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June 26, 2026

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

Via https://www.regulations.gov
e-docket ID number USCIS-2025-0469
OMB Control Number 1615-0150

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 30-day notice regarding 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." The 30-day notice was published at 91 Fed. Reg. 31,473 (May 27, 2026). The 30-day notice stated that the DHS and USCIS would be submitting to the Office of Management and Budget an information collection request initially announced at 91 Fed. Reg. 3,912 (January 26, 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. They are submitted with respect to **OMB Control Number 1615-0150**, Department of Homeland Security **Docket ID USCIS-2025-0469.**

As noted in our March 30 comments, 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.

In our March 30 comments, we 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 has 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. Responding to our 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.”

The Department’s response is factually incorrect and is contrary to previous federal policy statements.

For decades, the federal government has recognized that “[p]rohibiting the employer, including a Farm Labor Contractor (FLC), from passing these [recruitment] costs on to its H–2A worker(s) allows the Department to better protect the integrity of the process, as well as protect the wages of the H–2A worker from deterioration by disallowable deductions. Disallowable deductions taken from an H–2A worker’s wages cause those workers to be paid less than the required wage, which results in an adverse effect on U.S. workers.”[1] Nonetheless, the imposition of illegal recruitment charges on H-2A workers remains widespread, impacting a sizeable portion, and perhaps a majority, of the current agricultural guestworker population. This has been

[1] 73 Fed. Reg. 8,538, 8,548 (Feb. 13, 2008).

documented on numerous occasions in scholarly studies,[2] worker surveys,[3] judicial decisions,[4] and previous comments made to the DHS and the Department of Labor.[5]

In light of the persistence of recruitment fees being extorted from H-2A workers, the Department cannot credibly contend that its efforts and those of the DOL are "sufficient to effectively enforce the prohibited fee provisions." This is due in substantial part to the fact that many of these fees are collected by recruiters based outside the United States, usually in the sending communities from which the H-2A workers hail.[6] And, as the DOL has acknowledged, "there are limits to the liability the Department can impose on employers for the actions of recruiters abroad."[7] For this reason, the DOL has declined to impose registration requirements on foreign-based recruiters of guestworkers, supposedly because the federal government does not have the authority to do so.[8] DHS and the DOL have attempted to monitor recruitment fees collected

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[2] Polaris, *Labor Trafficking on Specific Temporary Work Visas, A Data Analysis 2018–2020* (May 2022) at 13 (noting that abuses by foreign labor recruiters continue, with workers reporting unlawful fees charged by ''foreign labor recruiters, their employers, or their direct supervisors at their jobs''); Jennifer Gordon, *Regulating the Human Supply Chain*, 112 IOWA L. REV. 445, 464 (2017) (summarizing that studies "do give a sense that migrants are regularly required to pay unlawful [recruitment] charges").

[3] Gordon, *supra*, at 464 (recounting that a survey of 382 Mexican migrants by a coalition of five advocacy organizations found that 42.6% of those questioned had been required to pay a recruiter for an H-2A job offer in amounts ranging from $31 to $350 (in addition to passport and visa expenses). The Centro de los Derechos del Migrante reported in 2013 that of 220 Mexican migrants it surveyed, 58% had paid such fees, amounting on average to $590.94. *See* CDM, *Recruitment Revealed: Fundamental Flaws in the H-2 Temporary Worker Program and Recommendations for Change*, at 4, 8, 16 (2013).

[4] *See, e.g.*, *Palma-Ulloa v. Fancy Farms, Inc.*, 762 Fed. App'x 859, 862–63 (11th Cir. 2019), *Medina-Arreguin v. Sanchez*, 398 F. Supp. 3d 1314, 1325 (S.D. Ga. 2019); *Salazar-Martinez v. Fowler Bros., Inc.*, 781 F.2d 183, 185 (W.D.N.Y. 2011); *Morales-Arcadio v. Shannon Produce Farms, Inc.*, No. 605CV062, 2007 WL 2106188, at *2 (S.D. Ga. 2007); *Avila-Gonzalez v. Barajas*, No. 204CV567-FTM-33DNF, 2006 WL 643297, at *2 (M.D. Fla. 2006).

