

**SUPPORTING STATEMENT FOR
H-2 Petitioner's Employment-Related Notification
OMB Control No.: 1615-0107
COLLECTION INSTRUMENT(S): I-129N (Formerly OMB-49)**

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.**

USCIS requires H-2 petitioners to notify USCIS when (1) a worker fails to report to work within 5 workdays of the employment start date listed on the petition; (2) the labor or services for which H-2 workers were hired is completed more than 30 days early; (3) a worker absconds from the worksite (leaves without notice); or (4) a worker is terminated prior to the completion of the labor or services for which the worker was hired. The notification requirement is necessary to ensure that H-2 workers maintain their nonimmigrant status and helps prevent H-2 workers from engaging in unauthorized employment. Specifically, the changes to the information collection are related to the *Modernizing H-2 Program Requirements, Oversight, and Worker Protections*, proposed rule, 88 FR 65040 (Sep. 20, 2023) and are contingent on the successful completion of that rulemaking.

Authority: Section 214(c)(1) of the Immigration and Nationality Act (Act) (8 U.S.C. 1184(c)(1)), 8 CFR 214.2(h)(5)(vi), 8 CFR 214.2(h)(6)(i)(F).

- 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.**

The information collected in employment-related notification submitted by H-2 petitioners is used by USCIS, U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). USCIS may forward relevant information to both ICE and CBP. ICE uses the information for future adjudicative purposes and CBP uses it to collect all liquidated damage payments from H-2 petitioners. Establishing compliance with this notification requirement is also a condition of H-2A petitioners being able to request substitutions for H-2A workers who have been admitted to the U.S according to 8 CFR 214.2(h)(5)(ix).

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.**

Respondents may submit notifications by postal mail or by email to the addresses designated by USCIS for this purpose.

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 USCIS inventory revealed no duplication of effort, and there is no other similar information collection currently available which can be used for this purpose.

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 has an impact on small businesses or other small entities. To minimize the burden on impacted small businesses or entities, USCIS provides the option of submitting a notification by either postal mail or email. The information collection requests the minimum data needed to determine the type of notification being made, the reason for the notification, and the petitioners, employers, and beneficiary/ies to whom the notification pertains.

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, ICE, and CBP will not be able to uphold the statutory conditions of the H-2 visa classifications. The employment-related notification process helps identify H-2 workers who may be subject to visa overstays and unauthorized employment.

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 October 3, 2024, USCIS published a 60-day notice in the Federal Register at 89 FR 80589. USCIS received three comments after publishing that notice. USCIS's responses

to the public comments can be found in the following attachment shown in the Supplementary Documents: **60-Day Public Comment Response Matrix**.

On December 9, 2024, USCIS published a 30-day notice in the Federal Register at 89 FR 97647. USCIS received one comment after publishing that notice. USCIS's responses to the public comments can be found in the following attachment shown in the Supplementary Documents: **30-Day Public Comment Response Matrix**.

USCIS uses various tools to collect feedback from end users of USCIS information collections. These tools include surveys or focus groups designed to collect general information, as well as public feedback submitted to USCIS either in response to an official solicitation of public comments from Federal Register publications or submitted proactively through USCIS' robust external outreach activities with stakeholders (see, e.g., www.uscis.dhs.gov/outreach). USCIS also performed usability testing on USCIS Forms I-765, N-400, and I-485 (the three forms with the highest-filing volume) with the goal of studying cross-cutting issues that impact the responding public across the entirety of the USCIS collections of information.

