

SUPPORTING STATEMENT FOR
DISCLOSURES TO WORKERS UNDER THE MIGRANT AND SEASONAL
AGRICULTURAL WORKER PROTECTION ACT
OMB CONTROL NO. 1235-0002

This ICR seeks to revise a currently approved collection.

The Wage Hour Division, U.S. Department of Labor (Department), proposes to revise its information collection request (ICR) related to Disclosures to Workers under the Migrant and Seasonal Agricultural Worker Protection Act. The Department proposes to update the forms WH-516 and WH-521 to improve customer service and clarify required fields. Form WH-501 is also a part of this ICR, but the Department does not propose revising this form at this time. In both forms WH-516 and WH-521, fields are added, revised, and reorganized for accuracy and to address more common situations. With the revised forms, the Department hopes to improve the forms for an easier customer experience. The Department submits this ICR as a revision. The Department submits the WH-516 in English only and if OMB approves the change, intends to submit the Spanish and Haitian/Creole translated versions as a nonsubstantive change.

Part 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.**

A. Terms and Conditions of Employment (WH-516, including versions in other languages)

Various sections of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 et seq., require respondents [i.e., Farm Labor Contractors (FLCs), Agricultural Employers (AGERs), and Agricultural Associations (AGASs)] to disclose employment terms and conditions in writing to (1) migrant agricultural workers at the time of recruitment [MSPA section 201(a)]; (2) seasonal agricultural workers, upon request, at the time an offer of employment is made [MSPA section 301(a)(1)]; and (3) seasonal agricultural workers employed through a day-haul operation at the place of recruitment [MSPA section 301(a)(2)]. See 29 CFR 500.75-.76. MSPA sections 201(b) and 301(b) require respondents to provide each seasonal worker, upon request, and each migrant worker with a written statement of the terms and conditions of employment. See 29 CFR 500.75(b), 500.76(b). MSPA sections 201(g) and 301(f) require providing such information in English or, as necessary and reasonable, in a language common to the workers and that the Department make forms available to provide such information. The Department makes optional form WH-516, Worker Information—Terms and Conditions of Employment, available for these purposes. See 29 CFR 500.75(a), 500.76(a).

MSPA sections 201(a)(8) and 301(a)(1)(H) require disclosure of certain information regarding whether state workers' compensation or state unemployment insurance is provided to each migrant or seasonal agricultural worker. See 29 CFR 500.75(b)(6), 500.76(b)(6). For example, if state workers' compensation is provided, the respondents must disclose the name of the state workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which this notice must be given. See 29 CFR 500.75(b)(6)(i), 500.76(b)(6)(i). Respondents may also meet this disclosure requirement by providing the worker with a photocopy of any notice regarding workers' compensation insurance required by law of the state in which such worker is employed. See 29 CFR 500.75(b)(6)(ii), 500.76(b)(6)(ii).

The Department proposes several changes for accuracy and to address more common situations. A list of the proposed changes is added to ROCIS in supplementary documents as "WH-516 Summary of Edits."

B. Wage Statements (WH-501 English and Spanish versions)

MSPA sections 201(d) and 301(c)—29 U.S.C. 1821(d), 1831(c) and —29 CFR 500.80(a)—require each FLC, AGER, and AGAS that employs any migrant or seasonal worker (collectively respondents) to make, keep, and preserve records for three years for each such worker concerning the following:

- (1) Basis on which wages are paid;
- (2) Number of piece work units earned, if paid on piece work basis;
- (3) Number of hours worked;
- (4) Total pay period earnings;
- (5) Specific sums withheld and the purpose of each sum withheld; and
- (6) Net pay.

Respondents are required to provide an itemized written wage statement with this information to each migrant and seasonal agricultural worker each pay period. 29 U.S.C. 1821(d), 1831(c); 29 CFR 500.1(i)(3), and 500.80(d).

When a FLC furnishes any migrant or seasonal agricultural workers to an AGER, AGAS, or other FLC, the FLC must provide them with a copy of the written wage statements of the workers. The AGER, AGAS or other FLC receiving such records must maintain them for a period of three years. *Id.*

MSPA requires respondents to make and keep certain records, including each worker's social security number. 29 CFR 500.80(a). Further, the wage statement provided to each worker at the time of wage payment is to include, among other items, the worker's social security number and employer's tax identification number. 29 CFR 500.80(a), (d).

