



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

May 28, 2021

U.S. Department of Labor
Employment and Training Administration
Division of National Program Tools and Technical Assistance
200 Constitution Avenue NW
Room C4526
Washington, DC 20210

Submitted via email to fairley.lauren@dol.gov

OMB Control Number: 1205-0421

Re: Agency Information Collection Activities; Comment Request on O*NET Data Collection Program

Dear Ms. Fairley:

The American Immigration Lawyers Association (AILA) submits the following comment in response to the Department of Labor's comment request on the O*NET Data Collection Program.¹

Established in 1946, AILA is a voluntary bar association of more than 15,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and naturalization and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to provide comments and recommendations on the O*NET program.

1. Continue to Ensure Accurate Information and Encourage Better Response Rates

Although O*NET is used by a variety of private and governmental entities for various purposes, it is heavily relied upon by employers and governmental agencies (including but not limited to U.S. Citizenship and Immigration Services (USCIS), DOL's Office of Foreign Labor Certification (OFLC), DOL's Board of Alien Labor Certification (BALCA), DOL's Wage and Hour Division (WHD) and U.S. State Department's Bureau of Consular Affairs (CA)) in the determination of whether certain foreign nationals qualify for nonimmigrant and immigrant status. AILA commends O*NET for the detailed information it currently provides to employers and governmental agencies about numerous occupations in the United States.

Because the information contained in O*NET is utilized in the adjudication of immigration benefits and the current administration is focused on the efficiency and effectiveness of the U.S.

¹ 86 Fed. Reg. 16392 (Mar. 29, 2021).

immigration system², AILA encourages O*NET to continue to modernize its processes to ensure that the data being relied upon by employers and government agencies in the adjudication of immigration benefits is current and accurate as this data can affect the adjudication of an immigration benefit which can then impact a foreign national's eligibility to work and live in the United States.

As part of its Establishment Method, O*NET currently sends hard copy questionnaires to employers, who then ask their workers to provide information about their positions. O*NET also includes a small monetary incentive of \$10 to entice workers to respond to the questionnaires. O*NET provides workers with the option to complete hard copy questionnaires or complete the online questionnaire. According to O*NET, only 42% of respondents use online questionnaires to complete the O*NET surveys. In contrast, the private sector has transitioned from paper-based surveys because it has been determined that the response rate is higher when participants can answer the survey at their convenience.³ Many web-based surveys can also be customized to skip questions that are not relevant to an individual based on a response to particular questions. This kind of feature would help to reduce the amount of time necessary to complete the survey. For those participants who choose to complete the paper-based survey, O*NET indicates that it should take about 30 minutes to complete. Many individuals do not want to spend 30 minutes completing a survey. Therefore, AILA encourages O*NET to highlight the benefits of the online questionnaire and to update it to ensure efficiency in completion and incentivize more participants to provide data.

To increase the number of respondents using the online questionnaires, O*NET should employ different incentives for the paper-based and web-based surveys. O*NET can still offer the \$10 to entice workers to respond to either the paper-based or web-based questionnaires. However, O*NET should look to the private sector for examples of incentives used to respond to web-based surveys. For example, O*NET may want to offer a chance to win an additional \$50 or \$100 gift card for participation in the online questionnaires. Other incentives may increase the response to O*NET surveys, specifically the online questionnaire.

In addition, O*NET is concerned about the response rates and how to increase them so that its data remains accurate and relevant. To ensure accuracy and reach the desired completion rate, AILA encourages O*NET to work with other DOL components, particularly the Bureau of Labor Statistics (BLS), which is also concerned about response rates to its surveys. AILA would encourage DOL to form a working group within DOL to strategize how to cross-utilize surveys so that employers are not receiving multiple surveys from the DOL. For example, if O*NET is sending a survey request for position information, O*NET could also include a question about wage information which could then be shared with BLS. This working group should also include representatives from the private sector to receive input about the best survey practices currently being used in the field.

² See EXECUTIVE ORDER 14012 OF FEBRUARY 2, 2021: RESTORING FAITH IN OUR LEGAL IMMIGRATION SYSTEMS AND STRENGTHENING INTEGRATION AND INCLUSION EFFORTS FOR NEW AMERICANS. 86 Fed Reg 8277 (Feb. 5, 2021), <https://www.federalregister.gov/documents/2021/02/05/2021-02563/restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts>.

³ See *6 Advantages of Online Surveys*, COMMUNICATIONS FOR RESEARCH, <https://www.cfrinc.net/cfrblog/6-advantages-of-online-surveys>.

2. Simplify the Process and Questionnaire for Employer and Employee Participants

O*NET uses customizable questionnaires that it sends out twice a year – in May and November.⁴ These questionnaires are used as a starting point to collect occupational data to support a wide range of economic and workforce investment activities and human resource management functions and may be completed by job incumbents or subject matter experts.

