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submitted through: <https://www.regulations.gov/document/USCIS-2025-0469-0001>

Comment in Response to USCIS–2025–0469; Agency Information Collection Activities; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Petition for a Nonimmigrant Worker: H–2A Classification; OMB Control Number 1615–0150

Dear Mr. Pfirrmann-Powell,

Centro de los Derechos del Migrante (“CDM”) writes in response to USCIS–2025–0469, regarding the U.S. Citizen and Immigration Services’s (“USCIS”) proposed reinstatement, with change, of Form I-129H2A, Petition for Nonimmigrant Worker: H-2A Classification, OMB Control Number 1615–0150.

For two decades, CDM has worked alongside migrant and immigrant families and communities to ensure that borders are not a barrier to justice and migrant workers’ voices, experiences, and priorities shape labor migration policies. CDM has partnered with researchers to publish groundbreaking reports on structural flaws in U.S. work visa programs that endanger the safety of working people and undercut their wages—including *Ripe for Reform*, a groundbreaking report on structural flaws in the H-2A program that harm workers.¹ CDM has also partnered with workers, advocates, unions, and anti-trafficking organizations to defend people’s rights to fair wages, safe working conditions, and good jobs. CDM co-founded and chairs Migration that Works—a coalition of labor, migration, civil rights, and anti-trafficking organizations and academics advancing an alternative labor migration model that respects the human rights of

¹ Exhibit A, CDM, *Ripe for Reform: Abuse of Agricultural Workers in the H-2A Visa Program* (2020), <https://cdmigrante.org/ripe-for-reform/>. CDM’s other research and publications are here: <https://cdmigrante.org/publications>.

workers, families, and communities. CDM also convenes the Comité de Defensa del Migrante (Migrant Defense Committee, or “Comité”), a group of current and former migrant workers in the H-2 and other temporary work visa programs and their family members. The Comité works to empower and organize migrant workers in the United States and in their home communities, creating a culture of informed migration and centering migrant workers’ perspectives in policy conversations. Working in partnership with the Comité and other worker leaders, CDM conducts extensive outreach in H-2A workers’ home communities and regions of employment each year, building relationships that guide our policy priorities.

Regarding the proposed changes to Form I-129H2A, we appreciate USCIS’s efforts to increase disclosure of employer and employment information. Heightened disclosure requirements aid USCIS and the Department of Labor (“DOL”) in fulfilling their responsibilities as program monitors, as well as encourage general transparency in the program’s execution. In line with these goals, we strongly advise USCIS against removing requests for information about the terms and conditions of the proposed H-2A employment. Access to this information aids USCIS in detecting labor abuse and holding program violators accountable. CDM also has concerns regarding the proposed additional requirements for employers to provide information about H-2A workers who have left their employment early. H-2A workers, who already face significant barriers to reporting abusive work situations, will be further chilled by the knowledge that employers can report to USCIS potentially pretextual reasons for early termination. Finally, CDM recommends that USCIS use this opportunity to follow Congress’s direction, and the recommendation of USCIS’s Office of the Ombudsman, and update the I-129H2A form to facilitate the sharing of petition information with named worker-beneficiaries. This would allow workers to access accurate information about their own immigration status; currently, workers rely entirely on their employers for this information, leaving them vulnerable to labor exploitation, abuse, and trafficking.

1. Enhanced information collection about H-2A employers and proposed employment advances federal agency enforcement of the H-2A regulations and fosters program transparency.

We applaud USCIS for revising Form I-129H2A to request additional information about H-2A employers and the proposed employment. Specifically, USCIS proposes updating “Part 1. Petitioner Information” to request the petitioner’s date of birth; “Part 5. Basic Information About the Proposed Employment and Employer” to request additional information about concurrent applications and a more detailed justification of the seasonal or temporary need for workers’ services; and “Part 10. Certification and Signature of Employer who is not the Petitioner” to request the full name, company or organization name, mailing address, contact information,

taxpayer identification number, Social Security number, year established, number of employees in the U.S., and income information for employers who are not completing the form as petitions.² This information will allow USCIS to more easily identify employers in violation of program requirements.

We are concerned, however, that USCIS proposes revising “Part 5. Basic Information About the Proposed Employment and Employer” of Form I-129H2A to remove questions about the terms and conditions of the employment, such as the position’s job title, additional addresses of worksites, whether workers will work off-site, working hours, and compensation.³ Information about working conditions is crucial to identifying situations of labor trafficking and other abuse. Additionally, robust information about employers, particularly worksite addresses, will aid USCIS in locating and holding accountable program violators. For example, many times, low-road employers do business as two companies, hiring H-2A workers for different periods of time to cover annual work. This is explicitly prohibited by the program, since H-2A workers can only be hired to do seasonal, not year-round, work.⁴ Additional questions regarding worksites would help USCIS flag these practices for DOL and further their interest in program enforcement. CDM therefore requests that USCIS maintain all questions in Form I-129H2A regarding employer and employment information.