C. Housing Terms and Conditions (WH-521)

MSPA section 201(c) requires all FLCs, AGERs, and AGASs providing housing to any migrant agricultural worker to post in a conspicuous place at the site of the housing, or present to the

migrant worker, a written statement of any housing occupancy terms and conditions. See 29 U.S.C. 1821(c); 29 CFR 500.75(f). In addition, MSPA section 201(g) requires these FLCs, AGERs, and AGASs to give such information in English, or as necessary and reasonable, in a language common to the workers. See 29 U.S.C. 1821(g); 29 CFR 500.1(i)(2), 500.75(a), (f)-(g). This provision also requires the Department to make optional forms available to provide the required disclosures. See 29 U.S.C. 1821(g); 29 CFR 500.1(i)(2), 500.75(a), (g).

The Department proposes several changes for accuracy and to address more common situations. A listing of the proposed changes is added to ROCIS supplementary documents as “WH-521 Summary of Edits.”

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.

A. Terms and Conditions of Employment (WH-516, including versions in other languages)

Form WH-516 is an optional form that respondents may use to make the mandatory disclosure of employment terms and conditions in writing to migrant and seasonal agricultural workers, as required by MSPA. Respondents may either complete the optional form and use it to make the required disclosures to workers or use the form as a reference for information workers may request from employers under MSPA. Disclosure of the information on this form is beneficial to both parties as it enables workers to understand their employment terms and conditions while also providing respondents with an easy way to disclose the information required by MSPA.

B. Wage Statements (WH-501 English and Spanish versions)

Form WH-501, MSPA Wage Statement, is an optional use form that allows a FLC, AGER, or AGAS to satisfy the statutory requirement to make, keep, preserve, and disclose certain payroll records and to provide a statement of earnings listing the method of payment of wages to migrant and seasonal agricultural workers and to the users of such workers. See 29 U.S.C. 1821(g), 1831(f); 29 CFR 500.1(i)(3), 500.80. While use of these forms is optional, MSPA requires the disclosure and maintenance of the information. See 29 U.S.C. 1821(d)-(e), (g); 1831(c)-(d), (f), 1851-1853; 29 CFR 500.80(c), (d), 500.140. Failure to require employers to maintain such records would make determination of compliance by the Department extremely difficult.

C. Housing Terms and Conditions (WH-521)

Form WH-521 (English version) is another optional use form that provides an easy method for FLCs, AGERs, and AGASs to post at the site of the housing or present MSPA housing terms and conditions to migrant agricultural workers as required under the Act. Among other things, the form specifically identifies the name and address of the entity providing the housing, the name of the person in charge of the housing, and any charges for the housing, utilities, and meals. The form also ensures that workers receive information regarding the terms and conditions under which they may occupy the housing, as MSPA requires.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

In accordance with the Government Paperwork Elimination Act (GPEA), the Department has posted the various forms on the Department website in a fillable and printable PDF format that allows respondents to enter the required information and provide it to recipients. While WHD makes these forms available electronically, there is no particular format respondents must use to provide the information other than the MSPA requirement that it be furnished in writing under the circumstances discussed in Item 1. With respect to GPEA implementation, these forms are third-party disclosures and are not submitted to the government in a way that implicates the PRA. WHD only reviews this information in connection with an investigation conducted under MSPA.

A. Terms and Conditions of Employment (WH-516, including versions in other languages)

Form WH-516 is available in English, Spanish, and Haitian Creole electronically at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh516.pdf>, https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-516_Spanish.PDF, and <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH516HaitianCreole.pdf>.

B. Wage Statements (WH-501 English and Spanish version)

Form WH-501 is available in English and Spanish (WH-501S) electronically at https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/Form_WH-501.PDF and https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/Form_WH-501S.PDF.

C. Housing Terms and Conditions (WH-521)

Form WH-521 is available in English and Spanish electronically at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh521.pdf>.

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.

