SUPPORTING STATEMENT FOR
Petition for CNMI-Only Nonimmigrant Transition Worker and Semiannual Report for CW-1 Employers
OMB Control No.: 1615-0111
COLLECTION INSTRUMENT(S): Form I-129CW; Form I-129CWR

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 Consolidated Natural Resources Act (CNRA) of 2008, Pub. L. 110–229, 122 Stat. 754, 853 –854 established the initial transition period before the Immigration and Nationality Act (INA) becomes fully applicable to the CNMI. The Northern Mariana Islands U.S. Workforce Act of 2018 (Workforce Act) extended this transition period for an additional ten years (from 2019 to 2029). Pub. L. 115-218, 132 Stat. 1547.

A CNMI-only transitional worker is an alien worker who is ineligible for another nonimmigrant classification under the INA and performs services or labor for an eligible employer in the CNMI. *See* 48 USC 1806(d); 8 CFR 214.2(w). Form I-129CW, Petition for CNMI-Only Nonimmigrant Transition Worker, is necessary for an employer to petition for an alien worker to enter the CNMI temporarily to perform services or labor as a CW-1 nonimmigrant. Form I-129CW is also necessary for an employer to petition for an extension of stay or change of status for an alien worker as a CW-1 nonimmigrant. The Form I-129CW conforms to the changes implemented by the Workforce Act and the Implementation of the Northern Mariana Islands U.S. Workforce Act of 2018 interim final rule (IFR).

In addition, the Workforce Act required the Department of Homeland Security (DHS) to establish a system whereby each employer of a CW-1 worker is required to submit a semiannual report that provides evidence to verify the continuing employment and payment of such worker under the terms and conditions set forth in the CW-1 petition that the employer filed on behalf of such workers. Pub. L. 115-218, sec. 3(a)(3)(C). This reporting requirement is implemented via Form I-129CWR, Semiannual Report for CW-1 Employers. *See new* 8 CFR 214.2(w)(26).

The beneficiary of a CW-1 petition must submit biometric information as requested by U.S. Citizenship and Immigration Services (USCIS). 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* INA 103, 8 U.S.C. 1103; 8 CFR 103.16, 214.2(w)(16).

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.

Eligibility: USCIS uses the data collected on Form I-129CW to determine eligibility for the requested immigration benefits. An employer uses Form I-129CW to petition USCIS for an alien to temporarily enter as a nonimmigrant into the CNMI to perform services or labor as a CW-1 worker. An employer also uses Form I-129CW to request an extension of stay or change of status on behalf of the alien worker. The Form I-129CW serves the purpose of standardizing requests for these benefits and ensuring that the basic information required to determine eligibility is provided by the petitioners.

Compliance: Form I-129CWR, Semiannual Report for CW-1 Employers is used by employers to comply with the reporting requirements imposed by the Workforce Act and implemented by the IFR. Form I-129CWR captures information necessary to help USCIS verify the continuing employment and payment of the CW-1 worker, and contains an attestation confirming that information. DHS may provide such semiannual reports to other federal partners, including the US. Department of Labor (DOL) for investigative or other use as DOL may deem appropriate. Congress expressly provided for these semiannual reports to be shared with DOL. 48 USC 1806(d)(3)(D)(ii).

Grants of status: In most cases, an individual in the United States without a nonimmigrant status needs to leave the country and return with a valid visa (if needed) in order to obtain a nonimmigrant status. However, USCIS established criteria allowing certain individuals in the CNMI to initially obtain a nonimmigrant status without having to depart and return. If lawfully present in the CNMI under Federal immigration law (including parole), the beneficiary is eligible for an initial grant of status. *See* 8 CFR 214.2(w)(1)(vi). If the beneficiary is present in the CNMI, the CW-1 petition serves as the application for a grant of status as a CW-1 nonimmigrant. *See* 8 CFR 214.2(w)(15)(ii). A "grant of status" allows beneficiaries lawfully present in the CNMI to change status directly from the status previously issued under CNMI immigration law (under the CNMI nonresident worker permit program) or DHS-issued parole to the CW-1 classification.

USCIS collects biometrics from an alien present in the CNMI at the time that the initial Form I-129CW is submitted on his or her behalf. The information is used to verify the alien's identity, background information, and ultimately make a determination of admissibility prior to adjudicating the Form I-129CW petition. Biometrics are used to confirm identity and ensure that CW-1 status is not granted to anyone who is inadmissible. As the CW program progresses, the need to take biometrics in most cases has diminished, as the Form I-129CW is increasingly used for extensions of status of persons who had already had their biometrics taken rather than for initial grants of status in the CNMI. The authority to collect biometrics is retained and will be used in those initial grant of status cases that do arise.

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 and Form I-129CWR provide the most efficient means for collecting and processing the required data. Form I-129CW is available online at **www.uscis.gov/i-129cw**. The paper form can be downloaded, filled out, saved electronically, and then printed signed, and submitted to USCIS via mail. Form I-129CWR is available online at **www.uscis.gov/i-129cwr**.

Form I-129CW can also be downloaded, filled out, and saved electronically, and submitted using PDF Intake Process (PDFi) through a USCIS online account at **https://myaccount.uscis.gov**. The applicant would upload the completed Form I-129CW and any supporting documentation, pay any required fee, and file their application as a .pdf online. The burden for setting up a USCIS online account is covered under the USCIS Online Account Access information collection (OMB control number 1615-0122).

