

By order of the Commission.

Issued: March 10, 2020.

Lisa Barton,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

[OMB Number 1121-0240]

Agency Information Collection Activities; Proposed Collection Comments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2020 Law Enforcement Administrative and Management Statistics (LEMAS) Survey

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 12, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Elizabeth Davis, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: Elizabeth.Davis@usdoj.gov; telephone: 202-305-2667).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement of the Law Enforcement Management and Administrative Statistics (LEMAS) Survey, with changes, a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2020 Law Enforcement Management and Administrative Statistics Survey

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is CJ-44. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be general purpose state, county and local law enforcement agencies (LEAs), including local and county police departments, sheriff's offices, and primary state law enforcement agencies. Since 1987, BJS has collected information about the personnel, policies, and practices of law enforcement agencies via the Law Enforcement Management and Administrative Statistics (LEMAS) survey. This core survey, which has been administered every 4 to 6 years, has been used to produce nationally representative estimates on the demographic characteristics of sworn personnel, hiring practices, operations, equipment, technology, and agency policies and procedures. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 3,500 LEA respondents. The expected burden

placed on these respondents is about 2.33 hours per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 8,155 total burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 10, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020-05151 Filed 3-12-20; 8:45 am]

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DEPARTMENT OF JUSTICE

[Docket No. OLP 169]

Announcement of Department of Justice Portal for Guidance Documents

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: The Department of Justice is providing public notice of the launch of its portal for guidance documents as directed by Executive Order 13891 “Promoting the Rule of Law Through Improved Agency Guidance Documents.”

DATES: The guidance portal is accessible by the public on the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Room 4252, Washington, DC 20530, phone (202) 514-8059.

SUPPLEMENTARY INFORMATION: Executive Order 13891 “Promoting the Rule of Law Through Improved Agency Guidance Documents” requires each agency to establish or maintain on its website a single, searchable, indexed database that contains or links to all guidance documents in effect from that agency or its components.

On October 31, 2019, the Office of Management and Budget (OMB) issued Memorandum M-20-02, titled: “Guidance Implementing Executive Order 13891, Titled ‘Promoting the Rule of Law Through Improved Agency Guidance Documents.’” The memorandum requires Federal agencies to establish the database mandated by the Executive Order no later than

February 28, 2020. In addition, the memorandum asks agencies to publish in the **Federal Register** an announcement of the existence of that guidance portal.

Accordingly, this notice announces that the Department of Justice has established its guidance portal at: <https://www.justice.gov/guidance>.

Guidance documents are not binding and lack the force and effect of law, unless expressly authorized by statute or expressly incorporated into a contract, grant, or cooperative agreement. Consistent with Executive Order 13891 and the Office of Management and Budget implementing memoranda, the Department will not cite, use, or rely on any guidance document that is not accessible through this guidance portal, or similar guidance portals for other Executive Branch departments and agencies, except to establish historical facts. To the extent any guidance document sets out voluntary standards (e.g., recommended practices), compliance with those standards is voluntary, and noncompliance will not result in enforcement action. Guidance documents may be rescinded or modified in the Department's complete discretion, consistent with applicable laws.

Dated: March 10, 2020.

Beth A. Williams,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 2020-05204 Filed 3-12-20; 8:45 am]

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DEPARTMENT OF LABOR

Withdrawal of Notice of Intent To Issue a Declaratory Order

AGENCY: Office of the Secretary.

ACTION: Notice of withdrawal.

SUMMARY: For legal, programmatic, and prudential reasons, the Department of Labor, through the Office of the Secretary of Labor, is withdrawing its December 17, 2014 Notice of Intent to Issue a Declaratory Order.

DATES: This Withdrawal Notice is effective March 9, 2020.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Department of Labor (the Department or DOL), through the Office of the Secretary of Labor and pursuant to 5 U.S.C. 554(e), is withdrawing its December 17, 2014 Notice of Intent to Issue a Declaratory Order, 79 FR 75,179 (Dec. 17, 2014) (Notice of Intent). The

Notice of Intent proposed to overrule the Board of Alien Labor Certification Appeals' (BALCA) decision in *Island Holdings*, 2013-PWD-00002 (BALCA Dec. 3, 2013) (*en banc*), through an adjudicatory proceeding that would result in a declaratory order issued under 5 U.S.C. 554(e). *Island Holdings* is among the roughly 1,050 administrative appeals that have been pending before DOL's National Prevailing Wage Center (NPWC) since 2013, and that challenge DOL's issuance of supplemental prevailing wage determinations (SPWDs) to certain H-2B employers (the 2013 SPWDs).