While MSPA and the Fair Labor Standards Act (FLSA)—29 U.S.C. 211(c)—require maintenance of similar wage payment information, employers may use one record, such as optional form WH-501, to satisfy both MSPA and FLSA requirements. Similarly, respondents may use form WH-501 to record information that is also maintained for tax purposes, such as employee social security numbers and the employer’s tax identification number, to satisfy the other requirements, where taxing authorities will allow. The Internal Revenue Service (IRS) requires the employers to submit some information to that agency on such forms such as the form W-2, which is cleared under OMB Control Number 1545-0008. The information submitted to the IRS is the summary of aggregated information, while the information disclosed to third parties under MSPA is the detailed information for the pay period. Consequently, there is no exact overlap of the information.

Information concerning migrant and seasonal agricultural worker employment and housing is unique to MSPA information collections and is not available from any other source. Therefore, it does not duplicate existing WHD requirements.

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

This information collection involves small businesses engaged in agriculture, but it does not have a significant economic impact on a substantial number of small entities. While MSPA and its regulations require respondent disclosure of employment terms and conditions, the use of form WH-516—which offers an easy method for that disclosure—is optional. Small businesses can reduce burden by using form WH-516.

Similarly, use of forms WH-501 and WH-501S is optional. The forms provide a convenient method for employers, including small businesses, to maintain and provide the information that MSPA requires.

By completing optional form WH-521—including all the required information—in English and Spanish, FLCs, AGERs, and AGASs are provided with an easy method for disclosing MSPA required information to workers through posting or presenting the form to workers, which minimizes any burden.

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 Department has a statutory responsibility to ensure that FLCs, AGERs, and AGASs disclose employment terms and conditions, statements of earnings, and housing terms and conditions to their migrant and seasonal agricultural workers, as required by MSPA and its regulations. Less frequent disclosure would prevent the Department from determining compliance with this MSPA requirement.

MSPA further makes it mandatory for FLCs, AGERs, and AGASs to maintain copies of statements of earnings provided to migrant and seasonal agricultural workers. See 29 U.S.C. 1821(d), 1831, 1862; 29 CFR 500.80(b)-(d). Failure to require an employer to maintain such records on a pay period basis would make a determination of compliance extremely difficult.

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 secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances associated with this information collection.

- 8. 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 record-keeping, disclosure, or reporting format (of 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 March 10, 2023, the Department published a notice in the *Federal Register* inviting public comment about this information collection (88 FR 15100). No comments were received. In addition, through the course of doing regular business, the agency did not hear any concerns that the information collection imposes any substantive problems or undue burdens.

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

The Department offers no payments or gifts to respondents in connection with this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The Department makes no assurances of confidentiality to respondents regarding these information collections and third-party disclosures. Copies or transcriptions of information provided under this information collection may become part of a MSPA investigation file. As a practical matter, the Department would only disclose such records in connection with a request pursuant to the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; and related regulations, 29 CFR parts 70 and 71.

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.

As previously noted in Item 1, 29 CFR 500.80(a) and (d) require respondent employers to maintain each worker's social security number and to provide a wage statement to each worker at the time of wage payment that includes the worker's social security number and employer's tax identification number. The wage statement provides the migrant or seasonal agricultural worker with evidence of their employment so that, where necessary, the worker may avail themselves of benefits such as disability, worker's compensation, or unemployment payments.

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.**
- **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 under "Annual Cost to Federal Government."**

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Estimated Annualized Respondent Hour and Cost Burdens

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden Per response (Hours)	Total Annual Burden (Hours)	Hourly Wage Rate	Monetized Value of Time
WH-516 Terms & Conditions of Employment	94,729	17.15	1,625,002	.333	45,229.22	\$38.42	\$1,737,706.63
WH-501 Wage Statements	94,729	749.30	70,980,087.36 *	.0167	1,183,001	\$38.42	\$45,450,916.09
WH-521 Housing Terms & Conditions	1,300	1	1,300	.5	650	\$38.42	\$24,973.00
Totals	94,729**		72,606,389.36		1,228,880.68		\$47,213,595.72

*=adjusted

**=not cumulative

Terms and Conditions of Employment (WH-516, including versions in other languages)

MSPA applies to farms nationwide, with the exception of those farms meeting the criteria for one of the exemptions provided in MSPA section 4. Where MSPA does not apply, there is no obligation to provide these disclosures.