[5] 89 Fed. Reg. 33,898, 33,991 (Apr. 29, 2024) (noting that, according to the Farm Labor Organizing Committee, "many H–2Aworkers are still illegally required by unscrupulous recruiters to pay such [recruitment] fees" and the UFW Foundation reports "workers who were charged exorbitant fees of as much as $10,000 to obtain H–2A employment").

[6] *See, e.g., Arriaga v. Florida-Pacific Farms, LLC*, 305 F.3d 1228, 1234 (11th Cir. 2002); *Ramos-Barrientos v. Bland*, 661 F3d 587, 590-91 (11th Cir. 2011); *Palma Ulloa v. Fancy Farms, Inc.*, 762 Fed.Appx. 859, 862 (11th Cir. 2019).

[7] 89 Fed. Reg. 33,898, 34,025 (April 29, 2024).

[8] 77 Fed. Reg. 10,038, 10,056 (Feb 21, 2012).

abroad but have admitted that this can only be done "to the extent possible."[9] And the sad truth is that the extent to which U.S. agencies can regulate the collection of recruitment fees abroad is, in practice, extremely limited. Like most nations employing guestworkers, the U.S. government insists that guestworker recruitment is a matter over which it has no jurisdiction, because the collection of these fees occurs on foreign soil.[10]

Given these obstacles, to maximize their limited ability to enforce the prohibition against unlawful fees, the Department and the DOL should be seeking as much information as possible regarding the recruitment chains. Such efforts unquestionably would be aided by continuing to collect on Form I-129H2A information from prospective H-2A employers regarding their efforts to ensure that any H-2A workers hired will not pay prohibited recruitment fees. Among the data often obtained through the current inquiry on Form I-129H2A are the identities and locations of any foreign based recruiters utilized by the employer. This information is already required of employers seeking to hire H-2B workers.[11] DOL has acknowledged that "information about the identity of the international recruiters will assist the Department in more appropriately directing its audits and investigations."[12] The H-2B regulation requires employers to not merely identify their recruiters, but also every person "hired by or working for the recruiter or its agent to recruit or solicit prospective H–2B workers—effectively acting as sub-recruiters, sub-agents, or subcontractors."[13] Obtaining these data from prospective employers of guestworkers "bring[s] a greater level of transparency to the foreign recruitment process" and serves to "assist the Department, other agencies, workers, and community and worker advocates in understanding the roles of each participant and the recruitment chain altogether" while "advanc[ing] the Department's mission of ensuring that employers comply with overall H–2B program requirements, and do not engage in practices that adversely affect the wages and working conditions of U.S. workers."[14]

For precisely the same reasons the DOL cited in its adoption of 20 C.F.R. § 655.9 with respect to the H-2B program, the Department should retain the requirement in Form I-129H2A that employers provide evidence of how they will ensure their H-2A workers are not subjected to illegal recruitment fees. Like the data obtained from H-2B employers under 20 C.F.R. § 655.9, the evidence collected under the current I-129H2A should "assist the Department in more appropriately directing its audits and investigations."

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[9] 73 Fed. Reg. 77,110, 77,159 (Dec. 18, 2008).

[10] Gordon, *supra*, at451–52 (2017); *Reyes-Gaona v. N.C. Growers Ass'n*, 250 F.3d 861, 864 (4th Cir. 2001).

[11] 20 C.F.R. § 655.9.

[12] 76 Fed. Reg. 15,130, 15,138 (March 18, 2011).

[13] 77 Fed. Reg. 10,038, 10,056 (Feb. 21, 2012).

[14] *Id.*

The need for effectively directing Department resources is particularly great because of the continued rapid growth in the use of the H-2A program, including the Department's recent guidance that is expected to result in numerous H-2A applications being filed by dairy farmers.[15] Much of the increase in H-2A applications will come from first-time users of the program, many of whom have little familiarity with the program's detailed requirements, including the prohibition on recruitment fees. The Department and the DOL will be familiar with the operations of few of these first-time participants. Obtaining detailed evidence regarding how these new H-2A employers intend to prevent the imposition of illegal recruitment fees unquestionably will assist in "effectively enforc[ing] the prohibited fee provisions."

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

Sincerely yours,

Texas RioGrande Legal Aid
/s/Gregory S. Schell
Gregory S. Schell
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[15] DHS Policy Memorandum 602-0200 (June 17, 2026).