



U.S. Citizenship and Immigration Services

H-2A Petitioners Questions & Answers

Q1. Who can file a Petition for Nonimmigrant Worker (Form I-129) for H-2A “temporary agricultural worker” classification with USCIS?

A1. The following are the only entities that can file Form I-129 with USCIS as H-2A petitioners:

- The employer listed on the approved Department of Labor (DOL) Temporary Employment Certification (ETA Form 9142)
- An agent-petitioner who meets the requirements of 8 CFR 214.2(h)(2)(i)(F), as explained in Question 2; or
- The association of U.S. agricultural producers named as a joint employer on ETA Form 9142

Q2. Who may qualify as an “agent-petitioner” for H-2A classification?

A2. Only an agent who meets the requirements of 8 CFR 214.2(h)(2)(i)(F), as outlined below, can file Form I-129 as a petitioner.

- A U.S. agent may be:
 - the actual employer of the beneficiary
 - the representative of both the employer and the beneficiary (note: the use of the term representative does not mean “legal representative” as defined in Question 3 below); or
 - a person or entity authorized by the employer to act for, or in place of, the employer as his or her agent
- A U.S. agent can only file an H-2A petition in cases:
 - involving workers who are traditionally self-employed
 - involving workers who use agents to arrange short-term employment on their behalf with numerous employers; or
 - where a foreign employer authorizes the agent to act on his or her behalf.

Q3. Who may assist a petitioner in filling out Form I-129?

A3. You can always choose to complete Form I-129 on your own behalf or someone else may assist you. However, only certain qualified individuals can give you legal advice or represent you before USCIS. Legal advice may include: how to answer questions on your immigration forms; and your immigration choices and options.

The following individuals may provide legal advice and represent you before USCIS, including assisting in the preparation of Form I-129:

- **Legal representatives.** Attorneys and accredited representatives of an organization recognized by the Board of Immigration Appeals (BIA) may assist you in filling out Form I-129. Such assistance may include providing legal advice (e.g., how to answer questions on Form I-129 and what immigration options you may have) as well as representing you before USCIS. However, unless these individuals are in fact the U.S. employer or his or her U.S. agent, they are **not** considered to be petitioners and you should not list them in Part 1 of Form I-129 or use their address in Part 1 of Form I-129. These individuals must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in connection with Form I-129 and sign and provide information required of preparers in Part 8 of Form I-129. Upon receiving a properly completed Form G-28, USCIS will direct all correspondence related to the petition to the legal representative at the address listed on Form G-28.

For more information about types of legal representatives included on Form G-28, see [Form G-28](#).

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- **Preparers.** Other individuals who do not qualify as “legal representatives” (as described above and on Form G-28) may help you prepare and fill out Form I-129. Preparers may do this for free or charge no more than a nominal fee for such services. They may not provide legal advice on immigration law or procedure, or hold themselves out as qualified in legal matters or in immigration and naturalization procedures. These individuals must sign and provide information required of preparers in Part 8 of Form I-129.

USCIS will not communicate with or send correspondence to preparers as they are not authorized to represent petitioners before USCIS.

Q4. What is the difference between a “preparer” and an “agent-petitioner”?

A4. As mentioned above, “agent-petitioners” must meet the requirements under 8 CFR 214.2(h)(2)(i)(F) to file Form I-129 as an H-2A petitioner. An agent-petitioner is expected to provide his or her information in Part 1 of Form I-129. Additionally, the agent-petitioner must sign Part 7 of Form I-129.

Those who do not meet the requirements of agent-petitioners, but solely assist a petitioner in filling out Form I-129, are considered “preparers.” Preparers are not considered petitioners and their names and addresses should not be listed in Part 1 of Form I-129. Preparers must sign Part 8 of Form I-129. Incomplete petitions may be rejected.

Q5. Whose contact information should I put in Part 1 of Form I-129?

A5. USCIS recommends listing only information associated with the petitioner in this section of the form. The petitioner should be the individual or entity that obtained the approved ETA Form 9142. Entering in Part 1 the address, phone number, or other information of an attorney, representative, or preparer who is not the petitioner could result in the issuance of a Request for Evidence (RFE).