The most current estimate reflecting the number of farms that have hired five or more agricultural workers during the survey year comes from the *2017 Census of Agriculture*.¹ That estimate indicates approximately 94,729 farms are subject to MSPA provisions. The 2017 Census also estimates the number of hired farm/agricultural workers, other than proprietors, to be

¹ The information listed in the *2017 Census of Agriculture* comes from U.S. Department of Agriculture, National Agricultural Statistics Service 2017 reports. Specifically, it appears at *Volume 1–Geographic Area Series Publications–All States by Table–Table 7, Hired Farm Labor–Workers and Payroll: 2017*. This report was last published in April 2019 and is updated every 5 years. As of the preparation of this supporting statement, this was the latest report available. The total was arrived at by adding the total number of farms (nationwide), that reported employing 5 to 9 workers (59,188 farms), with the number of farms that reported employing 10 or more workers (35,541). The actual total is 94,729.

approximately 1,625,002². Information derived from the findings from the National Agricultural Workers Survey indicates that farm workers average 1 farm job each year (1,625,002 jobs). See *Findings from the National Agricultural Workers Survey 2019-2020 (NAWS), A Demographic and Employment Profile of United States Farm Workers*, at 41, <https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS%20Research%20Report%202016.pdf>. Some of these workers may not be migrant or seasonal workers or may not be employed on farms subject to MSPA. The total number of farm jobs, thus, may overestimate burden. However, the total number of farm jobs provides an outer limit for estimating burden. A typical respondent, therefore, annually will make approximately 17 third-party disclosures under this information collection.

Number of respondents: 94,729 farmers

Number of farm jobs: 1,625,002 farmworkers × 1 farm job per farmworker = 1,625,002

Number of responses per respondent: 1,625,002 farm jobs ÷ 94,729 respondents = 17.15 (rounded)

The Department estimates the average disclosure to require 1.67 minutes. It takes approximately 20 minutes to complete the form, and 30 seconds per individual response to photocopy and distribute completed forms. The estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, making copies, and making the required disclosures. The Department believes that the changes proposed to form WH-516 will not result in increases in the time needed to complete the form. The proposed changes only add a few fields to the form, which will have a minimal impact in the overall time needed to complete the form. Moreover, the additions are merely intended to clarify the information requested, which should already be readily available to respondents. The Department estimates an annual time burden of 45,118 hours.

Time per respondent: 20 min. to complete form + (17.15 responses per respondent × 0.5 min photocopy) = 28.58 minutes (rounded)

Time per response: 28.58 min. per respondent ÷ 17.15 responses per respondent = 1.67 minutes (rounded)

Annual time burden (WH-516): 1,625,002 responses × 1.67 minutes ÷ 60 min per hour = 45,229.22 hours (rounded)

Most respondents to this information collection are FLCs, and the Department used the most current median hourly earnings for FLCs from the Bureau of Labor Statistics (BLS) to estimate the costs associated with respondents' burden hours. See Bureau of Labor Statistics, May 2022 National Sector NAICS Industry-Specific Estimates; <https://www.bls.gov/oes/current/oes131074.htm>. This yields a median hourly rate of \$23.72, to which the Department added 17% overhead (\$4.03) and 45% benefits cost (\$10.67) for a loaded wage rate of \$38.42 (rounded).

² Actual census numbers are 369,435 workers at farms reporting 5 to 9 workers and 1,255,567 workers at farms reporting 10 or more workers. See *2017 Census of Agriculture, Volume 1—Geographic Area Series Publications—All States by Table—Table 7, Hired Farm Labor—Workers and Payroll: 2017*.

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Annual cost burden (WH-516): 45,229.22 annual burden hours × \$38.42 FLC loaded wage rate = \$1,737,706.63 (rounded)

A. Wage Statements (WH-501 and Spanish version)

The Department estimates crop workers spend an average of 39 weeks annually performing seasonal agricultural work. See *NAWS*, at 41. Because the estimated number of farmworkers is 1,625,002, the Department estimates that the number of annual responses of wage statements is 63,375,078.