Although the Notice of Intent was published over five years ago, and concerned the wages of temporary workers from more than a year before that, the Department never issued the proposed declaratory order. The Notice of Intent has left interested parties under a cloud of uncertainty, and the passage of time has reduced the feasibility of compliance with and enforcement of the 2013 SPWDs. The Department is now withdrawing the Notice of Intent to provide certainty and finality, and to implement the resolution that best accords with the regulatory framework and relevant policy and programmatic considerations.

The Department's decision follows careful consideration of the applicable law and the impact of the various options on both U.S. and H-2B workers, employers, and administration of the H-2B labor certification program itself. The Department concludes that (1) issuance of the proposed Section 554(e) declaratory order would not be appropriate under the circumstances and the relevant regulations; (2) on the merits, *Island Holdings* is well-reasoned and reflects the better view of the law; and (3) prudential and programmatic considerations weigh in favor of withdrawing the Notice of Intent and accepting the *en banc Island Holdings* ruling.

II. Regulatory And Procedural Background¹

A. Regulatory Background²

A prospective H-2B employer must obtain a temporary labor certification

¹ The relevant background has been summarized on multiple occasions. See, e.g., Notice of Intent, 79 FR at 75,180-83; *Island Holdings* at 2-7; *Comité de Apoyo a los Trabajadores Agrícolas (CATA) v. Perez*, 46 F. Supp. 3d 550, 556-59 (E.D. Pa. 2014) (*CATA III*); *CATA v. Solis*, 933 F. Supp. 2d 700, 703-09 (E.D. Pa. 2013) (*CATA II*); *La. Forestry Ass'n, Inc. v. Sec'y of Labor*, 889 F. Supp. 2d 711, 715-19 (E.D. Pa. 2012).

² This section summarizes and cites the statutory and regulatory provisions as they existed at the time

(TLC) from the Employment and Training Administration's (ETA) Office of Foreign Labor Certification (OFLC). 8 CFR 214.2(h)(6)(iii)(A). Through the TLC, DOL advises the Department of Homeland Security (DHS) that U.S. workers capable of performing the temporary services or labor sought by the employer are not available and that H-2B workers' employment will not adversely affect the wages and working conditions of similarly employed U.S. workers. *Id.*; see also 8 U.S.C. 1182(a)(5)(A)(i)(I)-(II). To that end, a TLC may issue only if U.S. workers are not available to fill the given position at what OFLC determines to be the "prevailing wage." See 20 CFR 655.10 (2012).³

Prevailing wages are designed to ensure that jobs are advertised and offered to U.S. workers at a wage reflective of the local economy and to prevent employers from undercutting U.S. workers' wages. A would-be H-2B employer initiates the process by requesting and obtaining a prevailing wage determination (PWD) from OFLC. *Id.* § 655.10(a).⁴ The employer must then recruit U.S. workers for the job opportunity by advertising and offering the position at that prevailing wage or higher. *Id.* §§ 655.10(a)(3), 655.15. The wage used in this recruitment is known as the "offered wage."

If, after these domestic recruitment efforts, an employer still has unmet labor needs, it applies for a TLC. *Id.* §§ 655.15(a), 655.20(a). The employer agrees to abide by certain conditions, including to pay workers the offered wage, which cannot be lower than the PWD rate, "during the entire period of the approved H-2B labor certification." *Id.* § 655.22(e); see also *id.* § 655.10(d) (the PWD applies "for the duration of" a given certified H-2B employment). The employer also attests that it will not offer H-2B workers more favorable wages than those it offered to U.S. workers. *Id.* § 655.22(a). After obtaining a TLC, an employer petitions DHS to

relevant to the SPWD administrative appeals. This is not intended to serve as a summary of the current law or its interpretation.

³ Citations to Title 20 of the 2012 edition of the *Code of Federal Regulations* are to those provisions in effect when that edition was published, and such citations reference provisions promulgated in 2008, see 73 FR 78,020 (Dec. 19, 2008). The 2012 edition separately included, for convenience, provisions associated with a rulemaking that had not yet gone into effect and, as discussed *infra*, never did.

⁴ OFLC sets a validity period for each PWD, which is at minimum three months and at maximum twelve months. *Id.* § 655.10(d). The validity period dictates when an employer may begin the recruitment process or file its TLC application, *id.* § 655.10(a)(2), but does not govern the time period in which the employer is required to offer and pay the prevailing wage.