on page 7.

It is also estimated that it takes SWA staff 30 minutes after each survey to tally the results and either retain them for future use or forward them to the Chicago NPC.<sup>4</sup> The total burden is 225 reporting hours (15 surveys x 30 SWAs x 30 minutes = 225 hours). The total annual cost of collecting information (\$5,832) is based on the average hourly rate of \$25.92 for survey researchers based on the median national wage as published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/19-3022.00>.

(4). Ad hoc employment practice surveys:<sup>5</sup> Ad hoc employment practice surveys are conducted by the SWAs at the request of the Chicago NPC. On average, the Chicago NPC requests approximately 100 such surveys per year from various SWAs. Of those 100 requests, only half require 10 or more employers to reply, in which case 20 employers are surveyed. The surveys are usually conducted telephonically; therefore, both the employer and SWA staff are burdened, and the average time is 30 minutes per employer. The total burden is 1,000 reporting hours (50 surveys x 20 employers x 30 minutes = 500 hours, plus 50 surveys x 20 SWAs x 30 minutes = 500 hours, for a total of 1,000 hours). The total annual cost of collecting information for the employer (\$15,425) is based on the average hourly rate of \$30.85 for Farm, Ranch, and Other Agricultural Managers published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/11-9013.02>, and the total annual cost of collecting information by the SWA from the employer (\$12,960) is based on the average hourly rate of \$25.92 for survey researchers based on the median national wage as published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/19-3022.00>.

It is estimated that it then takes SWA staff 30 minutes to tally the responses and write an email to the Chicago NPC with the results of the surveys, for a total burden of 500 reporting hours (50 surveys x 20 SWAs x 30 minutes ÷ 60 = 500 hours).<sup>6</sup> The total annual cost of collecting information (\$12,960), is based on the average hourly rate of \$25.92 for survey researchers based on the median national wage as published by the Bureau of Labor Statistics in O\*Net Online at <http://www.onetonline.org/link/summary/19-3022.00>.

*The following table can be used as a guide to calculate the total burden of an information collection.*

Activity	Number of Respondents	Frequency	Annual Responses	Time Per Response	Annual Burden (Hours)	Hourly Wage	Annual Cost
Form ETA-232A <sup>7</sup>	14,608	1	14,608	.25	3,652	\$30.85	\$112,664

<sup>4</sup> See Row 4 of Summary Table that appears on page 7.

<sup>5</sup> See Rows 5 and 6 of Summary Table that appears on page 7.

<sup>6</sup> See Row 7 of Summary Table that appears on page 7.

<sup>7</sup> Assumes 14,608 unique employers are interviewed over the course of a year, meaning there is no overlap with the estimates for “prevailing practice” employers or “ad hoc” employers listed elsewhere in

Form ETA-232 <sup>8</sup>	54	11.11	600	11	6,600	\$25.92	\$171,072
Prevailing Practice - Employer	9,000	1	9,000	.5	4,500	\$30.85	\$138,825
Prevailing Practice SWA	30	15	450	.5	225	\$25.92	\$5,832
Ad hoc -Employer	1,000	1	1,000	.5	500	\$30.85	\$15,425
Ad hoc - SWA	20	50	1,000	.5	500	\$25.92	\$12,960
Ad hoc SWA to OFLC	20	50	1,000	.5	500	\$25.92	\$12,960
<b>Unduplicated Totals</b>	<b>24,662<sup>9</sup></b>		0		0	<b>\$196.23</b>	<b>\$469,738</b>

### A.13 Estimated Cost to Respondents

- a) Start-up/capital costs: There are no start-up costs.
- 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.

### A.14 Estimates of Annualized Costs to Federal Government

The hourly rate used to calculate cost is the average hourly rate for an employee in the Federal service (based on 2012 GS locality pay schedules for Chicago, Illinois for the National Processing Center or Washington, DC for the OFLC National Office - <http://archive.opm.gov/oca/12tables/indexGS.asp>).

#### (1) Prevailing Wage Surveys (Form ETA-232) Analysis:

ETA will continue to collect and maintain all aggregate reports through the OFLC. It is estimated that the OFLC and National Processing Center (NPC) staff spend the following time each year reviewing state wage reports, updating the Agricultural On-Line Wage Library, and using wage results in processing H-2A temporary labor certification applications.

GS-Level/Step	Total Staff	Hourly Rate	FLFTE <sup>10</sup>	Total Hours	Total Cost
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this table. The total of 24,662 consists of 14,608 + 9,000 + 1,000 + 54.

<sup>8</sup> State Workforce Agencies in 54 jurisdictions complete these forms. These SWAs are only counted once for purposes of this table. That is, the 30 SWAs listed as "prevailing practice SWAs" below, the 20 SWAs listed as "ad hoc SWAs," and the 20 SWAs listed as "ad hoc SWAs to OFLC" are all part of the 54 and are not counted in the total 24,662.

<sup>9</sup> There are only 54 SWAs performing these surveys; therefore, this calculation assumes that different employers are being contacted, but the same 54 SWAs are doing the interviewing, so that 24,608 employers respond plus 54 SWAs totaling 24,662 respondents.

<sup>10</sup> The average Federal Government cost for a year of operation, where salaries are involved, 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

OFLC Staff:	GS-15/1	1	\$60.92	1.69	100	\$10,295
	GS-14/1	1	\$51.79	1.69	200	\$17,505
	GS-13/1	1	\$43.83	1.69	720	\$53,332
NPC Staff:	GS-12/1	4	\$36.86	1.69	1,200 <sup>11</sup>	\$74,691

(2) Prevailing Practice Survey Analysis:  
 15 surveys x 30 SWAs = 450 prevailing practice reports received

Analyst Compilation and Review: = 1 hour

Estimated Cost

Staff (GS 12, Step 5 x 1.69 FTE)  
 \$41.77 x 1.69 x 450 x 1 hour] = \$31,766

(3) Ad hoc surveys  
 50 surveys

Analyst Review = 15 minutes

Estimated Cost

Staff (GS 12, Step 5 x 1.69 FLFTE)  
 \$41.77 x 1.69 x 50 x .25 hour] = \$882

**Total Cost:**

<b>Prevailing Wage</b>	<b>\$152,618</b>
<b>Prevailing Practice</b>	<b>\$31,766</b>
<b>Ad hoc</b>	<b>\$882</b>
	<b>=====</b>
<b>Total</b>	<b>\$185,266</b>

*A.15 Changes in Burden*

The burden hours have slightly increased by 475 hours (from 16,002 to 16,477) due to new assumptions made by the Department on how ad hoc surveys are collected.

*A.16 Publication of Results*

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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.

11 This figure reflects the cumulative time spent by four NPC staff members. Each staff member spends approximately 300 hours each year reviewing state wage reports, updating the Agricultural On-Line Wage Library, and using wage results in processing H-2A temporary labor certification applications.

<b>Product</b>	<b>Submission Date</b>	<b>Publishing Date</b>
<b>Wage Survey Results (aggregate)</b>	On-going through the calendar year	Published throughout the year on the Agricultural On-Line Wage Library at <a href="http://www.foreignlaborcert.doleta.gov/aowl.cfm">http://www.foreignlaborcert.doleta.gov/aowl.cfm</a> as SWAs report aggregate data to OFLC

*A.17 Approval Not to Display OMB Expiration Date*

The expiration date for OMB approval will be displayed. We are not seeking approval to have this concealed.

*A.18 Exceptions to the "Certification of Paperwork Reduction Act Submissions,"*

No exceptions are requested in the "Certification of Paperwork Reduction Act Submissions."

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This data collection does not employ any statistical methods.