Number of responses 1,625,002 farmworkers × 39 weeks = 63,375,078

Approximately 12 percent of these workers are employed by FLCs. *NAWS* at 22. The Department has correspondingly increased its estimate to account for wage statements provided to AGERs, AGASs, and other FLCs who contract the services of FLCs to furnish migrant and seasonal agricultural workers, for a total of 70,980,087.36 responses.

Adjusted number of responses: 63,375,078 responses × 1.12 percentage of workers who work for FLCs = 70,980,087.36 responses (rounded)

Number of responses per respondent: 70,980,087.36 responses ÷ 94,729 respondents = 749.30 responses per respondent (rounded)

With the exception of disclosing pay information to migrant and seasonal agricultural workers and maintaining the worker's social security number and the employer's tax identification number, the burden required to comply with this information collection has been reviewed and approved by OMB under the basic FLSA recordkeeping requirements contained in 29 CFR part 516, under OMB No.1235-0018. In addition, information collections sponsored by the IRS (e.g., 1545-0008 for form W-2), require the maintenance of social security numbers. Records maintained for FLSA and tax purposes can be used to satisfy the requirements of WH-501. The Department estimates the third-party disclosure and recordkeeping burden for these forms for information required beyond the basic FLSA or tax recordkeeping requirements to be an average of 1 minute³ per response. This produces an annual burden of 1,183,001 hours.

Annual time burden (WH-501): 70,980,087.36 responses × 1 minute ÷ 60 min per hour = 1,183,001.46 hours (rounded)

The Department has used the FLC loaded wage rate of \$38.42 per hour to estimate the annual burden cost (See above). The Department estimates annual respondent costs to be \$45,450,916.09 (rounded).

Annual cost burden (WH-501): 1,183,001 annual burden hours × \$38.42 FLC loaded wage rate = \$45,450,916.09 (rounded).

³ Because the third-party disclosure applies in the context of FLCs, third-party disclosures are also estimated to be 12 percent—the percentage of workers employed directly by FLCs—of the total time burden. Therefore, the estimated one minute required to complete the information collection is divided between third-party disclosure (7.2 seconds) and farmworkers (52.8 seconds).

B. Housing Terms and Conditions (WH-521)

The Department estimates that FLCs, AGERs, and AGASs disclose housing terms and conditions approximately 1300 times per year and each disclosure takes approximately 30 minutes. The Department believes that the changes proposed to form WH-521 will not result in increases in the annual time or cost burden. The proposed changes only add a few fields to the form, which will have a minimal impact in the overall time needed to complete the form. Moreover, the additions are merely intended to clarify the information requested, which should already be readily available to respondents.

Based on investigative experience, the Department estimates that 80% of FLCs, AGERs, and AGASs providing housing to migrant workers use form WH-521, while the remaining 20% of disclosures, which provide the same information, are in an alternative format. Thus, the annual burden is 650 hours.

Annual time burden (WH-521): $1,300 \text{ disclosures} \times 30 \text{ minutes per response} \div 60 \text{ min per hour} = 650 \text{ hours}$

The Department used the FLC loaded wage rate of \$38.42 per hour to estimate the annual burden cost (See above). The Department estimates annual respondent costs to be \$24,973.00.

Annual cost burden (WH-521): $650 \text{ annual burden hours} \times \$38.42 \text{ FLC loaded wage rate} = \$24,973.00$

GRAND TOTAL RESPONSES: $1,625,002 \text{ (Terms and Conditions of Employment)} + 70,980,087.36 \text{ (Wage Statements)} + 1,300 \text{ (Housing Terms and Conditions)} = 72,606,389.36$

GRAND TOTAL TIME BURDEN: $45,229.22 \text{ (Terms and Conditions of Employment)} + 1,183,001.46 \text{ (Wage Statements)} + 650 \text{ (Housing Terms and Conditions)} = 1,228,880.68 \text{ hours.}$

GRAND TOTAL COST BURDEN: $\$1,737,706.63 \text{ (Terms and Conditions of Employment)} + \$45,450,916.09 \text{ (Wage Statements)} + \$24,973.00 \text{ (Housing Terms and Conditions)} = \$47,213,595.72.$

13. 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).