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.

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." The CW-1 program is designed to minimize the cost impact to small businesses petitioning for workers under this program by allowing employers to petition for more than one employee on each Form I-129CW.

As stated above, each employer of a CW-1 worker is required to submit a semiannual report, via Form I-129CWR, to verify the continuing employment and payment of such workers under the terms and conditions set forth in the CW-1 petition that the employer filed on the workers behalf. Pub. L. 115-218, sec. 3(a)(3)(C). There is no fee for this form, but CW-1 employers are required to retain certain documents and records throughout the validity period of their approved Form I-129CW petition and for an additional three years beyond the end of the validity period of that petition to demonstrate compliance with the CW-1 program. These documents and records must be made available to USCIS or DOL upon request throughout the required document retention

period. The burden on small businesses incurred by this retention requirement is considered minimal. The documents that must be retained will have been submitted as evidence with the Form I-129CW petition, and therefore already be in the employer's possession, or are documents that are expected to be generated in the normal course of any business's operations.

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 requested on Form I-129CW 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 for an extension of stay or change of status. Without Form I-129CWR, USCIS will not be able to verify a CW-1 employer's ongoing compliance with all the requirements of the CW-1 program.

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 is submitting a non-substantive change request to a currently approved collection to OMB. Publication of a Federal Register Notices is not required for a non-substantive change request.

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 of information is covered under the following Privacy Impact Assessment:

- DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3), June 30, 2020; and
- DHS/USCIS/PIA-061 Benefit Request Intake Process, March 15, 2016.

The collection of information 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;

- DHS/USCIS-007 Benefits Information System, October 10, 2019, 84 FR 54622; and
- DHS/USCIS-018 Immigration Biometric and Background Check System of Records, July 31, 2018, 83 FR 36950.

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	Avg. Hourly Wage Rate*	Total Annual Respondent
Businesses or Others for Profit	Petition for CNMI-Only Nonimmigrant Transition Worker, Form I-129CW (paper)	119	1	119	3.567	424	$42.31	$17,959
Businesses or Others for Profit	Petition for CNMI-Only Nonimmigrant Transition Worker, Form I-129CW (PDFi)	5,856	1	5,856	3.567	20,889	$42.31	$883,814
Businesses or Others for Profit	Semiannual Report for CW-1 Workers, Form I-129CWR	5,975	1	5,975	2.5	14,938	$42.31	$632,006
Total				**11,950**		**36,251**		**$1,533,779**

** The above Average Hourly Wage Rate is the May 2021 Bureau of Labor Statistics average wage rate of $28.98 for a Human Resources specialist in Guam, which USCIS considers a reasonable proxy for the CNMI, multiplied by the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling $42.31. See Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment Statistics, May 2021 National Occupational Employment and Wage Estimates Guam, SOC 13-1071 – Human Resources Specialist (https://www.bls.gov/oes/current/oes_gu.htm#00-0000).*

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.

The Form I-129CW information collection may impose some out-of-pocket costs on respondents in addition to the time burden for preparing the form. This estimate includes costs such as obtaining documents required as evidence, attorney representation, and postage. USCIS estimates that the average cost for these activities is $515. The total cost to respondents generates as follows: 5,975 annual respondents multiplied by $515 equals $3,077,125.

The new Form I-129CWR information collection may also impose some out-of-pocket costs on respondents in addition to the time burden for preparing the form. However, USCIS estimates that the average costs will be much lower than those incurred for filing Form I-129CW, averaging about $122.50. The total cost to respondents generates as follows: 5,975 annual respondents multiplied by $122.50 equals $731,938.

The estimated out of pocket costs to respondents for this collection of information is $3,077,125 plus $731,938, which equals a total annual cost of **$3,809,063**. The total estimated per respondent cost is $638.

For informational purposes, the filing fee for Form I-129CW can be found in the G-1055, Fee Schedule, at **www.uscis.gov/g-1055.**

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.

USCIS has established the fee for Form I-129CW at $1,015. An additional $50 fraud prevention and detection fee is required for each petition. An additional $600 Program fee is also required for each petition. USCIS estimates a unit cost of $6.61 for processing of the new Form I-129CWR.

The cost to the government is calculated by adding the $1,015 filing fee to the $50 fraud prevention and detection fee and to the $600 Asylum Program Fee, which equals $1,665, and multiplying that total by the estimated number of responses (5,975) for a total of $9,948,375. The unit cost of $6.61 is also multiplied by the estimated number of responses (5,975), for a total of $39,495. The total estimated cost to the government is **$9,987,870**.

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

	A	B	C = B-A	D	E	F = E-D
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)**	**Difference**
Petition for CNMI-Only Nonimmigrant Transition Worker, Form I-129CW (paper)				21,313	424	-20,889
Petition for CNMI-Only Nonimmigrant Transition Worker, Form I-129CW (PDFi)				0	20,889	20,889
Semiannual Report for				14,938	14,938	0

CW-1 Workers, Form I-129CWR						
Total(s)				**36,251**	**36,251**	**0**

USCIS is reporting no change to the estimated annual hour burden and annual cost burden to respondents for this collection of information as a result of this action. This action is to include the electronic filing option of PDFi for Form I-129CW, which allows the petitioner to upload a completed Form I-129CW .pdf of their petition and any supporting documentation, pay any required fee, and file the petition as a .pdf online. This process reduces the amount of time and money associated with printing, copying and mailing their petition.

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.