

SUPPORTING STATEMENT
APPLICATION FOR PERMANENT EMPLOYMENT CERTIFICATION
OMB Control Number 1205-0451

A. Justification.

A1. 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.

The Department of Labor is seeking a revision of the Form ETA-9089, *Application for Permanent Employment Certification* (Office of Management and Budget (OMB) control number 1205-0451). The proposed burden to respondents associated with this Information Collection Request (ICR) reflects the following change in the program: update the mailing address of the Office of Foreign Labor Certification. The current authority to conduct the information collection was due to expire on November 30, 2017.

The information collection is required by sections 203(b)(2) and (b)(3) and 212(a)(5)(A) of the Immigration and Nationality Act (INA) (8 U.S.C. 1153(b)(2) and (b)(3) and 1182(a)(5)(A)). The Department of Labor (Department) and the Department of Homeland Security (DHS) have promulgated regulations to implement these provisions of the INA at 20 CFR Part 656 and 8 CFR 204.5, respectively (the regulations). A document listing these statutory and regulatory provisions is attached to this Supporting Statement and is part of the request the Department will be submitting to OMB.

The INA mandates the Secretary of Labor to certify that any foreign worker seeking to enter the United States for the purpose of performing skilled or unskilled labor is not adversely affecting wages and working conditions of U.S. workers similarly employed and that there are not sufficient U.S. workers able, willing, qualified, and available to perform such skilled or unskilled labor. Before an employer may request any skilled or unskilled foreign labor, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and the regulations or, in limited circumstances, apply for a waiver thereof with DHS. The Department's labor certification regulations require employers to document their recruitment efforts and substantiate the reasons no U.S. workers were hired.

The Department collects the information necessary to make the certification on the Form ETA-9089. The form can be found online at <http://www.foreignlaborcert.doleta.gov/pdf/9089form.pdf>.

A2. 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.

By the Federal Government

To meet its statutory responsibilities under the INA, the Department needs to revise an existing information collection pertaining to employers seeking to import foreign labor. The Form ETA-9089 collects this information and is used not only by the Department, but also by other federal agencies to meet INA requirements.

The Department uses the information collected through Form ETA-9089 to adjudicate labor certifications petitions for alien workers filed by employers seeking to employ these individuals on a permanent basis. An employer that is seeking a labor certification to employ an intending immigrant must submit the Form ETA-9089 to the Department. Once the Form ETA-9089 is submitted, the Employment and Training Administration (ETA) will determine whether the employer adequately sought available and willing U.S. workers qualified for the opportunity as required under the regulations and whether U.S. workers who applied were rejected for lawful, job related reasons. If the Certifying Officer's Final Determination denies certification, the regulations provide the employer with the ability to request reconsideration of the decision or appeal the denial. The information previously collected is made part of the record on reconsideration or appeal. If the employer appeals to the Board of Alien Labor Certification Appeals (BALCA), the request must be in writing, must clearly identify the case number from which review is sought, must set forth the particular grounds for the request, and must include all documents which accompanied the Final Determination issued by the Certifying Officer. The request for review, statements, briefs and other submissions of the parties and amicus curiae must contain only legal arguments and only such evidence which was collected to complete the Form ETA-9089.

DHS also utilizes the Form ETA-9089 for its National Interest Waiver (NIW) of the Job Offer Requirement application process, which exempts foreign workers from the job offer requirement if their expertise is in the national interest. Under the Department's regulation at 20 CFR 656.15, employers of foreign workers who are in occupations that meet the DOL regulatory requirements for being designated as "Schedule A -shortage occupations" must apply for a labor certification using the Form ETA-9089 and submit an uncertified form directly to DHS. Similarly, under the Department's regulation, 20 CFR 656.16, employers of foreign workers who are shepherders must apply for a labor certification using the Form ETA-9089 and submit an uncertified form directly to DHS. When the Form ETA-9089 is submitted to DHS directly, DHS will utilize the form to analyze the foreign worker's background and experience for the NIW, Schedule A occupations, and shepherders.

By the Employer

The employer is required to submit attestations regarding the types and dates of its efforts to recruit U.S. workers. The Department has codified at 20 CFR 656.17(e) and (f) the type of recruitment steps that should be performed to test the U.S. market. The regulations require employers to recruit for able, willing, qualified and available U.S. workers at prevailing wages and working conditions. Without such a test of the labor market the Secretary would not be in a position to issue the certification of U.S. worker unavailability required under the law. Pursuant to the Department's regulation, employers are required to test the labor market during the 180 days preceding the filing of the Form ETA-9089. 20 CFR 656.17(e).