- **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 collections 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.**

A. Terms and Conditions of Employment (WH-516 and versions in other languages)

WHD enforcement experience indicates respondents make disclosures required under this information collection by providing a photocopy of a completed form WH-516 to each seasonal worker, upon request, and each migrant worker. The total number of farm jobs includes both seasonal and migrant farm jobs, which may overestimate burden because not all seasonal workers may request such a copy of the WH-516. The Department estimates respondent operational costs to be \$0.04 per copy to cover these costs. Since form WH-516 is one page, the Department estimates respondent operational and maintenance costs to be \$65,000.08.

Annual recordkeeping cost burden (WH-516): 1,625,002 disclosures × \$0.04 estimate cost per copy = \$65,000.08

B. Wage Statements (WH-501 English and Spanish versions)

Most respondents use an electronic version of form WH-501 or a standard business payroll form that provides all the information by the statute and regulations. Respondents provide workers with a copy of the wage statement on each week in which workers are employed. Since form WH-501 is one page the Department estimates respondent operational and maintenance costs to be \$2,839,203.49.

Annual recordkeeping cost burden (WH-501): 70,980,087.36 responses × \$0.04 estimate cost per copy = \$2,839,203.49

C. Housing Terms and Conditions (WH-521)

Because the information requested on form WH-521 is basic and readily known to the respondent, no system or technology is required. Respondents may copy form WH-521 and post it as disclosure of housing terms and conditions. Since form WH-521 is comprised of 1 page, the Department estimates respondent operational and maintenance costs to be \$52.00.

Annual recordkeeping cost burden (WH-521): 1,300 responses × \$0.04 estimate cost per copy = \$52.00

GRAND TOTAL RECORDKEEPING COST BURDEN: \$65,000.08 + \$2,839,203.49 + \$52.00 = \$2,904,255.57.

14. 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.

In the Department's recent experience, respondents generally access the forms electronically and use them according to their preferred format (electronic or printed). Therefore, the federal government does not incur additional costs for this information collection.

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

A. Terms and Conditions of Employment (WH-516 including versions in other languages)

The burden hour decrease is attributed to updated survey data, which reported that each farm worker held, on average, one farm job per year. See *NAWS* at 41. That is a decrease from 1.4 farm jobs per year in the survey data used in the previous extension of this ICR.

The burden cost decrease is attributed to updated median hourly earnings for FLCs, which decreased from \$29.77 to \$23.72 per hour in comparison with the previous extension of this ICR. See Bureau of Labor Statistics, National Sector NAICS Industry-Specific Estimates; <https://www.bls.gov/oes/current/oes131074.htm>.

B. Wage Statements (WH-501 and Spanish version)

The burden hour increase is attributed to updated survey data, which reported that each farm worker worked 39 weeks per year on average. See *NAWS* at 41. That is an increase from 34 weeks per year in the survey data used in the previous extension of this ICR. The burden hour was also affected by a reported decrease in farm workers employed by FLCs (12%). See *NAWS* at 22. That is a decrease from 25% in the data used in the previous extension of this ICR.

Like the burden cost decrease in Terms and Conditions of Employment (WH-516), the burden cost decrease is attributed to updated median hourly earnings for FLCs (see above).

C. Housing Terms and Conditions (WH-521)

There were not any changes in burden for this IC.

D. Estimated Annual Respondent Capital/Start-Up/Operation/Maintenance Costs

Disclosures to Workers under the Migrant and Seasonal Agricultural Worker Protection Act
OMB Control Number: 1235-0002
OMB Expiration Date: 09/2023

The increase in Capital/Start-Up/Operation/Maintenance Costs was due to an increase in the estimate for operational costs from \$0.03 to \$0.04 per copy.

E. Costs to the Federal Government

The decrease in burden to the Federal Government is attributed to a change in respondents' preferences and increased access to electronic sources. In the Department's recent experience, respondents generally access the forms electronically and use them according to their preferred format (electronic or printed). Therefore, the Federal Government no longer incurs additional costs in copying and mailing forms to respondents.

16. For collections of information whose results are planned to 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.

The Department does not plan to publish results of this information collection.

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.

The Department is not requesting an exception to the requirement to display the expiration date on this information collection.

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

The Department is not requesting an exception to the certification requirements for these information collections.

Part B: EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.