



CONGRESSMAN RICK CRAWFORD'S H2A GUIDE



NAVIGATING THE H2A APPLICATION PROCESS

The application process for H2A worker visas is time consuming and can sometimes become tangled in bureaucracy. While delays of a week or two can usually be accommodated without too much disruption, there are cases where material complications can negatively affect critical planting operations. Please know your congressional and senatorial offices are available to assist you when significant delays arise.

Throughout this guide, you find my recommendations (NOTE: each congressional office will have its own process) that should reduce processing disruptions with the Department of Labor, U.S. Citizenship and Immigration Services, Department of State, Office of Motor Vehicles, and the Security Approval and Verification Entitlements (SAVE).

This H2A guide is available on my website at crawford.house.gov



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ARKANSAS DEPARTMENT OF WORKFORCE SERVICES & U.S. DEPARTMENT OF LABOR

The H-2A application process begins with the Department of Labor where you must demonstrate your farm's need for seasonal/temporary work, determine the wage rate for each worker, and obtain housing inspection approval, among other detailed requirements. Delays in the DOL process can occur due to application errors and housing deficiencies. Below are important links to help you avoid these common mistakes.

[DOL H2A Employer Handbook](#)

[DOL Employment and Training Administration](#)

DOL TIMELINE

The DOL is to certify the application and issue the certificate package within 30 days of the start date, although it's not uncommon for the certification to be issued later depending on the agency's workload. Please reach out to my office if you have not received a response within 45 days, and I will be glad to investigate the status of your application.

75 days and no less than 60 days before worker's start date- File an ETA 790 (Agricultural Clearance Order) with the Arkansas Department of Workforce Services (ADWS). You should receive a receipt of approval, denial, or request modification within seven days. This filing prompts the ADWS to reach out to you for housing inspections and to post your job openings.

32 days from your worker's start date- ADWS home inspections should be completed.

No less than 45 days before worker start date- File ETA9142A (Application for Temporary Employment Certification) with the Chicago National Processing Center. If everything is complete, you should receive an approval within seven working days, which allows you to begin recruiting workers.

Within seven days of receiving the ETA 9142A approval, you should submit your job recruitment report and housing inspection approval; if all is in order, the DOL will issue your Temporary Labor Certificate.

[Comprehensive DOL H2A Employer Flowchart](#)

DOL H2A APPLICATION PROCESS

It is important to carefully follow the instructions when completing the ETA 790, ETA 790A, and the ETA 9142A forms. Common mistakes in the application and failure to respond to communications from the ADWS can slow down the approval process and contribute to a backlog at the ADWS.

AGRICULTURAL CLEARANCE ORDER COMMON ERRORS

- Incomplete forms that do not follow instructions
- Incorrect housing addresses- NO PO Boxes, or GPS coordinates
- Inadequate amount of housing for workers.
- No physical addresses, email or phone numbers for employer contact
- Incorrect AEWR

HOUSING INSPECTIONS

Farmers must ensure their properties are prepared for inspection and that all necessary repairs and workers' provisions are in order before submitting to a housing inspection.

According to the ADWS, only 1 out of 5 housing units was approved after the initial inspection in the winter of 2025. When farmer's properties are not up to federal regulations, they will be issued a Notice of Deficiencies (NOD). All NOD delays the overall housing inspection process and can create a backlog for everyone.

For further information on making sure your housing is up to federal regulations please review the information found at these links.

[IETA Housing Safety and Health Checklist](#)

[OSHA Housing Safety and Health Checklist](#)

*** NEW * SCHEDULE PRE-SEASON HOUSING INSPECTIONS**

To prevent the backlog during the housing inspection peak times, the ADWS has begun pre-season housing inspections. If you would like to request a property inspection, complete the form at this [link](#).

HOUSING INSPECTION COMMON ERRORS

- Property not ready for inspection
- Same NODs issued as the previous year
- Property inspected not listed in the clearance order
- Inadequate number of beds and bedding
- Holes in floor or walls, missing drawers, cabinet doors, broken or missing steps
- Boarded up windows
- Lack of screens on entrances, exits, and windows
- Debris and overgrown grass
- No garbage can lids and fire extinguishers
- Missing electrical plates and exposed electrical wiring

ADWS Housing Inspection
Case Status Hotline: **800-347-3732**

DOL ADVERSE EFFECT WAGE RATE

AEWRs are the minimum wage rates the DOL has determined must be offered, advertised in recruitment, and paid by employers to H-2A workers. You can find the AEWR rates [here](#).