Employers are required to prepare a report of their recruitment activities. The regulations state that the employer must prepare a report signed by the employer describing the recruitment steps undertaken and the results achieved, including the number of U.S. workers who applied for the job opportunity, the number of hires, and, if applicable, the number of U.S. workers rejected, summarized by the lawful job-related reasons for such rejections. 20 CFR 656.17(g). This documentation must be maintained by the employer for five years. Upon review of the attestation-based form, the Certifying Officer may request the recruitment documentation and recruitment report, which is called Audit Review. 20 CFR 656.20. The Certifying Officer, requests workers' resumes sorted by the reasons they were rejected in every case that is audited.

In any case where the Certifying Officer determines it to be appropriate, post-filing supervised recruitment may be ordered. 20 CFR 656.21. This includes cases selected for audit and cases where questions arise about the adequacy of the employer's test of the labor market. At the completion of the supervised recruitment efforts, the employer is required to provide a report of its supervised recruitment steps, including documenting the lawful job-related reasons for not hiring any U.S. workers who applied for the position.

By the Public

The anti-fraud measures in the regulations allow any person to submit documentary evidence bearing on any allegation of misrepresentation or fraud committed by the employer. The information can include proof of discrepancies between what was filed with the Department or DHS and what was attested to on Form ETA-9089 such as the actual number of available U.S. workers, information on wages and working conditions, and information on the failure to meet terms and conditions with respect to the employment of foreign workers and domestic co-workers. The statutory requirement concerning submission of documentary evidence contained in the Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978, Sec. 122(b)(2) (November 29, 1990) is reflected in 20 CFR 656.10(e)(1) and (2). The Department uses this information to investigate the employer and, if necessary, debar the employer from the ability to apply for labor certification in the future.

A3. 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.

This information collection tool is in full compliance with the Government Paperwork Elimination Act. A fillable version of the form can be found on-line at <http://www.foreignlaborcert.doleta.gov/pdf/9089form.pdf>. U.S. employers can electronically submit their applications at <http://www.plc.doleta.gov>; or complete, print, and submit by mail, a copy of the form, if they choose to do so.

The regulation provides employers with the option to utilize an electronic filing system that permits employers to fill out their applications for permanent employment certification on a Department's website and submit them electronically to ETA. Because the electronic filing system includes guidance to employers completing their applications on-line, there are fewer incomplete or inaccurate entries. The website includes detailed instructions, prompts, and checks to help employers fill out the *Application for Permanent Employment Certification*. In order to file electronically, the employer must become a "registered user" by creating an account that contains secure files within the ETA electronic filing system that can be accessed by password. Each time a registered user accesses the website to file an application, the information common to that user's applications is entered automatically by the electronic filing system, thereby reducing the burden.

A4. 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.

The procedures and documentation requirements are sufficiently specific to avoid duplication of activities. No other government agency collects similar information to adjudicate this type of application.

A5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collection is required of small businesses who want to request foreign labor on a permanent basis. However, the recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes. The Department submits that the recruitment requirements are those that any business would utilize to legitimately recruit workers. The only difference is that the employer must keep proof of such recruitment efforts for a period of five years after submitting the form to the Department, while the recordkeeping retention requirements for other purposes vary.

There are questions on the form that require the employer to perform some research to respond, but the Department has eased the burden on the employer by making links to the appropriate websites easily accessible from the Department's website at <http://www.foreignlaborcert.doleta.gov>. For example, the employer must:

- categorize its business utilizing the NAICS code system;
- obtain a formal determination of the prevailing wage in the area of employment;
- understand and list the Metropolitan Statistical Area of the job opportunity; and
- understand and answer questions about job requirements based on O*Net job descriptions.

Information about these sources and instructions for utilizing them are made available on the website listed above.

A6. 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.

DOL would be unable to meet its statutory and regulatory mandates if this information was not collected. The information must be collected to enable DOL to meet its permanent labor certification obligation by determining whether or not an employer and foreign worker meet the criteria necessary to be issued a labor certification and whether employment of the foreign worker will adversely affect the wages or working conditions of U.S. workers similarly employed.

A7. Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5.