As a general matter, CDM encourages increased disclosure by H-2A employers and the accessibility of this information to workers and the general public. H-2A workers face significant barriers to accessing clear, transparent information about their employment and working conditions, making workers vulnerable to fraud, abuse, and trafficking. Additionally, lack of access to H-2A employer and employment information hinders advocates from identifying patterns of abuse and making recommendations for program improvements. H-2A workers and

² Exhibit B, USCIS, Table of Changes – Form, Form I-129H2A, Petition for Nonimmigrant Worker: H-2A Classification, OMB Number: 1615-0150, Document ID USCIS-2025-0469-0002 (posted Jan. 29, 2026).

³ *Id.*

⁴ Haas Farms, 2016-TLC-00032 (Board of Alien Labor Certification Appeals (BALCA Apr. 7, 2016) (year-round work for two interlocking businesses is not seasonal or temporary); Legume Matrix, LLC, 2016-TLC-000008 (BALCA Dec. 8, 2015) (intertwined companies cannot use multiple H-2A applications to create year-round need); Rosalba Gonzales, 2017-TLC-00028 (BALCA Oct. 11, 2017) (same); JBO Harvesting, 2020-TLC-00129 (BALCA Nov. 6, 2020) (overlapping contracts not seasonal under H-2A regulations); Advanced Agriculture, Inc., 2014-TLC-00077 (BALCA Mar. 31, 2014) (employers cannot evade the H-2A seasonality requirements by using two employer entities with overlapping dates of need); Ag-Mart Produce, Inc., 2020-TLC-00097 (BALCA Aug. 13 2020) (need is not seasonal if H-2A workers perform normal, ongoing operations); Farm-Op, Inc., 2017-TLC-00021 (BALCA July 7, 2017) (stringing together overlapping jobs at different jobsites is not seasonal or temporary work); Great Southern Farms, LLC, 2009-TLC-00065 (BALCA Sep. 03, 2009) (two separate groups of workers performing different seasonal tasks with year-round date of need is not seasonal); Bracy’s Nursery, 2000-TLC-11 (BALCA Apr. 14, 2000) (overlapping H-2A orders may not be used to fill year-round jobs).

advocates would benefit from liberal access to information about program participants and enforcement.

2. Requests for information on substituted workers is immaterial and facilitates employer retaliation.

USCIS proposes adding additional questions to Form I-129H2A requesting information on H-2A workers for whom employers are seeking replacements. Specifically, USCIS seeks to revise “Part 2. Information About This Petition” to solicit the full name, date of birth, country of birth, termination date, reason for termination, and date of notification to USCIS for all substituted workers.⁵ This information, the majority of which employers already have an obligation to report to USCIS through other mechanisms, is irrelevant to adjudicating a new petition. Furthermore, this information helps employers to retaliate against workers who have complained or sought to improve their working conditions.

The additional questions regarding substituted workers are duplicative of already existing requirements. Under federal regulations, H-2A employers already must notify USCIS within two working days if a worker: (1) does not report to work within 5 days of the start date, (2) leaves without notice and does not report to work for 5 days, (3) is terminated before completing the services for which they were hired, or (4) finishes the work they were hired for more than 30 days earlier than the date specified in the petition.⁶ The employer must notify USCIS, via email or mail, of the reason for the notification; the reason for untimely notification; the USCIS receipt number of the approved petition; the petitioner’s name, address, phone number, and employer identification number; the employer’s name, address, and phone number; and the H-2A worker’s name, date of birth, place of birth, last known physical address, last known phone number, Social Security, and visa number.⁷ It is unreasonable for USCIS to request information that should already be in its possession, particularly given that a substituted worker’s personal information has no bearing on whether USCIS is able to approve petitions for new workers. Such repetitive, unnecessary requests for information run afoul of the Paperwork Reduction Act.⁸

Furthermore, allowing employers to report to USCIS the reason for worker termination, which is not a reporting requirement under the regulations, presents retaliation risks for workers who complain about their working conditions and are subsequently unjustly terminated. As H-2A

⁵ USCIS, *supra* note 2.

⁶ 8 C.F.R. § 214.2(h)(5)(vi)(B).

⁷ USCIS, *H-2A Temporary Agricultural Workers* (Feb. 24, 2026), <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers>.

⁸ 44 U.S.C.S. § 3501.

workers' continued legal status is tied to their continued employment,⁹ workers are already disincentivized from complaining about labor abuses and risking retaliatory termination. With this new information request, employers will be able to report to USCIS, without investigation or adjudication, any pretextual reason for worker termination. Workers may fear that, if they complain about their working conditions, employers will terminate them in retaliation and report an illegitimate justification to USCIS, potentially impacting their ability to later return to the U.S. on a new visa. CDM has extensively documented this fear of retaliation among H-2A workers.¹⁰

If this information is to be collected, it would more appropriately be under the purview of DOL, as the agency has specific expertise in investigating employment disputes. Given the chilling effect that this information collection would have, and the irrelevancy of termination information to adjudicating a new petition, CDM recommends that USCIS remove all questions regarding substituted workers from Form I-129H2A.

