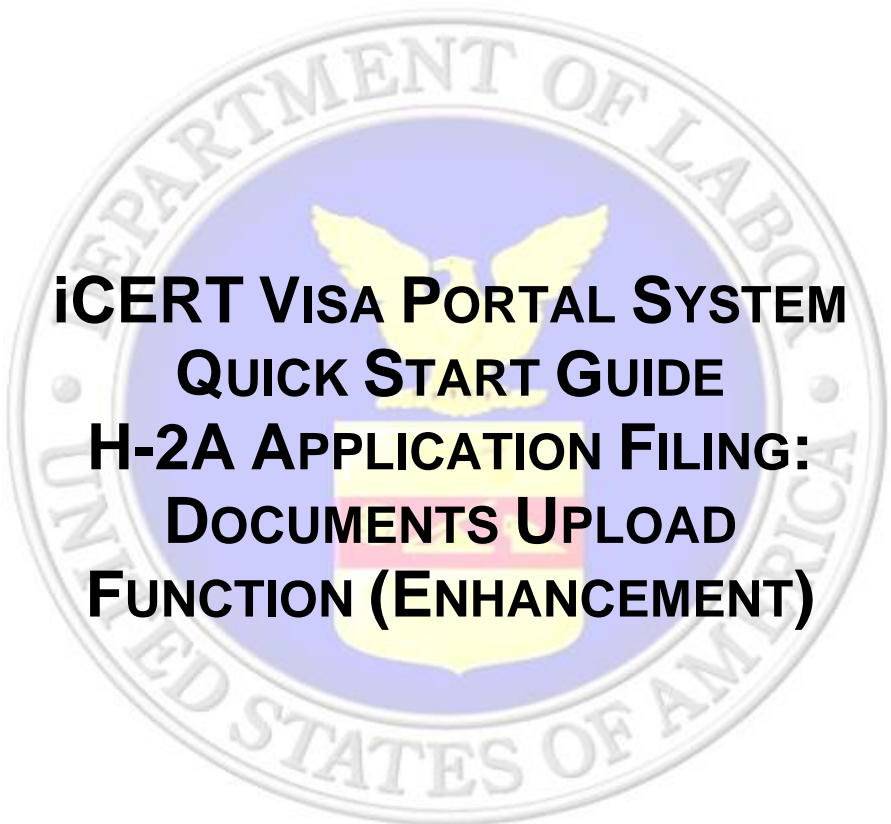# U.S. DEPARTMENT OF LABOR

iCERT VISA PORTAL SYSTEM QUICK START GUIDE H-2A APPLICATION FILING: DOCUMENTS UPLOAD FUNCTION (ENHANCEMENT)

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INTRODUCTION

Background

An employer seeking temporary labor certification under the H-2A or H-2B visa programs must submit an application and all required supporting documentation to the Office of Foreign Labor Certification (OFLC) either electronically using the iCERT System accessible at http://icert.doleta.gov or by U.S. mail. In circumstances where the application is filed using the traditional paper-based method, the OFLC staff manually enters the data and information contained on the paper application into the iCERT System's internal case management system for processing in a similar manner as those filed electronically.

Since 2013, the iCERT System has permitted employers or, if applicable, their authorized attorneys or agents to submit H-2A and H-2B applications online, electronically upload supporting documentation, and receive all communications during the processing of their applications via electronic mail (e-mail). OFLC's experience is that the submission of all required documentation, at the time of filing the application, facilitates a more efficient and consistent review of the employer's application, and reduces the incidence of the OFLC Certifying Officer returning the incomplete application without further review or issuing a Notice of Deficiency to request missing documentation.

The purpose of this Quick Start Guide is to help employers or, if applicable, their authorized attorneys or agents understand how to navigate the enhanced document upload function for preparing H-2A applications for temporary labor certification. This guide is not intended to replace other detailed iCERT User Guides that may be found under the "User Guides" tab of the main iCERT System Homepage.

Purpose and Benefits

In an effort to provide better customer service and ensure more complete H-2A applications are submitted for review, OFLC has released a new enhancement to the iCERT System's H-2A application filing module that will help employers or, if applicable, their authorized attorneys or agents identify and upload all required documentation supporting their applications. These new system enhancements provide easy-to-understand steps and instructions that customers will complete in order to submit more complete applications for processing. We believe this enhancement will serve to clarify regulatory filing requirements and improve the quality and consistency of H-2A applications received for processing. The major features of this new enhancement include the following:

Feature	Description
Step 1: Emergency Situations	Identifies whether the H-2A application is for an emergency situation and dynamically requires that a statement or other documents justifying the emergency be uploaded.
Step 2: Determining H-2A Labor Contractor Status	Identifies whether the application is filed by or on behalf of an H-2A Labor Contractor, allowing the employer to choose the correct answer for whether the application or Job order has location information OR transportation is needed between the worksite and living quarters (dynamically requires to upload documents associated with the chosen answers).

