

**SUPPORTING STATEMENT FOR
H-1B Registration Tool
OMB Control No.: 1615-0144
COLLECTION INSTRUMENT(S): H-1B Registration Tool**

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.**

DHS regulations require petitioners seeking to file H-1B petitions subject to the regular cap, including those eligible for the advanced degree exemption, to first electronically register with USCIS during a designated registration period, unless the registration period is suspended. The registration is conducted via the H-1B Registration Tool. A separate registration must be submitted for each worker on whose behalf a petitioner seeks to file an H-1B cap-subject petition. Only those petitioners whose registrations are selected will be eligible to file an H-1B cap-subject petition on Form I-129, Petition for a Nonimmigrant Worker, during an associated filing period for the applicable fiscal year. The statutory authority is found in sections 101(a)(15)(H)(i)(b), 214(c)(1), 214(g), and 214(i) of the Immigration and Nationality Act (Act); 8 U.S.C. 1101(a)(15)(H)(i)(b), 1184(c)(1), 1184(g), and 1184(i). The regulatory authority is 8 CFR 214.2(h)(2)(i)(A) and 8 CFR 214.2(h)(8)(iii)(A)(1).

- 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 will use the data collected through the H-1B Registration Tool to select a sufficient number of registrations projected to meet the applicable H-1B cap allocations and to notify registrants whether their registration was selected.

- 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.**

H-1B registrations may only be filed electronically via USCIS's online filing portal at www.myaccount.uscis.gov.

- 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.

The H-1B Registration Tool is the only means through which an employer can submit an H-1B registration request to USCIS; there is no duplication of information collected. Selected petitioners may be required to submit some of the information collected during the H-1B registration process again when filing Form I-129, Petition for a Nonimmigrant Worker, but that information is required for processing and adjudication of that form.

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

This collection of information may impact small businesses or other small entities. Employers who wish to petition for cap-subject H-1B beneficiaries, including those eligible for the advanced degree exemption, must first register and be selected before they may file Form I-129 for those beneficiaries, unless the registration requirement is suspended by USCIS. However, the information collected during the registration process is the minimum data necessary to identify the petitioning entity and the beneficiary for whom they are registering, and to enable notification of the petitioner if their registration is selected.

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.

The registration process, and collection of information to conduct the registration process, is necessary to make the cap selection process more efficient for USCIS and reduce overall costs for H-1B petitioners. The registration process reduces burden on the agency by reducing the amount of information collected and stored in connection with H-1B petitions.

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.

USCIS did not publish a notice in the Federal Register. This submission is made under 5 CFR 1320.13 in connection with the *Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions, Implementation of Vacatur* rule (RIN 1615-AC61) that published on Wednesday, December 22, 2021 at 86 FR 72516.

- 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-034 H-1B Visa Cap Registration PIA update
- DHS/USCIS/PIA-071 myUSCIS PIA appendix update

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

- DHS/USCIS-007 Benefits Information System 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.

This information collection does not ask any 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 (=Cx D) | 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 |
| Business or other for-profit | H-1B Registration / no form number | 35,500 | 3 | 106,500 | 0.5 | 53,250 | \$54.84* | \$2,920,230 |
| Attorneys | H-1B Registration / no form number | 4,500 | 38 | 171,000 | 0.5 | 85,500 | \$102.00** | \$8,721,000 |
| Total | | 40,000 | | 277,500 | | 138,750 | | \$11,641,230 |

* The above Average Hourly Wage Rate is the May 2019 Bureau of Labor Statistics average wage for Business and Financial Occupations of \$37.56 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$54.84.

** The above Average Hourly Wage Rate is the May 2019 Bureau of Labor Statistics average wage for Lawyers of \$69.86 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$102.

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.**

For informational purposes, there is a fee of \$10 per H-1B registration.

There are no capital, start-up, operational or maintenance costs to respondents or record keepers associated with this collection of information. There are also no form preparation, legal service, translator, or document search and generation costs associated with this collection of information. Any costs to respondents are captured in the information collection Form I-129 (OMB 1615-0009).

- 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 cost of the program to the Government is calculated by using the estimated number of responses (277,500) multiplied by the \$10 fee. The total cost to the Federal government is **\$2,775,000**.

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

USCIS will not publish the version of the H-1B Registration Tool that was approved by OMB in connection with the *Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions* (RIN 1615-AC6; effective January 8, 2021; delayed to December 31, 2021). The changes to the Tool made in support of that rule will not be made effective as a result of the withdrawal of that final rule.

| Data collection Activity/Instrument (in hours) | Program Change (hours currently on OMB Inventory) | Program Change (New) | Difference | Adjustment (hours currently on OMB Inventory) | Adjustment (New) [new minus current] | Difference |
|-------------------------------------------------------|----------------------------------------------------------|-----------------------------|-------------------|------------------------------------------------------|---------------------------------------------|-------------------|
| H-1B Registration Tool: | 88,715 | 53,250 | -35,465 | | | |

| | | | | | | |
|--------------------------------------------------------------|----------------|----------------|----------------|--|--|--|
| registrations submitted by businesses or other for-profits | | | | | | |
| H-1B Registration Tool: registrations submitted by attorneys | 142,443 | 85,500 | -56,943 | | | |
| Total(s) | 231,158 | 138,750 | -92,408 | | | |

There is a decrease in the estimated annual hour burden to respondents for this collection of information as the result of the withdrawal rule, which decreases the estimated hour burden per response from 0.8333 hours to 0.5 hours.

There is no change in the estimated annual cost burden to respondents for this collection of information.

- 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.