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 (PRA), except that the Department's regulations require that employers retain applications for permanent employment certifications and all supporting documentation for five years after submission. 20 CFR 656.10(f). The Department requires that employers maintain supporting documentation because the Certifying Officer may decide that it is necessary to conduct an Audit Review of the application, and DHS may decide it is necessary to review the employer's supporting documentation in the course of processing the Form I-140 petition to which the Form ETA-9089 is attached. Either Department may want to review the information for the purpose of investigating possible violations of the INA.

A8. If applicable, provide a copy and identify the date 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 persons 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 on 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 public was allowed 60 days to review and comment through the Federal Register Notice posted on August 28, 2017 (82 FR 40807). No public comments were received.

A9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be made to respondents in exchange for the information provided in response to this information collection.

A10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the information provided is protected under the Privacy Act. The extent of privacy that applicants can expect is delineated on Form ETA-9089. The Department maintains a System of Records titled Employer Application and Attestation File for Permanent and Temporary Alien Workers (DOL/ETA-7) that includes this record.

Under routine uses for this system of records, case files developed in processing labor certification applications, labor condition applications, or labor attestations may be released as follows: in connection with appeals of denials before the DOL Office of Administrative Law Judges and Federal courts, records may be released to the employers that filed such applications, their representatives, to named foreign workers or their representatives, and to the DOL Office of Administrative Law Judges and Federal courts; and in connection with administering and enforcing immigration laws and regulations, records may be released to such agencies as the DOL Office of Inspector General, DOL Wage and Hour Division, the DHS, and the Department of State.

A11. *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.*

The information collections do not involve sensitive matters.

A12. *Provide estimates of the hour burden of the collection of information.*

The Department is adjusting the hourly burden estimates for this information collection.

The Department previously reported that: It would receive 67,900 applications per year in connection with the PERM program; DHS would receive 1,300 Form ETA-9089s in lieu of the Form ETA-750 for its NIW application process, and 4,200 for Schedule A and Shepherder applications combined.

The applications received by the Department in recent years (FY2010-FY2016), however, have significantly exceeded the number of applications the agency reported during the last renewal cycle in 2014. For example, the actual number of applications received increased from 43,984 applications in FY 2010 to 97,504 applications in FY 2016. This increase in recent filing data suggests a further increase in applications in upcoming years.

The Department and DHS now estimate that approximately 113,304 PERM applications will be submitted, on average, annually (107,254 submitted to ETA, 1,430 submitted to DHS via the NIW application process, and 4,620 submitted to DHS for Schedule A and Shepherder applications).

1. Application for Permanent Employment Certification (Form ETA-9089)

Employers submit an *Application for Permanent Employment Certification* when they seek to employ immigrant workers. Employers, foreign nationals, or third parties may also complete and submit appropriate sections of the form as part of a NIW application for a foreign national, in lieu of an ETA-750. The Department now estimates 226,740 annual burden hours in connection with the Form ETA-9089.

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

Type of Respondent	Type of Information Collection	No. of Responses per Respondent	No. of Respondents	Avg. Burden per Response	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
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				(in hours)			
Business or other for-profit; Not-for-profit organization	Notice Requirements	1	111,874 ^[1]	0.5	55,937	\$82.64	\$4,622,634
	Submission of Evidence	1	65 ^[2]	1	65	\$82.64	\$5,372
	Recruitment	1	107,254	1	107,254	\$82.64	\$8,863,471
	Retention of Supporting Documentation	1	107,254	0.0833333	8,937.83	\$82.64	\$738,622
	Supervised Recruitment	1	934	4	3,736	\$82.64	\$308,743
	Requests for Reconsideration and BALCA Appeals	1	1,800	2	3,600	\$82.64	\$297,504
	Completion and submission of Form ETA-9089	1	113,304	0.416667	47,210	\$82.64	\$3,901,434
Unduplicated Totals		-----	113,304*	2**	226,739.83	-----	\$18,737,780

* This figure represents the total number of filings, which have been individually reported in connection with each activity above, in the same column.

** This is the average total estimated time burden incurred by employers while performing the steps (e.g. preparation, submission, record keeping requirements) associated with this information collection. Not all respondents must execute all the steps associated with this information collection.

. Includes 107,254 forms submitted to the Department by employers applying through the standard PERM process and 4,620 forms submitted to DHS by employers applying to sponsor foreign nationals for Schedule A and shepherd positions.