3. H-2A workers' access to information about their immigration status serves to combat trafficking and labor abuse.

CDM urges USCIS to update Form I-129H2A to authorize USCIS to share petition status information with worker-beneficiaries. We recommend that USCIS update "Part 9. Declaration, Signature, and Contact Information of Petitioner or Authorized Signatory" to include a petitioner authorization for USCIS to share information about the petition, including approval status and whether an individual is named as a beneficiary, with named beneficiaries. Currently, worker-beneficiaries have no access to information about whether a petition was submitted on their behalf or whether the petition has been approved, and instead must rely on representations made by their employer. CDM has documented instances of employers representing to workers that a petition to extend their H-2A status had been submitted or approved, but workers had no way to independently verify if this was true, leading to involuntary immigration violations.¹¹

As part of the appropriations process for fiscal year 2022, Congress directed the agency to provide H-2A workers with direct access to information about their own immigration status.¹²

⁹ 8 C.F.R. § 214.2(h)(13)(i)(C).

¹⁰ CDM, *supra* note 1, at 23-24.

¹¹ See Complaint at 12, *Reyes-Trujillo v. Four Star Greenhouse, Inc.*, 513 F. Supp. 3d 761 (E.D. Mich. 2021) (No. 2:20-CV-11692).

¹² "USCIS shall also establish a process whereby workers may confirm that they are the beneficiaries of H-2A petitions and can receive information about their own immigration status, including their authorized period of stay and the status of any requested visa extensions." H.R. REP. JOINT EXPLANATORY STATEMENT – SECTION F, CONSOLIDATED APPROPRIATIONS ACT, 2022, at 77 (2022), <https://docs.house.gov/bills/thisweek/20220307/BILLS-117RCP35-JES-DIVISION-F.pdf>.

The USCIS Ombudsman has likewise urged USCIS to provide all named beneficiaries of I-129 petitions with transparent status information and documentation. The Ombudsman’s detailed recommendation to USCIS—its first in several years—noted legal deficiencies and potential for worker abuse in USCIS’s current failure to ensure that workers have independent access to information about their own immigration status. It recommended several practical, low-cost options for the agency to remedy the issue.¹³

As the Ombudsman’s recommendation notes, federal law requires USCIS to issue nonimmigrants proof of their current status, and it subjects them to potential immigration consequences and criminal penalties if they fail to keep this proof with them at all times.¹⁴ By issuing this proof to employer-petitioners only, USCIS’s current practice leaves worker-beneficiaries in the lurch when their employers’ representations about their immigration status turn out to be false or incomplete.¹⁵

Employer-petitioners’ monopoly on temporary visa petition information forces workers to trust their employers’ representations that a visa extension has been sought and approved. Even though bad-faith employers can and do omit, withhold, and misrepresent information about petitions, USCIS provides workers with no way of discovering this misconduct.¹⁶ This exacerbates employers’ control over workers, contributing to conditions that could lead to labor trafficking. And it impedes workers’ ability to leave an abusive job by switching employers, since they cannot independently confirm whether the change of employers has been approved or not.

We thus urge USCIS to update Form I-129H2A to include an authorization for USCIS to share crucial petition information with named beneficiaries.

Conclusion

For the reasons explained above, Centro de los Derechos del Migrante encourages USCIS to revise Form I-129H2A to maximize collection of employer and employment information,

¹³ Office of the Citizenship and Immigration Services Ombudsman, “Recommendation to Remove a Barrier Pursuant to Executive Order 14012: Improving U.S. Citizenship and Immigration Services’ Form I-129 Notification Procedures (Recommendation Number 62)” (Mar. 31, 2022), https://www.dhs.gov/sites/default/files/2022-03/CIS%20OMBUDSMAN_I-129_BENEFICIARY_RECOMMENDATION_fnl_03-2022_508.pdf (hereinafter “Ombudsman’s Recommendation”).

¹⁴ Ombudsman’s Recommendation at 2; *see also* 8 U.S.C. § 1304(d)-(e).

¹⁵ CDM has represented and advised myriad migrant-worker clients who have confronted false or incomplete employer representations regarding visa renewals or extensions, in many cases, leading to adverse immigration consequences. One H-2A worker, for example, recently reported that his employer failed to notify him that his H-2A visa was not extended, despite renewing the visas of many of his coworkers. This worker incurred a three-year inadmissibility bar under INA 212(a)(9)(B)(I) and his subsequent H-2A visa application was denied.

¹⁶ *See, e.g., Reyes-Trujillo v. Four Star Greenhouse, Inc.*, 2021 U.S. Dist. LEXIS 5525 (E.D. Mich. Jan 12, 2021).

remove questions regarding substituted workers, and include an authorization for USCIS to share petition status information with worker-beneficiaries.

Sincerely,

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