

**SUPPORTING STATEMENT FOR
Petition for CNMI-Only Nonimmigrant Transition Worker
OMB Control No.: 1615-0111
COLLECTION INSTRUMENT(S): Form I-129CW**

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.**

The CNRA of 2008 establishes a transition period before the Immigration and Nationality Act (Act) is fully applicable to the CNMI. A CNMI-only transitional worker is an alien worker who is ineligible for another classification under the Act and performs services or labor for an employer in the CNMI. See 8 CFR 8 CFR 214.2(w). This form is necessary for an employer to petition for an alien worker to enter the CNMI temporarily to perform services or labor as a CNMI-Only nonimmigrant transition worker. This form is also necessary for an employer to petition for an extension of stay or change of status for an alien worker as CW-1 nonimmigrant.

Any individual may be required to submit biometric information if the regulations or form instructions require such information or if requested in accordance with 8 CFR 103.2(b)(9), or 103.16. DHS may collect and store the biometric information submitted by an individual to conduct background and security checks, adjudicate immigration and naturalization benefits, verify identity, and other functions related to administering and enforcing the immigration and nationality laws. See 8 U.S.C. 1103; 8 CFR 103.16, 214.2(w)(15).

- 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.**

USCIS uses the data collected on this form to determine eligibility for the requested immigration benefits. An employer uses this form to petition USCIS for an alien to temporarily enter as a nonimmigrant into the CNMI to perform services or labor as a CNMI-Only Transitional Worker (CW-1). An employer also uses this form to request an extension of stay or change of status on behalf of the alien worker. The form serves the purpose of standardizing requests for these benefits, and ensuring that the basic information required to determine eligibility, is provided by the petitioners.

Form I-129CW is unique in that it is a petition for the CW-1 classification that, if approved, is also a “grant of status” allowing beneficiaries lawfully present in the CNMI to change status directly from their CNMI classification or DHS-issued parole to the CW-

1 classification. See 8 CFR 214.2(w)(1)(v). Upon approval of a Form I-129CW petition, the adjudicating officer is granting admission and status to the beneficiary without requiring the beneficiary to depart the CNMI, obtain a visa abroad, and seek admission with DHS Customs and Border Protection. USCIS collects biometrics from beneficiaries listed on Form I-129CW prior to adjudication. Biometrics are used to confirm identity and ensure that CW-1 status is not granted to a beneficiary who is inadmissible.

- 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-129CW provides the most efficient means for collecting and processing the required data. This form and its instructions are available on the USCIS website at <http://www.uscis.gov/i-129cw>. The form and the instructions can be downloaded, completed and saved electronically. The form must be printed, signed, and submitted to USCIS by mail.

- 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.**

A review of the Forms Inventory Report revealed no duplicate collection. Similar information is not available for this purpose.

USCIS investigated its processes as well as those of other Federal agencies that may service the same population and was not able to find a way for the information necessary to be obtained except for the use of the form. USCIS will continue to examine ways in which the information required can be minimized.

- 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.**

Over 80 percent of businesses in the CNMI have annual revenues and employees below the threshold considered small according to the Small Business Administration's "Table of Small Business Size Standards Matched to North American Industry Classification System Codes". However, the CW-1 program results in a cost savings because employers may hire more than one employee on each petition, while separate petitions and fees were required for each employee under the old CNMI system.

- 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.**

If the information is not collected, USCIS will not be able to determine the employers' eligibility to petition for an alien worker to temporarily enter as a nonimmigrant into the CNMI or determine an employer's eligibility to for an extension of stay or change of status.

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.

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.

On September 11, 2020, USCIS published a Notice of Proposed Rulemaking in the Federal Register at 85 FR 56338.

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

USCIS does not provide any payment for benefit sought.

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.

This collection is covered under the following Privacy Impact Assessment:

- DHS/USCIS/PIA-016 USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3).

The collection is covered under the following System of Records Notices:

- DHS/USCIS-001 Alien File, Index, and National File Tracking System of Records, September 18, 2017, 82 FR 43556, and
- DHS/USCIS-018 Immigration Biometric and Background Check System of Records, July 31, 2018, 83 FR 36950.
- DHS/ USCIS-007 Benefits Information System SORN, October 19, 2016, 81 FR 72069.