2. Includes submissions by 50 individuals to the Department related to standard PERM applications and submissions by 15 individuals to DHS related to Schedule A or shepherd applications.

It is difficult to estimate the costs involved in completing and maintaining the attestation form. Each individual employer that files an attestation may have a salary range that could be from several hundred dollars to several hundred thousand dollars for a Chief Executive Officer of a business. However, DOL believes that in most companies a Human Resources Manager will perform these activities. In estimating employer staff time costs, DOL used the hourly wage rate for a Human Resources Manager (\$57.79), as published by DOL's Occupational Employment Statistics On-Line,¹ and increased it by a factor of 1.43 to account for employee benefits and other compensation for a total hourly cost of \$82.64.

Total annual respondent hourly cost for the Form ETA-9089 and associated information collections is 226,740 hours x \$82.64 = \$18,737,780.

2. Notice Requirements – 20 CFR 656.10(d)

111,874

65

1 Source: Bureau of Labor Statistics 2016 OES wage data.

Employers must provide notice of the filing of the *Application for Permanent Employment Certification* to either their employees directly or to their employees' bargaining representative in a manner specified in 20 CFR 656.10(d). This requirement does not apply to individuals using the form to apply for a NIW (1,430 applications). For employers covered by the requirement, the notice must be posted in a conspicuous place for 10 business days. Producing a notice, posting it, and documenting the dates of posting takes approximately 30 minutes for a total of 55,937 third party disclosure hours (111,874 applications x .5 hours = 55,937). This burden is included in the estimate of the total paperwork burden imposed by this ICR.

3. Submission of Evidence to the Department – 20 CFR 656.10(e)

The regulations allow any person to submit to the Certifying Officer documentary evidence bearing on an application for permanent labor certification that is filed with the Department of Labor. The Department estimates that 50 individuals or organizations will avail themselves of the opportunity to provide such evidence and each filing of documentary evidence will take approximately one hour for a total annual burden of 50 hours.

Individuals or organizations may provide to the appropriate DHS office documentary evidence of fraud or willful misrepresentation in a Schedule A application filed under 20 CFR 656.15 or a shepherd application filed under § 656.16. The Department estimates 15 individuals or organizations will avail themselves of the opportunity to provide such evidence and each filing of documentary evidence will take approximately 1 hour for a total annual burden of 15 hours.

The total annual burden for submission of evidence to the Certifying Officer and DHS offices would come to 65 reporting hours. This burden is included in the estimate of the total paperwork burden imposed by this ICR.²

4. Recruitment – 20 CFR 656.17(e), (f) and (g)

Job advertisements. 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)(2), the resources expended by employers to comply with the recruitment provisions at 20 CFR 656.17(e) and (f) are excluded from the paperwork burden estimates for this ICR.

Employer's recruitment report. All employers that file applications under the basic process at 20 CFR 656.17 must prepare a summary report under section 656.17(g) 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. Further, the Certifying Officer, after reviewing the employer's recruitment

² Neither the Form ETA-9089 application nor its accompanying instructions refers to the voluntary submission of evidence under 20 CFR 656.10(e). However, the PRA and its burden estimate requirements apply to information collections that are voluntary, as well as mandatory. 5 CFR 1320(c)(3), 1320.8(a)(4) and (b)(4).

report, may request the resumes or applications of U.S. workers sorted by the reasons they were rejected.

The Department estimates that it will take an employer an average of one hour to prepare a recruitment report for each application it files, and, if requested by the Certifying Officer, sort the resumes or applications it received by the reasons they were rejected. Since the Department anticipates that 107,254 applications for permanent labor certification will be filed under the basic process, which requires advertising, with the Department of Labor, the total annual burden for preparing recruitment reports is estimated to amount to 107,254 recordkeeping hours (107,254 applications x 1 hour).

5. Retention of Supporting Documentation – 20 CFR 656.10(f)

The PERM regulation requires employers to retain records demonstrating their compliance with the advertising requirements, as well as records they used to prepare the required recruitment report. Employers already have an obligation to maintain such records.³

The records that employers must maintain pursuant to 29 CFR 1627.3(b) that was promulgated pursuant to the Age Discrimination in Employment Act, include 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 for job openings; and
- o Any advertisement or notice to the public or to employees relating to job openings, promotions, training programs, or to opportunities for overtime work.

