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John R. Pfirrmann-Powell, Acting Deputy Chief
U.S. Citizenship and Immigration Services
Regulatory Coordination Division
Department of Homeland Security

Via https://www.regulations.gov
e-docket ID number USCIS-2025-0469

RE: 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

Dear Mr. Pfirrmann-Powell:

These comments are submitted on behalf of Texas RioGrande Legal Aid ("TRLA") in response to the Department of Homeland Security ("the Department") information collection request entitled "Reinstatement, with change, of a previously approved collection for which approval has expired, Petition for a nonimmigrant worker: H-2A classification." This notice was published at 91 Fed. Reg. 3912 (January 29, 2026). These comments are submitted with respect to **OMB Control Number 1615-0150**, Department of Homeland Security **Docket ID USCIS-2025-0469.**

TRLA provides free legal assistance in civil matters to indigent farmworkers in Texas and, through its Southern Migrant Legal Services project, six southeastern states (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee). Many of these workers are employed pursuant to H-2A visas issued pursuant to petitions filed by farm operators or farm labor contractors. One of the most persistent problems faced by our H-2A clients is the imposition of mandatory recruitment or placement fees by those individuals who identify, solicit, recruit or hire them on behalf of H-2A employers. Anecdotal reports indicate that a large percentage of H-2A workers from Mexico (by far, the largest source of H-2A labor) pay substantial recruitment or placement fees in order to obtain their H-2A jobs.[1]

[1] *See, e.g.*, *Medina-Arreguin v. Sanchez*, 398 F. Supp. 3d 1314, 1325 (S.D. Ga. 2019); *Salazar-Martinez v. Fowler Brothers, Inc.*, 781 F.2d 183, 185 (W.D.N.Y. 2011); *Morales-Arcadio v. Shannon Produce Farms, Inc.*, 2007 WL 2106188, at *2 (S.D. Ga. 2007); *Avila-Gonzalez v. Barajas*, 2006 WL 643297, at *2 (M.D. Fla. 2006). H-2A workers from other countries report similar charges being assessed by recruiters. *Palma-Ulloa v. Fancy Farms, Inc.*, 2019 WL 1077272, at *1 (11th Cir. 2019).

In an effort to combat the collection of unlawful recruitment and placement fees, the Department of Labor requires prospective H-2A employers to include as part if their temporary labor certification applications a copy of its agreements with agents or recruiters of H-2A workers. 20 C.F.R. §§ 655.135(p) and 655.137. As the Department of Labor has acknowledged, "[t]hese additional disclosures of information about the recruitment chain are necessary for the Department to carry out its enforcement obligations, protect vulnerable agricultural workers and program integrity, and ensure equitable administration of the H–2A program for law abiding employers." 89 Fed. Reg. 33,898, 33,902 (Apr. 29, 2024). Similar requirements have been imposed on H-2B employers for over a decade,[2] because this information serves to "assist the Department in determining whether the underlying transaction raises any program compliance concerns, including whether prohibited fees are being paid or passed on by the foreign labor contractor or recruiter" as well as "assist[ing] the Department in more appropriately directing its audits and investigations." 76 Fed Reg 15, 130, 15,138 (March 11, 2011).

Currently, page seven of Form I-129H2A requires that "[t]he petition should be filed with evidence that indicates the beneficiaries have not paid, and will not pay, prohibited fees." Without explanation, the proposed revised Form I-129H2A deletes this requirement. We strongly oppose this proposed change.

DHS and the Department of Labor face considerable obstacles in enforcing the prohibition on H-2A workers being charged recruitment, placement and other unlawful fees by agents and recruiters of the employer, especially when these individuals are located outside the United States and the jurisdiction of U.S. federal agencies. While the regulations at 20 C.F.R. §§ 655.135(p) and 655.137 were adopted to address the widespread problem of these fees, these tools cannot generally be enforced extraterritorially. Demanding that prospective H-2A employers provide tangible evidence to bolster their 20 C.F.R. § 655.135(p) assurances. By requiring tangible evidence regarding their efforts to ensure that recruitment and placement fees are not charged, the current Form I-129H2A mandates that the H-2A employer do more than simply provide an assurance that the workers are not assessed recruitment or placement fees. By requiring the employer to present tangible evidence demonstrating that no unlawful fees are being collected, the current Form I-129H2A obligates the employer to actively undertake affirmative steps to ensure such fees are not charged. Removing this requirement will in many instances reduce employers' assurances under 20 C.F.R. § 655.135(p) to meaningless promises.

Thank you for your attention to and consideration of these comments.

Sincerely,

Texas RioGrande Legal Aid
/s/Gregory S. Schell
Gregory S. Schell
Attorney at Law
Admitted only in Florida and Maryland

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[2] 20 C.F.R. § 655.9.