

SUPPORTING STATEMENT
Guam Military Base Realignment Contractor Recruitment Standards
OMB Control Number 1205-0484

This submission seeks to extend the use of a currently approved ICR.

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 collection is necessitated by the National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111–84, enacted October 28, 2009). The NDAA requires an expanded effort to recruit U.S. and other eligible workers for employment on Guam military base realignment construction projects. This reporting structure features electronic posting of construction job opportunities on The National Labor Exchange with national coverage, posting job opportunities on state workforce agency job banks, notifying local and national unions where applicable, and documentation of worker recruitment results that will be submitted to the Guam Department of Labor (GDOL). All data collection and reporting is done by military base construction contractors, and the data and recruitment results will be submitted to the GDOL. These recruitment requirements help fulfill the responsibilities assigned to the Secretary of Labor in the provisions of the NDAA by increasing employment opportunities for U.S. workers. Contractors will use the recruitment (job order) postings, in the event they are not successful in attracting sufficient numbers of U.S. and other eligible workers, to justify the need for foreign workers under the H-2B temporary non-agriculture foreign worker certification program.

The NDAA section 2834 (a)(6)(A) and (C)(i), prohibits work performed by a person holding a visa described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C.1101(a)(15)(H)(ii)(b)) unless there is a certification by the Governor of Guam, in consultation with the Secretary of Labor, that there are not sufficient United States workers who are available, willing, and qualified at the time of application. In addition, section (C)(ii) requires certification by the Governor of Guam that the employment of such persons holding visas will not adversely affect the wages and working conditions of workers in Guam who are similarly employed.

NDAA pertains to the realignment of some military forces from Okinawa to Guam and prioritizes the hiring of U.S. workers for this project. Section 2834(a) of the NDAA amended Section 2824(c) of the Military Construction Authorization Act (Public Law 110-417, Division B) by adding a new subsection (6) which requires the USDOL to approve contractor recruitment plans as follows.

(D) SOLICITATION OF WORKERS.—In order to ensure compliance with subparagraph (A), as a condition of a contract covered by such subparagraph, the contractor shall be required to advertise and solicit for construction workers in the United States, including Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico, in accordance with a recruitment plan approved by the Secretary of Labor. The contractor shall submit a copy of the employment offer, including a description of wages and other terms and conditions of employment, to the Secretary of Labor at least 60 days before the start date of the workers under a contract. The contractor shall authorize the Secretary of Labor to post a notice of the employment offer on a website, with State, territorial and local job banks, with State and territorial workforce agencies, and with any other referral and recruitment sources the Secretary of Labor determines may be pertinent to the employment opportunity.

(E) RECRUITMENT PERIOD.—The Secretary of Labor shall ensure that a contractor's recruitment of construction workers complies with the recruitment plan required by subparagraph (D) for a period beginning 60 days before the start date of workers under a contract and continuing for the next 28 days. During the recruitment period, the contractor shall interview all qualified and available United States construction workers who have applied for the employment opportunity, and, at the close of the recruitment period, the contractor shall provide the Secretary of Labor with a recruitment report providing any reasons for which the contractor did not hire an applicant who is a qualified United States construction worker. Not later than 21 days before the start date of the workers under a contract, the Secretary of Labor shall certify to the Governor of Guam whether the contractor has satisfied the recruitment plan created under subparagraph (D).

USDOL Recruitment Plan Requirements: To fulfill the above provisions of the NDAA, Guam military base realignment contractors must take the actions described below to recruit U.S. construction workers, in addition to complying with other statutory and regulatory requirements governing the employment of their workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must:
 - a. Submit a job posting via a completed Job Order (Guam Form GES 514) in person at the Guam Employment Service office, which is open Monday through Friday (except holidays) 8 a.m. to 5 p.m., at 710 Marine Corps Drive, Suite 301, Bell Tower Plaza, Hagatna (for assistance please call (671)-475-7000). The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days and be accessible throughout the U.S. and its territories;
 - b. Submit a job posting with the state workforce agency's Internet job boards for the Commonwealth of the Northern Mariana Islands (CNMI) at <https://marianaslabor.net/employer.asp>, and Guam's online employment portal at www.hireguam.com. Functionality permitting, contractors may bypass posting on