As noted, employers are already required to keep recruitment and hiring documents for one year under various equal opportunity federal laws, and the Department's regulations require that they be kept for five years. Therefore, the Department estimates that employers will spend about five minutes per year per application to retain an application and required supporting documentation in the four years PERM regulations require for retention beyond the one-year retention period

³The burden to maintain such records can be excluded in compiling the paperwork burden under this ICR. See, e.g., Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR 1602.14 (OMB Control No. 3046-0040), promulgated pursuant to Title VII of the Civil Rights Act, the American With Disabilities Act, and the Genetic Information Nondisclosure Act; and at 29 CFR 1627.3(b) (OMB Control No. 3046-0018), promulgated pursuant to the Age Discrimination in Employment Act.

mandated under Title VII and other equal employment opportunity laws noted above. This results in an annual burden of 8,938 recordkeeping hours (107,254 applications x 5 minutes ÷ 60 minutes = 8,938 hours).

6. Optional Special Recruitment and Documentation Retention Procedures for College and University Teachers – 20 CFR 656.18

The Department understands, from its consultation with universities, that colleges and universities customarily advertise for faculty positions. Therefore, placement of such advertisements can be considered usual and customary under OMB regulations at 5 CFR 1320.3(b)(2). Accordingly, the resources expended by employers to prepare and place the required advertisements in professional journals are excluded from the burden imposed by 20 CFR 656.18.

Additionally, colleges and universities are required to maintain the records and documents received pursuant to their recruitment activities under the EEOC regulations cited above at 5 CFR 1602.14 and 1627.3(b). The hourly burden for the recruitment report and other retention requirements is included in the burden estimates under Sections A.12.4 (recruitment) and A.12.5 (document retention) of this supporting statement.

7. Supervised Recruitment – 20 CFR 656.21

In a case where the Certifying Officer determines it to be appropriate, post-filing recruitment may be required of the employer. The Department estimates that employers will be required to conduct supervised recruitment with respect to 934 applications each year, and that the time required to conduct such recruitment will average three hours per application to place the advertisement, receive and analyze resumes and interview candidates for an annual burden of 2,802 third-party disclosure hours. Employers will also be required to provide a recruitment report to the certifying officer that on average will take about 1 hour to prepare for an annual burden of 934 reporting hours.

This burden is included in the estimate of the total paperwork burden for this ICR.

8. Employer requests for reconsideration of labor certification denials and appeals to the Board of Alien Labor Certification Appeals – 20 CFR 656.24

Employers may request reconsideration of a denial by the Certifying Officer of an application for permanent labor certification. If the reconsideration is denied, they may appeal to the BALCA. Due to program experience the Department estimates that 1,800 employers will request reconsideration and/or appeals and that it will take two hours on average to prepare the requests for an annual burden of 3,600 reporting hours.

9. Completion of Form ETA-9089

The Department estimates that it will take applicants 25 minutes to complete and submit the Form ETA-9089 once program requirements have been completed. The total annual burden for completing Form ETA-9089 is estimated to be 47,210 hours (113,304 applications x 25 minutes

= 47,210). This estimate is solely associated with the completion and submission of the Form ETA-9089. This time estimate does not encompass the time estimate incurred by respondents in connection with other steps associated with this information collection.

10. Audits – 20 CFR 656.20

The Department has the authority to audit applications under 20 CFR 656.20. However, because each audit is tailored to the individual employer and the specific application, it is not subject to PRA burden calculations.

11. Prevailing Wages – 20 CFR 656.40 and 656.41

The regulations at 20 CFR 656.40 and 656.41 require an employer to obtain a prevailing wage to participate in the permanent employment certification process. The process of obtaining the prevailing wage is subject to the Paperwork Reduction Act. However, the burdens associated with this process are accounted for under OMB Control Number 1205-0508 and do not need to be calculated here.

A13. Provide an estimate for 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 already reflected on the burden worksheet).

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 the Office of Foreign Labor Certification (OFLC).

b) Annual costs: There are no annual costs involved with operation and maintenance of the forms, themselves, because ETA will be responsible for the annual maintenance costs for the free downloadable forms. There is also no filing fee involved with filing a Form ETA-9089. The Department assumes that employers would incur the preliminary costs such as advertising even if they were not filing applications for labor certification because they are required to make good faith efforts to recruit U.S. workers and it is assumed that advertising their job openings is a normal cost of doing business. Therefore, the Department is not including any out-of-pocket expenses as part of its burden estimates for the majority of cases. However, as indicated in item A.12.7 above, the Department estimates that 934 employers will be required to conduct supervised recruitment. The Department estimates that the cost of an advertisement over all types of publications and geographic locations will average \$500.00 for a total annual burden of \$467,000.