O*NET seeks data through the following process:

1. A statistically random sample of businesses expected to employ workers in the targeted occupations will be identified, and;
2. A random sample of workers in those occupations within those businesses will be selected. New data will be collected by surveying job incumbents using standardized questionnaires.

The O*NET Data Collection Program provides several hundred ratings based on responses by the sampled workers to the O*NET questionnaires. It is not feasible to ask each respondent to provide information for all data elements. For this reason, the questions have been organized into three questionnaires, each containing a different set of questions. The sampled job incumbents for each occupation are randomly assigned one of the three questionnaires. All respondents are also asked to complete a task questionnaire and provide some general demographic information. Abilities and Skills information is developed by occupational analysts using the updated information from incumbent workers.

However, as Appendix I points out, response rates have been declining over time – whether due to establishment non-response or employee non-response – which impacts the validity and reliability of this critical data. AILA urges O*NET to refine the questionnaires by making them shorter, more concise, and less time-consuming, so that employers are more inclined – and have the time - to respond. In conjunction with modernizing response mechanisms, refining the information collected in a simpler, shorter manner may incentivize responses, thereby enabling it to collect better real-world data about occupational trends in the U.S.

3. Update Standard Occupation Classifications (SOCs) for Top Occupations in the U.S. as Noted by BLS and OFLC

O*NET is only able to review around 100 occupations each year to make updates. With these limited resources, AILA recommends that O*NET look to indicators of the trending occupations annually to ensure updates are being made to the most heavily utilized SOCs. For example, O*NET designates “bright outlook” occupations, which are projected to grow faster than average (employment increase of 5% or more) over 2019-2029 for the U.S. nationwide.⁵ Additionally, the OFLC publishes quarterly selected statistics by programs highlighting the top occupations of filings based on SOC codes.⁶

⁴ See *O*NET Questionnaires*, O*NET RESOURCE CENTER, <https://www.onetcenter.org/questionnaires.html>.

⁵ See *Bright Outlook Occupations* O*NET online <https://www.onetonline.org/help/bright/>

⁶ See *Performance Data*, EMPLOYMENT & TRAINING ADMIN., U.S. DEPT. OF LABOR, <https://www.dol.gov/agencies/eta/foreign-labor/performance>; See also *Office of Foreign Labor Certification*,

Although a wide range of stakeholders use O*NET, immigration trends often reflect the economic reality in the United States for occupations that are in highest demand at any particular moment. AILA urges O*NET to focus its limited review each year on the top SOC codes in the H-1B and PERM programs that are the top occupations to ensure that the SOC annual revisions focus on the occupations with the highest demand.

4. Update Job Zone Classifications to Reflect the Real-World Realities

Particularly vexing for the stakeholder community in the O*NET process are Job Zone classifications. Job Zones are a group of occupations that are similar in several categories required to adequately do a particular job, such as: the level of education, the amount of related experience, the amount of on-the-job training.

However, in the O*NET system, many assigned Job Zones do not accurately reflect the standard requirements for positions. For example, many managers have the same Job Zone as those they supervise. Employers find this to be a substantial disconnect from what they require, which impacts how they can proceed in a system that does not align with real-world realities. Because O*NET reviews only around 100 to 110 occupations each year to make updates, Job Zone rarely changes in terms of numbers. AILA urges O*NET to spend more time assessing Job Zones and ensure that the Job Zone classifications more accurately track the reality faced by businesses.

5. Conclusion

AILA appreciates the opportunity to comment on the O*NET Data Collection Program and how DOL may ensure it produces accurate and current information to stakeholders while simultaneously expanding the percentage of stakeholders that respond to its questionnaires. AILA respectfully urges the agency to consider new ways to incentivize participation in its questionnaires while also fine-tuning the questionnaires, its process for updating information, and updating its systems to better reflect the realities that employers in the United States face.

Please address any concerns or questions to AILA Director of Government Relations Sharvari Dalal-Dheini at SDalal-Dheini@aila.org.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

Permanent Employment Program - Selected Statistics, Fiscal Year (FY) 2021 Q1-Q2, EMPLOYMENT & TRAINING ADMIN, U.S. DEPT. OF LABOR,

https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/PERM_Selected_Statistics_FY2021_Q2.pdf; see also *Office of Foreign Labor Certification, LCA (H-1B, H-1B1, and E-3) Temporary Specialty Occupations Program – Selected Statistics, Fiscal Year (FY) 2021 Q1-Q2, EMPLOYMENT & TRAINING ADMIN, U.S. DEPT. OF LABOR,*
https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/LCA_Selected_Statistics_FY2021_Q2.pdf.