Feature	Description
Step 3: Supporting Documentation and Information Upload	Dynamic document upload function that identifies the required documents needed in order for the pending H-2A application to be submitted for processing.
User Interactivity and Related Material Retrieval	Permits employers to upload one or more supporting documentation and easy-to-view mandatory "checklist" feature to ensure all minimum document types have been uploaded.

H-2A APPLICATION FILING: ENHANCED 'DOC' UPLOAD STEP

The enhanced electronic document upload function (i.e., Step 11) of the H-2A Electronic Application Filing module is designed to help employers or, if applicable, their authorized attorneys or agents understand how to navigate the new documents upload function for preparing H-2A applications for temporary labor certification. This section highlights the key features of this new enhancement and how authorized iCERT Account Users interact with the functions.

Creating a New Form ETA-9142A

For more detailed information related to preparing an electronic Form ETA-9142A *Application for Temporary Employment Certification*, please consult the **H-2A External User Guide** available on the ICERT System Homepage. Authorized iCERT Account Users will perform the following basic steps to the final step of the H-2A application preparation process (i.e., Step 11 Document Upload):

1. Navigate to the iCERT Public Home Page located at https://icert.doleta.gov and Log in using your account credentials

2. Navigate to the Portfolio Summary page by selecting the **H-2A Visa Classification** tab

3. Initiate an H-2A application by selecting the **Begin New Form ETA-9142A** button

4. Navigate Steps 2 – 10 and enter all required information for each section of the Form 9142A

5. Navigate to Step 11 and the 'Doc" Upload function

Document Upload (Case prep Step 11)

Upon reaching case prep Step 11, the system will display a series of the *3 final sub-step questions* that will help you provide the minimally required information and documentation needed to submit your pending H-2A application for processing (see Figure 1 below).

Figure 1. Step 11 'Doc'

Application Documents Step 1: EMERGENCY SITUATION

For the pending H-2A application, the system will require the iCERT Account User to select from a "Yes or No" radial button indicating whether the filing is based on an emergency situation. The default value for this field is set to "No".

Figure 2. Step 1: Emergency Situation

Under 20 CFR 655.134, the OFLC Certifying Officer (CO) may waive the time period(s) for filing the Form ETA-9142A for employers that have good and substantial cause, provided that the CO has sufficient time to thoroughly test the domestic labor market on an expedited basis and to make a final determination. Good and substantial cause may include but is not limited to: the substantial loss of U.S. workers due to an Act of God, or a similar unforeseeable man-made catastrophic event (such as an oil spill or controlled flooding) that is wholly outside the employer's control, unforeseeable changes in market conditions, or pandemic health issues.

Application Documents Step 2: DETERMINING H-2A LABOR CONTRACTOR STATUS

On question 1, if the employer operates as an H-2A Labor Contractor (Item C.17 on the Form ETA-9142A is marked "H-2A Labor Contractor or Job Contractor", the default selection is 'Yes' radio

button, allowing them to select answers for subsequent questions (see Figure 3 below). The user can change the default selection based on the circumstances of the application (e.g., Agricultural Association filing for a member who is an H-2A Labor Contractor can change the selection from 'No" to 'Yes').

Figure 3. Step 2: Determining H-2A Labor Contractor

However, if the employer DOES NOT operate as an H-2A Labor Contractor, the default selection is 'No' radio button for question 1, and subsequent questions defaulted to 'N/A' indicating employer that no further mandatory documents are required to upload (see Figure 4 below). Again, the user can change the default selection based on the circumstances of the application.

STEP 2: DETERMINING H-2A LABOR CONTRACTOR STATUS

1. Is this application being filed by or on behalf of an employer who is operating as an H-2A Labor Contractor (H-2ALC)? See regulatory definition of an **H-2ALC(+)**.	* ○ Yes ● No	[?]
2. Does the job order (Form ETA 790) and H-2A application (Form ETA 9142A) identify the name(s) and location(s) of each fixed-site agricultural business the employer will be providing H-2A workers, the expected beginning and end dates, and a description of the crops and activities the workers are expected to perform?	* ○ Yes ○ No ● N/A	[?]

If you answer "Yes" to the above question, please proceed to the Question 3. If you answer "No" to the above question, please use the document upload feature below to provide documentation demonstrating compliance with 20 CFR 655.132(b)(1).

3. Will any of the fixed-site agricultural businesses provide transportation between the worksite and the workers' living quarters under this application?	* ○ Yes ○ No ● N/A	[?]