In addition to feedback from external stakeholders, our analysis considers consultation with internal agency stakeholders regarding such activities including, but not limited to, document submission, evidentiary requirements, and like activities. USCIS extensively engages with various program, policy, and intake teams for feedback on the information collections. USCIS analyzes the results of all these efforts to identify necessary modifications to the collection tools approved for use under the Paperwork Reduction Act. Such modifications could include clarifying edits, potential question removal, and instructional updates, all intended to further support the respondent's experience in complying with a collection of information. The collection of information proposed in this current submission is the cumulative result of analysis and studies conducted. In the case of this proposed revision action, there is an adjustment to the number of respondents and cost due to information technology use of this information collection. Since providing respondents the option to email in addition to mailing their notifications to USCIS, we found that respondents save time and cost using the email method as evident by an estimated 96 percent reduction in respondents using the mail in method. As a result, USCIS estimates a five (5) minute (.4167 hours) time burden reduction per respondent and a total annual cost reduction of \$16,933 in using the email method to send the Employment Related Notifications to USCIS.

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 for this collection of information.

- 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.**

Type of Respondent	***Form Name/ Number	**Total Respondents	Total Responses per Respondent	Total 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-2 Petitioner's Employment Related Notification (email)	8,893	1	8893	0.4167	3,706	\$57.99	\$214,894
Business or other for-	H-2 Petitioner's	371	1	371	0.5	186	\$57.99	\$10,757

profit	Employment Related Notification (mail-in)							
Total			9264			3,892		\$225,651

* The above Average Hourly Wage Rate is the May 2023 Bureau of Labor Statistics average wage for Business and Financial Operations Occupations of \$39.72 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$57.99.

** To determine the H-2 Petitioner’s Employment Related Notification respondent estimate, USCIS used the average total notifications issued in the last three calendar years. The H-2 Petitioner’s Fee Related Notification is no longer in use subsequently, no data is reported.

*** USCIS provided a breakdown of the Employment Related Notification submitted to USCIS by email and mail-in to account for the difference in the estimated time burden hours.

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.**

The total annual cost burden to respondents for this information collection is **\$1,852.80**.

USCIS estimates 96 percent respondents use the email method to send USCIS a notification and 4 percent respondents use the mail in method to send USCIS a notification. We estimate a cost of \$5 per respondent to mail the information to USCIS. Therefore, the total estimated cost to respondents is calculated by multiplying 9,264 (respondents) by 04. (percent respondents use mail-in method) by \$5 (postage).

- 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 annual Government cost is **\$734,449.92**. The estimated cost of the program to the Government is calculated by multiplying the estimated total number of respondents 9,264 by the number of responses per respondent (1) by one hour (amount of time for a USCIS officer to review and process a notification) by \$79.28 (\$56.63 x 1.4 multiplier) (the hourly wage of a GS-12, Step 6, federal government employee in Los Angeles, California).

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

There is a 2,013 increase to the estimated annual hour burden and a 16,930 decrease in the estimated annual cost burden to respondents as a result of new agency estimates for the number of H-2 Petitioner’s Employment Related Notification respondents for this information collection. USCIS is now tracking all Employment Related Notifications by the method respondents use to send USCIS notifications. As a result, we found a five (5) minute (.4167 hours) time burden reduction per respondent in using the email method to send USCIS notifications. USCIS also changed the form number from “OMB-49” to “I-129N” for naming consistency with other USCIS forms.

Additionally, USCIS revised the information collection to remove fee-related notifications as this data is no longer collected and changed the form title accordingly. We also removed the term "absconder" and “abscondment” in an effort to recognize that workers may have valid reasons for leaving their contracts. These additional revisions as stated are related to the *Modernizing H-2 Program Requirements, Oversight, and Worker Protections*, proposed rule, 88 FR 65040 (Sep. 20, 2023) and are contingent on the successful completion of that rulemaking.

Data collection Activity/Instrument	Program Change (hours currently on OMB)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference

	Inventory)					
I-129N (e-mail)	0	3,706	3,706			
I-129N (mail-in)	1,879	186	-1,693			
Total(s)	1,879	3,892	2,013			

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
I-129N (e-mail)	0	0	0			
I-129N (mail-in)	\$18,785	\$1,855	-\$16,930			
Total(s)	\$18,785	\$1,855	-\$16,930			

- 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.