

**SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL  
UNDER THE PAPERWORK REDUCTION ACT OF 1995**

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**SUPPORTING STATEMENT**  
**ETA-9127**  
**Foreign Labor Certification Quarterly Activity Report**

**A. Justification**

**A.1 Circumstances Necessitating Data Collection**

Foreign labor certification programs administered by the Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) require State Workforce Agencies (SWAs) to initially process applications for temporary labor certification filed by U.S. employers on behalf of foreign workers seeking to be employed in the U.S. SWAs must conduct and monitor recruitment activities by employers seeking qualified U.S. workers on a temporary basis prior to filling the job openings with foreign workers. SWAs are also responsible for issuing prevailing wage determinations, reviewing employer-provided wage surveys, conducting H-2A prevailing wage and practice surveys and performing H-2A related housing inspections of facilities offered to migrant and seasonal workers. The SWAs perform these functions under a reimbursable grant that is awarded annually.

Foreign labor certification programs are highly visible due in large part to significant employer interest in hiring foreign workers on both a permanent and temporary basis. This makes the collection of information on the Form ETA 9127 all the more critical for accountability and future program management. The data required by the form are available to the SWAs as part of their routine processing of requests from employers and are currently maintained by the SWAs. The submission of this information will provide a sound basis for program management, including budget and workload management.

Foreign labor certification programs currently operate under the Department's regulations at 20 CFR parts 655 and 656.

**A.2 How, by Whom, and For What Purpose the Information is to be Used**

The information on the Form ETA 9127 will be used by Departmental staff to manage foreign labor certification programs in the SWAs. The Department will use the data collected to: (1) monitor the number of temporary applications that are received, processed, and forwarded to the national processing centers; (2) determine the number of prevailing wage determinations issued to employers under the permanent and temporary labor certification programs, as well as, the H-1B program for nonimmigrant professionals in specialty occupations; and, (3) track the number of agricultural prevailing wage and practice surveys conducted, housing inspections made, and job orders filed. The information on workload will be used for formulating budget estimates for both state and Federal

workloads, and for monitoring a state's performance against the grant statement of work and work plan. Without such information, the budget workload figures will be estimates and the allocation of funding to the SWAs will not reflect the true workload in each state.

### A.3 Use of Technology to Reduce Burden

Current technology makes it possible for states to collect these data as part of their ongoing operations by the use of automated systems to process applications. ETA provides an electronic version of the form that is fillable and printable to states via the Department's website.

### A.4 Efforts to Identify Duplication

There is no other source for the collection of these data.

### A.5 Methods to Minimize Burden on Small Businesses

The Form ETA 9127 does not apply to small businesses or other small entities.

### A.6 Consequences of Less Frequent Data Collection

The collection of these data is needed on a quarterly basis in order to monitor any build-up of applications for temporary labor certification in the states. The processing time of an application in a SWA can vary depending on the number of new applications, staffing levels, and the complexity of the individual applications. Through quarterly monitoring of workloads, technical assistance can be provided in the Department's ongoing attempt to determine whether further efficiencies can be made that would improve the balance between meeting employers' legitimate needs for specialized foreign workers through timely processing of the applications with our obligation to mitigate adverse effects on the U.S. labor force.

### A.7 Special Circumstances for Data Collection

There are no special circumstances that would require the information to be collected in any of the manners listed under the instructions for completing this supporting statement.

### A.8 Consultation Outside the Agency

A Notice on the extension of this information collection, inviting the public's submission of comments for a sixty day period, was published in the Federal Register on January 5, 2009 (Vol. 74, No. 2, pp 317-318). Any comments, along

with the Agency's responses, will be made available in the Supporting Statement after that time.

#### A.9 Payment of Gifts to Respondents

With the exception of the reimbursable grant provided to the SWAs each year, there is no payment to respondents.

#### A.10 Confidentiality Assurances

Documentation is not exempt from disclosure under the Freedom of Information Act.

#### A.11 Additional Justification for Sensitive Questions

Does not involve sensitive questions.

#### A.12 Estimates of the Burden of Data Collection

The reporting burden for the collection of information by each SWA is estimated to average 2 hours to prepare the report.

The overall hours needed for each respondent to produce the required information, prepare and submit the report:

54 respondents x 2 hours x 4 times a year = 432

It is difficult to estimate the costs involved in completing and maintaining the report. Each individual SWA employee that prepares this report may have a salary range that varies widely. The hourly salaries of a SWA employee preparing the report could be as high as +\$40 per hour, with an estimated average of \$25. The estimated total cost of \$25 x 54 x 2 hours per response x 4 times per year = **\$10,800.**

SWAs are funded under a reimbursable grant that is awarded annually, in part to provide the information requested in this collection.

#### A.13 Estimated Cost to Respondents

a) Start-up/capital costs: There are no start-up costs.

b) Annual costs: There are no annual costs involved with operation and maintenance because ETA will be responsible for the annual maintenance costs for the free downloadable forms.

#### A.14 Estimates of Annualized Costs to the Federal Government

The average Federal Government cost for a year of operation is estimated on an hourly basis multiplied by an index of 1.69 to account for employee benefits and proportional operating costs, otherwise known as Fully Loaded Full Time Equivalent (FLFTE). The index is derived by using the Bureau of Labor Statistics' index for salary plus benefits and the Department's internal analysis of overhead costs averaged over all employees of OFLC. The total annual cost to the Federal Government cost is **\$ 5,770** calculated as follows:

Estimated Hours  
Data Entry/Review = 1/2 hour

Estimated Cost  
Staff (GS-11 (DC), Step 5 x 1.69 FLFTE)  
 $\$31.61 \times 1.69 \times 216 \times 0.5 \text{ hours} = \$5,770$

#### A.15 Changes in Burden

The burden hours have not changed.

#### A.16 Publication of Results

No collection of information will be published.

#### A.17 Approval Not to Display OMB Expiration Date

ETA will display the OMB approval number and expiration date on the Form ETA 9127.

#### A.18 Exceptions to OMB Form 83-I

There are no exceptions.

### **B. Collection of Information Employing Statistical Methods**

No statistical methods are employed.