Figure 4. Default selection when employer is not an H-2A Labor Contractor

IMPORTANT NOTES FOR STEP 2:

Following documents are required to upload based on the selections on questions 1-3, in addition to documents associated with Step 1 EMERGENCY SITUATION.

On Question 1: H-2A Labor Contractor
- If selection is 'Yes', the following documents will be mandatory to upload

  o H-2ALC ONLY – Surety Bond
  o H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses

- If selection is 'No', no additional mandatory documents to display

On Question 2: Fixed-Site Agricultural Businesses
- If selection is 'Yes', no additional mandatory documents to display

- If selection is 'N/A', no additional mandatory documents to display

- If selection is 'No', following documents will be mandatory to upload

  o H-2ALC ONLY – Documentation of Fixed-Site Agricultural Businesses

On Question 3: Fixed-Site Agricultural Businesses Providing Transportation

- If selection is 'Yes', the following documents will be mandatory to upload

  o H-2ALC ONLY – Fixed-Site Agricultural Business Transportation Documentation

- If selection is 'No', no additional mandatory documents to display

- If selection is 'N/A', no additional mandatory documents to display

Application Documents STEP 3: SUPPORTING DOCUMENTATION AND INFORMATION

Except as noted in this section and once you have completed Steps 1 and 2, you are ready to electronically upload any other documentation and information to support your H-2A application.

Depending on the type and circumstances of your application, the iCERT System will provide a dynamic "checklist" of minimally required documentation in order for the iCERT Account User to click the **Submit Form ETA-9142A** button.

NOTE: See the quick reference tables at the end of this document to aid in to identifying the minimum mandatory documentation.

If you answer 'No' to the above question, please proceed to upload any other documentation supporting your application. If you answer 'Yes' to the above question, please use the document upload feature below to provide documentation demonstrating compliance with 20 CFR 655.132(b)(5)(ii). You must provide documentation from the fixed-site agricultural businesses that all transportation complies with all applicable Federal, State or local laws and regulations, and the same vehicle safety standards, driver licensure, and vehicle insurance as required under 20 USC 1841 and 29 CFR 500.105 and 500.120 to 500.128., except where workers' compensation is used to cover such transportation as described in 20 CFR 655.125(h).

STEP 3: SUPPORTING DOCUMENTATION AND INFORMATION

Based on the circumstances of your H-2A application, please make sure you upload an electronic document in each mandatory category presented in the "Document Type" dropdown below in order to Submit this application.

Important Note: For two or more individual employers who intend to jointly employ H-2A worker(s), you must identify the main or primary employer on the Form ETA 9142A and then upload below (1) a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, and (2) a copy of the signed and dated Appendix A for each employer under the application.

Select Browse to search for files. Click upload to complete uploading files. Please upload all Mandatory Documents before proceeding.

List of Mandatory Documents (✗ = Not Uploaded ✔ = Uploaded)

Please upload all mandatory documents

Mandatory Document Type	Uploaded
Appendix A	✗
H-2ALC ONLY – Surety Bond	✗
H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses	✗
State Workforce Agency (SWA) Job Order	✗

Select Document Type ▾

[Browse...]   [?]

[Upload]

Attachment(s)

☐	File name	Document Type

[Delete Selected Attachment(s)]

Figure 5. Step 3: Supporting Documentation and Information

1. Once you reach Step 3, review the types of documents listed on the 'List of Mandatory Documents' table. The system will initially display a red "**X**" beside each mandatory document type indicating that the system has not yet received an electronic upload (See Figure 6 below).

Figure 6. Mandatory Documents List table

2. To upload a document, please select a document types from the **Document Type** dropdown function.

3. Then, select the **Browse** button, locate your file in either .pdf, .txt, or .doc/.docx format, and then select the file from your local/network desktop.

4. Click the **Upload** button to upload the file to the attached documents table (**note**: file attachment to the case is not complete until you fully **Submit** the H-2A application for processing).
5. (OPTIONAL) The system allows you to remove or delete any erroneous files by selecting a checkmark next to the filename in question, then click the **Delete Selected Attachments** button (see Figure 6 below).

6. For each document uploaded, the system will display a green "✔" beside each mandatory document type indicating that the system has temporarily received an electronic document associated with the pending H-2A application (See Figure 7 below).

STEP 3: SUPPORTING DOCUMENTATION AND INFORMATION

Based on the circumstances of your H-2A application, please make sure you upload an electronic document in each mandatory category presented in the "Document Type" dropdown below in order to Submit this application.

