



U.S. Citizenship and Immigration Services

Optional Checklist for Petitioners Requesting H-2A Nonimmigrant Agricultural Workers

General Petition Requirements

☐ A complete and properly signed USCIS Form I-129, Petition for a Nonimmigrant Worker. See www.uscis.gov/i-129 for the most rece

- Petitioners must provide their full names and addresses on Page 1 of Form I-129. The following are the only entities who can file a Form I-129 with USCIS as petitioners:
 - employers listed on the U.S. Department of Labor's (DOL's) ETA Form 9142
 - the employer's agent as defined in USCIS regulations; or
 - the association of U.S. agricultural producers named as a joint employer on ETA Form 9142
- Only the petitioner (named in Part 1 of Form I-129) can sign Part 7 on Page 6 of the form.
- Any person assisting the petitioner to prepare Form I-129 must sign Part 8 on Page 6 of the I-129.

☐ A complete and properly signed "H Classification Supplement to Form I-129" (Pages 11 and 13-15 of Form I-129).

- Only the petitioner (named in Part 1 of Form I-129) can sign Part A on Page 15 of the I-129.
- In some cases, an employer uses an agent who meets the requirements of an agent-petitioner, or an association to file Form I-129 on his or her behalf. In this case, the employer (who is **not** the petitioner named in Part 1) must sign Part B on Page 15 of the I-129.
- In cases where there are multiple employers, each joint employer must sign Part C on Page 15 of the I-129. If there are more than four joint employers, the additional signatures may be submitted on additional copies of Page 15 of the I-129

Note: Submitting a signed contract between an employer and the agent-petitioner or association does not replace the need for signatures from the employers in the H supplement.

☐ Payment of the base petition fee, currently \$325. Check current fees at www.uscis.gov/fees.

☐ An approved *Temporary Employment Certification* (ETA Form 9142) from DOL.

Note: You must submit the original ETA Form 9142. If you are filing a subsequent petition using an ETA Form 9142 that was already submitted to USCIS in a previous petition, instead provide:

- A photocopy of the previously submitted ETA Form 9142
- The receipt number of the petition containing the original ETA Form 9142
- If you are requesting an extension of stay for two weeks or less due to emergent circumstances, a detailed explanation of those circumstances; and
- If you are requesting an extension of stay greater than 2 weeks due to emergent circumstances, a letter from DOL extending the validity of your original ETA Form 9142

☐ OPTIONAL: A cover letter from the petitioner or employer on his or her official letterhead describing:

- The nature of the employer's business
- Any additional locations or mailing addresses used by the employer
- The duties to be performed in the position offered
- The nature of the employer's need for workers, including why the job is temporary or seasonal; and
- The qualifications of the requested workers, if applicable

☐ **OPTIONAL:** Evidence of the petitioner's continued business operations under either the actual business name and trade-name/doing business as (DBA) (if applicable), such as copies of the most recent:

- state business registration for the petitioner (including registration of actual business name and trade-name/ DBA , if applicable)
- Valid local, state or federal government business licenses
- IRS Form 1120 – U.S. Corporation Income Tax Return
- IRS Form 1040 – Schedule C, Profit or Loss From Business
- IRS Form 1040 – Schedule F, Profit or Loss From Farming
- IRS Form 1040 – Schedule J, Income Averaging for Farmers & Fishermen
- IRS Form 943 – Employer Annual Federal Tax Return for Agriculture Employees; or
- Business bank statements

Additional Documentation to Show the Worker Qualifies for H-2A Employment

☐ If the workers are named on the petition and the ETA Form 9142 states the workers require certain education, training, experience or other special requirements, provide documentation to show that each worker qualifies for the job offered.

☐ If you are requesting a change of status or extension of stay, provide evidence of each worker's previous nonimmigrant classification and maintenance of status. This evidence may include copies of the worker's most recent paystubs.

☐ If you are filing an amended petition due to the unavailability of originally requested H-2A workers, provide:

- A copy of the original H-2A petition approval notice
- A photocopy of the previously submitted Form ETA 9142
- A statement explaining why the substitution is necessary
- Evidence that the total number of workers will not exceed the number of H-2A workers authorized on Form ETA 9142; and
- Evidence of the qualifications of beneficiaries, only if applicable

H-2 Eligible Countries List Requirements

Are you requesting workers from a country that is included on the H-2 Eligible Countries List? (See [H-2A Temporary Agricultural Workers](#) for the most current list of H-2 eligible countries.)

If “**yes**,” then you are only required to provide the name and other biographical information for requested workers who are already currently in the U.S. (as listed on Attachment 1 of Form I-129). Requested workers who are outside of the U.S. do not need to be identified.

If “**no**,” then you must provide the name and other biographical information for *all requested workers*—including workers that are outside the U.S.—(as listed on Attachment 1 of Form I-129). The following additional evidence is required:

AILA InfoNet Doc. No. 11060262. (Posted 06/02/11)

☐ Evidence to establish that employment of the worker is in the U.S. interest. When determining whether the U.S. interest requirement has been met, USCIS will consider additional evidence addressing the following four factors:

1. Evidence that the worker has been admitted to the United States previously in H-2A status and complied with the terms of his or her status;
2. Evidence that a worker with the required skills is not available from a country on the list of eligible countries;
3. Potential for abuse, fraud or other harm to the integrity of the H-2A program through the potential admission of the worker(s) that a petitioner plans to hire; and
4. Other factors that would serve the U.S. interest, if any.

Note: If you are requesting workers from both H-2 eligible and non-eligible countries, USCIS recommends that you file two separate petitions.

Last updated:06/01/2011

[Plug-ins](#)