Q6. What if I am a sole proprietor? How should I file for H-2A employment?

A6. A sole proprietorship is a company or organization that is owned and run by one individual and in which there is no legal distinction between the owner and the business. Depending on how the company has been registered, sole proprietorships may file for H-2A employment in several ways – as long as the entity approved by DOL on ETA Form 9142 matches the entity filing Form I-129 with USCIS. Sole proprietors may choose to:

1. **File with DOL and USCIS as an individual owner.** When filing in this manner, the individual owner’s first and last name should be listed on ETA Form 9142 in Part C, item 1. The company’s trade name or doing business as (DBA), if applicable, should be listed in Part C, item 2. Include the approved ETA Form 9142 as evidence when filing Form I-129 with USCIS.

Then, when filling out Form I-129 for USCIS, only the name of the individual owner listed on ETA Form 9142 should be provided to USCIS in Part 1, item 1 of the Form I-129 – in these cases, Part 1 of Form I-129 should be left blank.

OR

2. **File with DOL and USCIS under your company’s trade name or DBA.** File ETA Form 9142 with DOL listing your legal business name in Part C, item 1 (and trade name in Part C, item 2, if you have one). Include the approved ETA Form 9142 as evidence when filing Form I-129 with USCIS. When filling out Form I-129 for USCIS, list your legal business name, as listed on ETA Form 9142, on Form I-129 in Part 1, item 2. In these cases, Part 1, item 1 should be left blank.

If you choose to file an I-129 petition under your company trade name or DBA, USCIS recommends that you provide additional evidence with the petition to show that this name is legally associated with your business. Evidence you may submit includes, but is not limited to:

- City, county and state registration documents linking your company to your trade name or DBA; or

- Recent federal tax statements, such as an Employer's Annual Federal Tax Return for Agricultural Employees (IRS Form 943).

Note: Failure to provide evidence of your company's association with its trade name or DBA upon initial filing with USCIS could result in processing delays.

OR

3. Allow an agent or an association of U.S. agricultural producers to file for H-2A employment on your behalf. In this instance, the employer, agent or association of U.S. agricultural producers may apply for and obtain the approved ETA Form 9142 from DOL. However, if ETA Form 9142 is approved for the employer, the agent or association must be named as a joint employer on ETA Form 9142.

The agent or association who applied for and obtained the approved ETA Form 9142 should also be named on Form I-129 in Part 1, item 2.

Additionally, if an agent or an association files on behalf of your company, you must complete either Part B or Part C, in Section C of the H Classification Supplement to Form I-129. Similarly, if you indicate there are joint employers on ETA Form 9142, each of those joint employers must complete Part C in Section C of the H Supplement.

Q7. What do agents need to know about requesting H-2A workers?

A7. If you meet the requirements of an agent-petitioner, and are filing an H-2A petition as an agent-petitioner, you must include:

1. An attachment in which the employer has:

- Authorized you to act on his or her behalf
- Assumed full responsibility for all representations made by you on his or her behalf; and
- Agreed to the conditions of H-2A eligibility

2. A complete itinerary of services or engagements, if the workers will be performing services for several employers. The itinerary should specify:

- Dates of each service or engagement
- Names and addresses of the actual employers; and
- Names and addresses of the establishment, venues or locations where the services will be performed

In addition, an agent performing the function of an employer must:

- Guarantee the wages and other terms and conditions of employment by contractual agreement with the beneficiaries; and
- Provide an itinerary of definite employment and information on any other services planned for the period of time requested.

Q8. What do associations need to know about requesting H-2A workers?

A8. Petitions may be filed by an association of U.S. agricultural producers who are named as a joint employer on the temporary employment certification. If you are filing an H-2A petition as an association, the entity listed in Part 1, Number 2 of Form I-129 should be the same as the joint employer approved by the DOL on ETA Form 9142 –specifically, the principal employer listed on Page 2, Part C, Line 1 of the approved ETA Form 9142.

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[Plug-ins](#)