- the internet job boards for the CNMI if they post with a National Labor Exchange (NLx) jobsite that serves the CNMI. For contractors needing assistance with job postings, additional contact information and a link to the required Guam form GES 514 are listed at www.careeronestop.org.
- c. Post a help wanted ad in the local newspaper for American Samoa and have a notice posted in the American Samoa Human Resources agency office. If available, contractors may also comply using online job boards that serve the American Samoa, including those linked with the NLx. For assistance with these tasks, please see the American Samoa Human Resource agency contacts listed at www.careeronestop.org. For contractors needing assistance with job postings, additional contact information and a link to the required Guam form GES 514 are listed at www.careeronestop.org.
- d. Where the occupation or industry is customarily unionized, contact the local union in Guam as well as the national offices of national unions who represent workers in the industry stating:
- i. The existence of a nationally accessible job posting at www.hireguam.com or in compliance with these Contractor Recruitment Standards;
 - ii. Job post opening and closing dates;
 - iii. Direction to interested applicants on how to apply;
 - iv. That the job opportunity is with an "Open Shop" as Guam is a 'Right-to-Work' jurisdiction.
2. Each job posting must be posted for no less than 21 consecutive days, be accessible to residents of all U.S. states and territories, and include, at a minimum, the following information:
- a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity, or to send applications and/or resumes directly to the employer;
 - b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements as well as where applicants will likely have to reside to perform the services or labor;
 - c. A statement indicating whether the employer will pay for the worker's transportation to Guam;
 - d. A statement indicating whether daily transportation to and from the worksite(s) will be provided by the employer;
 - e. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;
 - f. If the employer makes On-the-Job Training (OJT) available, include a statement that it will be provided to the worker;
 - g. A statement indicating whether overtime will be available to the worker and the wage offer for working any overtime hours;
 - h. The wage offer, and the benefits, if any, offered;
 - i. A statement that the position is temporary;

- j. The total number of job openings the employer intends to fill; and
 - k. If the employer provides the worker with the option of board, lodging, or other facilities, including fringe benefits, or intends to assist workers to securing such lodging, a statement disclosing the provision and cost of the board, lodging, or other facilities, including fringe benefits or assistance offered.
3. During the 28-day recruitment period, which begins on the earliest job posting date, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.
4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via email to GDOL at ndaa.recruitment@dol.guam.gov, documenting its efforts to recruit U.S. workers from the U.S. and all U.S. territories.
- a. Indicate all the recruitment approaches used to recruit workers nationally, including an identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the dates of each posting, and the job order or requisition number;
 - b. A copy of each job posting;
 - c. How each job posting and response was handled, including:
 - i. the number of job applications received;
 - ii. The name of each applicant;
 - iii. The position applied for;
 - iv. The final employment determination for each applicant or job candidate; and
 - v. For each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

Contractors may provide much of this information in the form of a table or spreadsheet, so that instead of a narrative style the contractor need only check an appropriate box or provide a phrase, number or date (e.g., to indicate whether an individual reported for an interview or not, or lacked specific qualifications).

The one-hour estimate referenced below includes the time necessary to produce the report. DOL has required that the reason be provided, and has not stipulated that a narrative style is necessary. Such a management information system is a routine part of employer hiring, and required to comply with equal employment opportunity laws.

To ensure that the Workforce Investment System nationwide is aware of and prepared to participate in identifying and referring construction work job seekers to the employment opportunities that will be available as a result of the base realignment and build-up on Guam, ETA has published a Training and Employment Notice (TEN) for broad distribution to the leadership and staff of the Workforce Investment System. The TEN can be found here https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7898.

- 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.*

All federal construction contractors and subcontractors seeking to hire workers under the NDAA's provisions pertaining to the Guam Base Realignment and Build-up projects constitute the universe of respondents. DOL and the government of Guam will use this information to ensure compliance with that statute. Failure to collect the requested data would result in U.S. construction industry workers losing much needed job opportunities in the industry. The provisions of the NDAA will not allow Guam military base construction contractors to hire workers until the Secretary of Labor develops and implements an expanded U.S. worker recruitment plan that depends on collecting the information described above. Construction contractors will be unable to fill their workforce needs, project delays will occur, and the cost of the projects would raise making private sector construction contractors less profitable. Finally, delays could affect the Navy, Marine, and Air Force deployment of thousands of military personnel, and their families.

- 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.*

There are no technological barriers or obstacles. The data collection and reporting requirements can be fulfilled via the Internet and through the electronic transmission of data and information. As noted above in item A.1, contractors must submit a job posting via a completed Job Order (Form GES 514) in person to the Guam Employment Service office, which is open Monday through Friday (except holidays) 8 a.m. to 5 p.m., at 710 Marine Corps Drive, Suite 301, Bell Tower Plaza, Hagatna (for assistance please call (671) 475-7000). GDOL requires this of all businesses who request approval for temporary labor visas. Guam DOL staff will take the contractors' information and complete the data collection. Since the contractors all operate on-site on a small island, DOL believes that there is no difference in the burden between electronic and in-person submissions. The Guam agency staffs indicate that this would include travel to the Guam Job Center that would take only five (5) minutes or so and completing the GES 514 or providing the information to a Job Center staff member orally. DOL believes the Guam activities in this regard impose no burden on the territory, since the Guam requirement would exist regardless of the DOL information collection.

