

This is an optional checklist to assist petitioners with filing an I-129 H-2A petition.

Do not submit this checklist to USCIS.

NOTE: This optional check list is provided to assist petitioners in completing the petition package; however, it is not intended to substitute for or alter any statutory or regulatory requirements. USCIS recommends that you review the relevant statutory requirements, as well as the appropriate form instructions before completing and submitting the petition.

General Petition Requirements

A complete and properly signed USCIS Form I-129, Petition for a Nonimmigrant Worker. See www.uscis.gov for the most recent version of Form I-129 and its instructions.

1. Petitioners must provide their full names and addresses on **Page 1** of Form I-129. The following are the only entities who may file Form I-129 with USCIS as petitioners:
 - A. Employers listed on the U.S. Department of Labor's (DOL's) ETA Form 9142;
 - B. The employer's agent, as defined in USCIS regulations; or
 - C. The association of U.S. agricultural producers named as a joint employer on ETA Form 9142.
2. Only the petitioner (named in **Part 1** of Form I-129) can sign **Part 7** on **Page 6** of the form.
3. Any person assisting the petitioner to prepare Form I-129 **must** sign **Part 8** on **Page 6** of Form I-129.
4. You may enter the name and address of the person, if any, collecting your mail in the "C/O: (In Care Of, if any)" field in response to **Part 1**, item **3a** on **Page 1**. However, in an effort to combat possible immigration services scams, USCIS discourages the practice of entering another person's address for mailing purposes. Petitioners **must** still provide their actual address in **Part 1**, item **3 b** through **3 g** on **Page 1**.

A complete and properly signed "H Classification Supplement to Form I-129" (**Pages 11** and **13-15** of Form I-129).

1. Only the petitioner (named in **Part 1** of Form I-129) can sign **Part A** on **Page 15** of Form I-129.
2. In some cases, an employer uses an agent who meets the requirements of an agent-petitioner, or an association to file Form I-129 on his or her behalf. In this case, the employer (who is **not** the petitioner named in **Part 1**) **must** sign **Part B** on **Page 15** of Form I-129.
3. In cases where there are multiple employers, each joint employer **must** sign **Part C** on **Page 15** of Form I-129. If there are more than 4 joint employers, the additional signatures may be submitted on additional copies of **Page 15** of Form I-129.

NOTE: Submitting a signed contract between an employer and the agent-petitioner or association does not replace the need for signatures from the employers in the H Classification Supplement.

Payment of the base petition fee, currently **\$325**. Check current fees at www.uscis.gov/fees.

An approved *Temporary Employment Certification* (ETA Form 9142) from DOL.

NOTE: You must submit the original ETA Form 9142. If you are filing a subsequent petition using an ETA Form 9142 that was already submitted to USCIS in a previous petition, instead provide:

1. A photocopy of the previously submitted ETA Form 9142;
2. The receipt number of the petition containing the original ETA Form 9142;

3. A detailed explanation, if you are requesting an extension of stay for **2 weeks or less** due to emergent circumstances; and
4. A letter from DOL extending the validity of your ETA Form 9142, if you are requesting an extension of stay **greater than 2 weeks** due to emergent circumstances.

Optional: A cover letter from the petitioner or employer on official letterhead describing:

1. The nature of the employer's business;
2. Any additional locations or mailing addresses used by the employer;
3. The duties to be performed in the position offered;
4. The nature of the employer's need for workers, including why the job is temporary or seasonal; and
5. The qualifications of the requested workers, if applicable.

Optional: Evidence of the petitioner's continued business operations under either the actual business name and trade-name/doing business as (DBA) (if applicable), such as copies of the most recent:

1. State business registration for the petitioner (including registration of actual business name and trade-name/DBA) (if applicable);
2. Valid local, State or Federal Government business licenses;
3. IRS Form 1120 - U.S. Corporation Income Tax Return;
4. IRS Form 1040 - Schedule C, Profit or Loss From Business;
5. IRS Form 1040 - Schedule F, Profit or Loss From Farming;
6. IRS Form 1040 - Schedule J, Income Averaging for Farmers & Fishermen;
7. IRS Form 943 - Employer's Annual Federal Tax Return for Agricultural Employees; and
8. Business bank statements.

Additional Documentation to Show the Worker Qualifies for H-2A Employment

- If the workers are named on the petition and the ETA Form 9142 states the workers require certain education, training, experience or other special requirements, provide documentation to show that each worker qualifies for the job offered.
- If you are requesting a change of status or extension of stay, provide evidence of each worker's previous nonimmigrant classification and maintenance of status. This evidence may include copies of the worker's most recent paystubs.
- If you are filing an amended petition due to the unavailability of originally requested H-2A workers, provide:
1. A copy of the original H-2A petition approval notice;
 2. A photocopy of the previously submitted Form ETA 9142;
 3. A statement explaining why the substitution is necessary;

-
4. Evidence that the total number of workers will not exceed the number of H-2A workers authorized on Form ETA 9142; and
 5. Evidence of the qualifications of beneficiaries, if applicable.

H-2 Eligible Countries List Requirements

Are you requesting workers from a country that is included on the H-2 Eligible Countries List? (See www.uscis.gov for the most current list of H-2 eligible countries.)

If “**yes**,” then you are only required to provide the names and biographical information on Attachment 1 of Form I-129 for requested workers who are currently in the United States. Requested workers who are outside the United States may be unnamed.

If “**no**,” then you **must** provide the names and biographical information on Attachment 1 of Form I-129 for *all requested workers* - including workers who are outside the United States. The following additional evidence is required:

- Evidence to establish that employment of the worker is in the U.S. interest. When determining whether the U.S. interest requirement has been met, USCIS will consider additional evidence addressing the following 4 factors:
1. Evidence that a worker with the required skills is **not** available either from among U.S. workers or from among foreign workers from a country on the eligible countries list;
 2. Evidence that the requested worker has been admitted to the United States previously in H-2A status;
 3. Potential for abuse, fraud or other harm to the integrity of the H-2A program through the potential admission of workers from a country **not** currently on the list; and
 4. Other factors that serve the U.S. interest, if any.

NOTE: If you are requesting H-2A workers from both eligible and non-eligible countries, USCIS recommends that you file 2 separate petitions.