

Form I-129H2A Reinstatement, with change - Responses to 30-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2025-0469](#)

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Comment ID	Comment Summary	USCIS Response
1.	Commenter: Texas RioGrande Legal Aid, Inc.	
0018	Texas RioGrande Legal Aid (TRLA) submitted comments in response to the 30-day notice regarding the Department of Homeland Security’s information collection request regarding the H-2A nonimmigrant worker petition. 2026). On March 30, 2026, TRLA submitted comments in response to this original notice. The following comments supplement our earlier submission and address the Department’s response to those comments. TRLA represents indigent farmworkers, many of whom are H-2A visa holders. TRLA stated that in the March 30 comments, they objected to the removal from the Form I-129H2A of language requiring that “[t]he petition should be filed with evidence that indicates the beneficiaries have not paid, and will not pay, prohibited fees.” We pointed out that absence of such evidence would likely hamper efforts by DHS and the Department of Labor to enforce the prohibition on H-2A workers being charged recruitment fees, especially when the recruiters are located outside the United States and the jurisdiction of U.S. federal agencies. In the 30-day notice, DHS reiterated its decision to delete the requirement in Form I-129H2A that prospective H-2A employers provide evidence that H-2A workers would not in fact pay recruitment fees. In the response to TRLA’s March 30 comments, the Department stated that it “believes the deleted sentence is unnecessary because the other information collected by DHS and DOL is sufficient to effectively enforce the prohibited fee provisions.” TRLA stated that the Department’s response is factually incorrect and is contrary to previous federal policy statements. The federal government prohibits employers, including Farm Labor Contractors (FLCs), from passing recruitment costs to H-2A workers to protect worker wages and the integrity of the H-2A program. Despite this, illegal recruitment fees remain widespread, often collected by foreign recruiters outside U.S. jurisdiction, making enforcement difficult. The Department of Labor (DOL) and DHS have limited ability to regulate these practices abroad and have not imposed registration requirements on foreign recruiters, citing lack of authority. TRLA expressed that the Department and DOL cannot credibly claim that their current efforts are sufficient to effectively enforce the prohibition on recruitment fees being charged to H-2A workers. This is largely because many of these fees are collected by recruiters who operate outside the United States, usually in the home communities of the workers. TRLA included that DOL acknowledged that there are limits to the liability the Department can impose	Response: DHS appreciates the commenter’s desire to combat fraud, abuse, and trafficking in immigration and agricultural labor. However, DHS maintains that the deleted sentence is unnecessary because the other information collected by DHS on the Form I-129H2A is sufficient to enforce the prohibited fee provisions, to the extent possible given that many recruiters are outside the United States. The commenter’s other recommendations, i.e., to require employers to identify all foreign recruiters as well as all sub-recruiters, sub-agents, and subcontractors, are similarly unnecessary. The proposed form instructions require the petitioner to provide the name(s) and address(es) of all agents, facilitators, recruiters, or similar employment services hired by or working for the petitioner to locate and/or recruit the H-2A workers, regardless of whether the petitioner has a direct or indirect contractual relationship with the person or entity. DHS and DOL regulations on prohibited fees remain unchanged, and DHS retains the authority to conduct investigations into the charging of prohibited fees as well as other forms of immigration fraud.

on employers for the actions of recruiters abroad. For this reason, the DOL declined to impose registration requirements on these recruiters, supposedly because the federal government does not have the authority to do so. TRLA stated that DHS and DOL attempted to monitor recruitment fees collected abroad but have admitted that this can only be done “to the extent possible.” In practice, there is extremely limited ability to regulate recruitment fee collection outside the country, as the U.S. government—like most countries that employ guestworkers—maintains that it does not have jurisdiction over recruitment activities that occur on foreign soil.

Due to the challenges in enforcing the prohibition on unlawful recruitment fees, the Department and DOL should gather as much information as possible about recruitment chains. This can be achieved by continuing to collect detailed information from prospective H-2A employers on Form I-129H2A, including the identities and locations of any foreign recruiters used. Such data is already required for H-2B employers, who must also identify all sub-recruiters and agents involved. Collecting this information increases transparency in the foreign recruitment process, helps direct audits and investigations more effectively, and supports compliance with program requirements to protect the wages and working conditions of U.S. workers.

Recommendations Made:

1. **Continue Collecting Recruitment Information:** Maintain the requirement on Form I-129H2A for employers to provide information about their efforts to prevent illegal recruitment fees and to identify all foreign recruiters used.
2. **Increase Transparency:** Require employers to identify not just primary recruiters but also sub-recruiters, sub-agents, and subcontractors involved in the recruitment process, similar to H-2B requirements.
3. **Direct Resources Effectively:** Use information collected on international recruiters to assist in directing audits and investigations.
4. **Retain Evidence Requirement:** Retain requirement for employers to provide evidence of how they will ensure H-2A workers are not subjected to illegal recruitment fees.