Important Note: *For two or more individual employers who intend to jointly employ H-2A worker(s), you must identify the main or primary employer on the Form ETA 9142A and then upload below (1) a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, and (2) a copy of the signed and dated Appendix A for each employer under the application.*

Select Browse to search for files. Click upload to complete uploading files. Please upload all Mandatory Documents before proceeding.

List of Mandatory Documents (✘ = Not Uploaded ✔ = Uploaded)

All mandatory documents are added

Mandatory Document Type	Uploaded
Appendix A	✔
H-2ALC ONLY – Surety Bond	✔
H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses	✔
State Workforce Agency (SWA) Job Order	✔

[H-2ALC ONLY – Work Contracts with Fixed-Sit ▾]

H:\21CT\1test docs\Work   [Browse...]   [?]

[Upload]

Attachment(s)

☐	File name	Document Type
☐	Work Contracts with Fixed-Site Agricultural Businesses-09062017-015957.docx	H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses
☐	H-2A Surety Bond-09062017-015940.pdf	H-2ALC ONLY – Surety Bond
☐	SWAdocumentation-09062017-015926.txt	State Workforce Agency (SWA) Job Order
☐	A1-09062017-015912.txt	Appendix A

[Delete Selected Attachment(s)]

Figure 7. Document Upload Feature

7. Once you have uploaded all the minimum mandatory documents, please make sure that you have uploaded all other documentation supporting your application. These are considered <u>optional</u> at the time of filing, but we strongly encourage you to submit them in order **to avoid receiving a NOD.** There are a couple of examples in which additional documentation must be submitted with your H-2A application:

   a. **Agent Agreement**: If the application is being filed on behalf of an employer by an agent, please use the document upload function to provide a copy of a <u>valid agent agreement or other document demonstrating the agent's authority to represent the employer</u>.

   b. **MSPA Certificate of Registration**: If applicable, where the employer and/or agent is required under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to have a Certificate of Registration, please use the document upload function to provide a current copy of the certificate which identifies the specific farm labor contracting activities that the agent is authorized to perform.

   Note: A list of missing documents will be presented on the pre-submission page in the event mandatory documents were not already uploaded.

The following documents are required for Case Submission:

The documents below are mandatory to upload in order to submit this application. Please return to 'Doc' step to upload the remaining mandatory documents.

- H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses
- State Workforce Agency (SWA) Job Order
- H-2ALC ONLY – Documentation of Fixed-Site Agricultural Businesses
- H-2ALC ONLY – Surety Bond
- H-2ALC ONLY – Fixed-Site Agricultural Business Transportation Documentation
- Appendix A

◀ **Previous**   **Submit Form ETA-9142A** ▶

Figure 8. Pre-Sub page

8. After all electronic documents have been uploaded, you can select the **Next** button to navigate to the Pre-submission page.

9. Once you have reviewed your entire application package for accuracy, please select the **Submit Form ETA-9142A** button to submit the application for processing.

Quick Reference Tables

The following tables can be used to identify the minimum mandatory documentation that must be uploaded in order to submit your pending H-2A application for processing. **All documents requiring a signature and date must be scanned and uploaded in Adobe PDF format.**

EMPLOYER OR ASSOCIATION
(Form ETA-9142A, Section C, Field 17 = "Individual Employer", "Association – Sole Employer", "Ässociation – Joint Employer", "Association – Filing as Agent")

Emergency Situation	Minimum Required Documents to Upload
NO	• Copy of Signed/Dated Form ETA-9142A, Appendix A • Copy of Job Order Placed with SWA
YES	• Copy of Signed/Dated Form ETA-9142A, Appendix A • Copy of Job Order Placed with SWA • Emergency Filing – Waiver Request Documentation

H-2A LABOR CONTRACTOR EMPLOYER
(Form ETA-9142A, Section C, Field 17 = "H-2A Labor Contractor or Job Contractor")

Emergency Situation	Minimum Required Documents to Upload
NO	• Copy of Signed/Dated Form ETA-9142A, Appendix A • Copy of Job Order Placed with SWA **Additional Documentation** (*depending on responses to online questions*) • H-2ALC ONLY – Surety Bond • H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses • H-2ALC ONLY – Documentation of Fixed-Site Agricultural Businesses • H-2ALC ONLY – Fixed-Site Agricultural Business Transportation Documentation
YES	• Copy of Signed/Dated Form ETA-9142B, Appendix B • Copy of Job Order Placed with SWA • Emergency Filing – Waiver Request Documentation **Additional Documentation** (*depending on responses to online questions*) • H-2ALC ONLY – Surety Bond • H-2ALC ONLY – Work Contracts with Fixed-Site Agricultural Businesses • H-2ALC ONLY – Documentation of Fixed-Site Agricultural Businesses • H-2ALC ONLY – Fixed-Site Agricultural Business Transportation Documentation