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.

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.**

		A	B	C (=AxB)	D	E (=CxD)	F	(=ExF)
Type of Respondent	Form Name / Form Number	#. of Respondents	#. of Responses per Respondent	# of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Businesses or Others for Profit	Petition for CNMI-Only Nonimmigrant Transition Worker, Form I-129CW	3,749	1	3,749	3	11,247	\$35.54*	\$399,718
Individuals or Households	Biometrics	7,498**	1	7,498	3.67	27,518	\$25.83** *	\$710,781
Total				11,247		38,765		\$1,110,500

* The above Average Hourly Wage Rate is the May 2018 National Occupational Employment and Wage Estimates Guam average minimum wage for human resources specialists of \$24.86 times the wage rate benefit multiplier of 1.47, which equals \$35.54. See Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment Statistics, May 2018 National Occupational Employment and Wage Estimates Guam, SOC 13-1071 – Human Resources Specialist (https://www.bls.gov/oes/current/oes_gu.htm).

*** For purposes of biometrics collection, USCIS has doubled the estimated number of respondents, as each Form I-129CW may include more than one beneficiary. USCIS is using this number as initial estimate for the number of respondents for biometrics collection that may result from the Biometrics Rule.*

**** The above Average Hourly Wage Rate is the May 2018 National Occupational Employment and Wage Estimates Guam average minimum wage for the expected respondents of \$17.57 times the wage rate benefit multiplier of 1.47 (to account for benefits provided), which equals \$25.83. DHS uses an average hourly compensation rate of \$25.26 in Guam as a reasonable proxy for CW-1 nonimmigrant workers in the CNMI. See Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment Statistics, May 2018 National Occupational Employment and Wage Estimates Guam, SOC 00-0000 – All Occupations (https://www.bls.gov/oes/current/oes_gu.htm).*

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 start-up, maintenance, and operating costs associated with this collection of information. For informational purposes, there is a filing fee of \$460, a \$50 Fraud

Prevention and Detection fee, a supplemental CNMI educational funding fee of \$200 per beneficiary, and an \$85 biometrics services fee per beneficiary associated with filing of this information collection.

This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. This estimate includes costs associated with collection of information including postage, obtaining documents necessary for submission, and attorney representation. USCIS estimates that the average cost for these activities is \$122.50. The total cost to respondents would generate as follows: 3,749 respondents x \$122.50 = **\$459,252.50**.

- 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.**

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 printing costs) 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 cost to the government is calculated by multiplying the filing fee by the estimated number of petitioner respondents ($\$460 \times 3,749 = \$1,724,540.00$). The CNMI educational funding fee and the biometric services fee are added together ($\$200 + \$85 = \$285$), and multiplied by the estimated number of beneficiary respondents ($\$285 \times 7,498 = \$2,136,930.00$). The total cost to the federal government is $\$1,724,540 + \$2,136,930.00 = \mathbf{\$3,861,470.00}$.

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

As a result of the Biometrics Rule, all Form I-129CW beneficiaries are subject to biometrics collection, and the \$85 biometric services fee must be paid for each beneficiary. USCIS has modified the Biometric Services Appointment language and the "What is the Filing Fee?" language in the Form I-129CW Instructions to reflect these changes.

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New) [new minus current]	Difference
Form I-129CW				23,900	11,247	-12,653
Biometrics	0	27,518	27,518			
I-129CWR				14,938	0	-14,938
Total(s)	0	27,518	27,518	38,838	11,247	-27,591

The estimated annual hour burden for this collection of information has increased as a result of the Biometrics Rule. The estimated annual hour burden for biometrics collection has increased from zero hours to 27,518 (rounded) hours.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New) [new minus current]	Difference
Form I-129CW				\$3,077,125	\$459,253	\$(2,617,873)
Biometrics	\$0	\$0	\$0			
I-129CWR				\$731,938		\$(731,938)
Total(s)				\$3,809,063	\$459,253	\$(3,349,811)

The estimated cost burden to respondents based on the agency revised estimate.

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.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved with this collection.