A14. Provide estimates of annualized costs 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

It is estimated that the OFLC and U.S. Citizenship and Immigration Services (USCIS) staff spend the following time each year processing these applications to ensure compliance with applicable regulations:

<u>GS-Level/Step</u>	<u>Applications</u>	<u>Activity</u>	<u>Hourly Rate</u>	<u>Hours/App</u>	<u>Total Cost</u>
SWA Staff*	107,254	Job Orders	\$31.97 x 1.74	1	\$5,966,304
DOL Federal (GS 12/8)	113,304	Case-Processing	\$44.74 x 1.74	1	\$8,820,444
DOL (Contractor)	113,304	Case-Processing	Based on Contract	N/A	\$4,263,577
DOL IT (Contractor)	N/A	IT-related	Based on Contract	N/A	\$1,740,106
USCIS (GS 12/8)	6,050	Case-Processing	\$47.11 x 1.74	0.2	\$99,185
<i>Total estimated cost to the Federal government:</i>					<i>\$20,889,616</i>

The hourly rate used to calculate cost is the average hourly rate for an employee in the Federal service (based on 2017 GS locality pay schedules for Atlanta, Georgia and Washington-Baltimore-Arlington, DC-MD-VA-WV-PA). See relevant GS Scales:

Atlanta: www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/ATL_h.pdf

Washington- Baltimore-Arlington, DC-MD-VA-WV-PA: www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/DCB_h.pdf.

* Bureau of Labor Statistics in O*Net Online – Job title: Benefits, Job Analysis Specialists <http://www.onetonline.org/link/summary/13-1141.00>

The average Federal Government cost for a year of operation is estimated on an hourly basis multiplied by an index of 1.74 to account for employee benefits and proportional operating costs, otherwise known as Fully Loaded Full Time Equivalent (FLFTE). The index is derived by Departmental analysis of current personnel and overhead cost data. The total cost to the Federal Government is estimated at \$20,889,616 calculated as follows:

The Department estimates State Workforce Agency (SWA) staff spend one hour on average to process job orders. The average hourly rate for SWA staff is estimated to be \$31.97⁴ per hour for a total cost burden of \$5,966,304 (\$31.97 x 1.74 x 1 x 107,254).

The Department’s estimated annual costs are \$14,824,127. This estimate is based on the average GS and FLFTE rates for the federal analysts and supervisors who adjudicate ETA-9089s, the

⁴ Based on the average hourly rate of \$31.97 for Compensation, Benefits, and Job Analysis Specialists 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/13-1141.00>

case-processing support contractors who assist in that review, and the IT system through which ETA-9089s are submitted and adjudicated.

The Department estimates that USCIS staff spends twelve minutes (.2 hours) on average to read and analyze the information contained in the form, which will be attached to applications for permanent residency. The average hourly rate for USCIS staff is estimated to be \$47.11 per hour for a total cost burden of \$99,185 ($\$47.11 \times 1.74 \times .2 \times 6,050$).

A15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

The estimated burden hours and associated costs have changed due to updated projections based on more recent programmatic experience, including adjustments to anticipated annual application volumes and the average reporting time per application. The answer provided to A.12 provides more information regarding this burden increase.

The Department reported during the last renewal cycle that it would receive 67,900 applications per year in connection with the PERM program; that DHS would receive 1,300 Form ETA-9089s in lieu of the Form ETA-750 for its NIW application process, and 4,200 for Schedule A and Shepherd applications combined. The Department now estimates an increase in applications for the upcoming FY2018-FY2020 years. It is estimated that approximately 113,304 PERM applications will be submitted, in average, annually (107,254 submitted to ETA, 1,430 submitted to DHS via the NIW application process, and 4,620 submitted to DHS for Schedule A and Shepherd applications).

The edits to the form and instructions do not cause the burden increase reported by OFLC. The new projections are made based on past filings, current filing trends and the general improvement of OFLC's methodology for arriving at these estimates.

A16. 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.

No collection of information will be published.

A17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department displays the expiration date for OMB approval on the form and instructions.

A18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

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

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.