- 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.*

ETA staff researched the job posting requirements of the USDOL Office of Federal Contractor Compliance Programs (OFCCP), and the Office of Foreign Labor Certification's (OFLC) H2B program and determined there is no duplication of effort or additional burden associated with posting contractor job listings on the Guam Job bank because such recruiting is already required. OFCCP enforces the equal employment opportunity requirements applicable to Federal government contractors. OFCCP's rules require qualifying employers to immediately list job openings with the appropriate local office of the state employment service, although this requirement may be satisfied by listing the openings with a privately run job bank or exchange. OFCCP regulations implementing Executive Order 11246 require qualifying construction contractors to provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available. See OMB CONTROL NUMBER: 1250-0001 and the equal opportunity clause of the OFCCP regulations at 41 CFR 60-4.3. The written notification could be in the form of an e-mail.

In fact, the Secretary of Labor's enhanced U.S. worker recruitment plan will fulfill both the pre-application recruitment requirement of the GDOL Alien Labor Processing and Certification program and the Department of Homeland Security's foreign labor certification program's domestic worker recruitment requirements.

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

This collection does not create any unusual burden for small businesses. The data collection and reporting requirements can be fulfilled via the Internet and through the electronic transmission of data and information.

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 worker recruitment and recruitment result report is required once per job listing and is not a recurring requirement.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5.

This data collection effort does not involve any special circumstances.

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 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.

In accordance with the Paperwork Reduction Act of 1995, the public was allowed 60 days to comment through the Federal Register Notice posted on June 24, 2021(86 FR 33364). No comments or questions were received.

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

There are no payments to respondents.

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.

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.*

The data collection does not involve questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information.*

We estimate 93 burden hours to collect this information.

Each year, approximately 12,000 non-agricultural temporary foreign labor employment certification requests are submitted by businesses to the USDOL H2B program. For each of the requests, the business interested in securing foreign labor certifications is required to post a job order with the employment service delivery system within the state or territory and provide a report on the results of the U.S. worker recruitment.

To determine the burden associated with the NDAA Guam Base Realignment domestic workforce recruitment effort, ETA contacted the GDOL to obtain projected estimates of needed workers from the DOD. GDOL reports an estimate of 13,000 workers needed at the peak of construction from 2022 to 2028, or roughly an annual average of 1,857 workers will be required. Job order postings are expected for multiple job openings that would range from 20 to 50 workers per job order. Using an estimate of 30 positions per job order, contractors would need to post approximately 62 job orders per year (1,857 workers / 30 job orders = 61.9).

We estimate 1 hour and 30 minutes for a contractor to complete the job order posting and the recruitment results reporting requirements. A contractor must post on both the HireGuam.com job bank site and place the same job order on the American Samoa job back; we estimate 30 minutes for these two activities to place a job order. We estimate an additional hour necessary for contractors to produce the recruitment results reports, which includes activities such as describing the reason for the posting, creating maintaining records relating to the recruitment activities, and ensuring the job postings comply with equal employment opportunity laws. Since the reporting requirements necessitate extra work, the one-hour estimate is sufficient to account for any additional burden.

Summarizing the total annual burden, we estimate 62 annual responses, each taking 1 hour and 30 minutes to complete, resulting in 93 total annual burden hours (62 multiplied by 1 hour and 30 minutes).

The following table can be used as a guide to calculate the total burden of an information collection.

Activity	Number of Respondents	Annualized Frequency	Total Annual Responses	Time Per Response	Total Annual Burden (Hours)	Hourly Rate	Monetized Value of Time
Posting job orders; preparing, submitting, and maintaining recruitment reports	62	once	62	1 hour and 30 minutes	93 hours	\$33.38	\$3,105
Unduplicated Totals	62	Once	62	1 hour and 30 minutes	93	\$33.38	\$3,105

Wages have been estimated for Human Resource Specialists based on data from the Bureau of Labor Statistics, <https://www.bls.gov/oes/current/oes131071.htm>.

Since the contracting firms may be from any location in the U.S., the hourly labor cost is estimated at \$33.38, using the national median wage for Human Resource Specialists from the May 2020 Occupational Employment Statistics survey from the U.S. Bureau of Labor Statistics (<https://www.bls.gov/oes/current/oes131071.htm>). This hourly cost times the total reporting hours equals \$3,105 (93 hours x \$33.38). There is no cost for posting on the publicly funded labor exchange job banks operated by the states and territories when the business is working with a state or territory's workforce agency. While there is a cost associated with posting a help wanted advertisement in a local newspaper on American Samoa for 21 days (estimated at \$130.00) this cost is part of doing business for the recruitment required by the Military Construction Authorization Act and the National Defense Authorization Act of 2010, it is not associated with the required reporting to the U.S. or Guam Departments of Labor

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).

There are no additional costs associated with this ICR.

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.

There is no cost to the Federal government.

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

There are no program changes from the previously approved ICR. The burden analysis has been updated to anticipate 62 respondents as opposed to 78 in the previously approved ICR, and the total annual responses have been reduced from 78 to 62. This reduction reflects the anticipated employment needs provided to DOL by the DOD.

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.

Results of this information collection request will not be published. They are used solely to certify that the contractor has taken appropriate actions to find American workers.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Expiration Date is displayed.

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

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.