PRIVACY RELEASE FOR DEPARTMENT OF LABOR

- Click [here](#) to complete my privacy release.
- Enter your address to confirm you are in the district.
- Select the Department of Labor as the agency involved and complete the requested information.
- Include the DOL application number on the form.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES I-129 APPLICATION PROCESS

Your next step in the H2A process is submitting the I-129 Petition for Nonimmigrant Worker to the USCIS. It is important that before you begin your I-129 application process you review the [USICS H2A Temporary Agriculture Workers page](#) to stay up to date on any changes in the process, fees, or forms.

MONITOR YOUR CASE STATUS

Once you have filed your I-129, I highly recommend you monitor your application at the USCIS Case Status site [here](#). This site is updated when any action is taken on your application such as an approval, or when a Request for Further Evidence (RFE) or Intent to Deny notification is mailed.

DON'T WAIT ON USPS TO DELIVER YOUR DOCUMENTS (797A, 797B, RFE, or NID)

If your status indicates USCIS has mailed you any correspondence, please contact my office so that I may request a digital copy of the communication for you. **If you employ workers from South Africa, please contact my office so I can request a digital copy of your approval document.**

COMMON USCIS ERRORS

A simple error on your I-129 application will cause unnecessary delays.

Incorrect fees submitted: In 2024, the USCIS increased the fees for I-129 applications and added an asylum fee per I-129 application. Your application will be returned if the correct fees are not included. You can find the new USCIS fee schedule [here](#).

Verification of Entity Name: The USCIS verifies entities and addresses with the Dun & Bradstreet (D&B) database. Your entity name and address listed with D&B must be an exact match to the name on the USCIS petition. If you find a mismatch, please make corrections quickly to reduce delays with the approval of your USCIS application. You can click [here](#) to verify or change your D&B information.

SIGNATURE PAGES: USICS is requiring a wet signature or copies of wet signature pages on the I-129. They will not accept signatures created by a “typewriter, word processor, stamp, auto-pen, or similar device.” If a copy of the I-129 signature page is submitted to USCIS, the petitioner should keep the original wet signature in their records.

PRIVACY RELEASE FOR THE USCIS

- Click [here](#) to complete my privacy release.
- Enter your address to confirm you are in the district.
- Select the U.S. Citizenship and Immigration as the agency involved.
- The person who has signed the I-129 application must complete the applicant fields on the privacy release. Put N/A in the beneficiary fields.
- Please include the 797C receipt number on the form. Only the applicant’s signature can appear on this form.

USCIS APPROVAL TIMELINE

I-129 15-day response: Once you have filed your I-129 application with the U.S. Citizenship and Immigration Services (USCIS), you should receive a response within 15 working days. Make sure to check your case status [here](#) to monitor progress on your application during this 15-day period. If you have not received your approval email or any communication from USCIS after 15 days, please contact my office for assistance.

I-129 approval notice: Once your I-129 application is approved, the USCIS will notify you via email. Your 797B approval notice or 797A (If your workers are transferring to your farm from within the country) will be sent to you by USPS. **If you employ workers from South Africa, please contact my office so I can request a digital copy of your approval document.**

EMPLOYING WORKERS FROM SOUTH AFRICA

If you are hiring workers from South Africa, the U.S. consulates there require your worker to submit a copy of the 797B approval notice with their DS 160 application (the next step in the H2A process.) Other embassies such as Mexico only require the worker to provide the USCIS email that notified you of your approval.

Last year many farmers lost valuable time because the 797B approval notices were not delivered by the USPS in a timely manner. To help you eliminate this costly delay, once you have received your approval notice by email, contact my office and I will gladly contact USCIS on your behalf and request that they provide you with a digital copy of the 797B approval notice so that your South African workers may continue with the application process. Additionally, please contact me for a digital copy of your 797A, which your workers will need to renew their driver's licenses.

DEPARTMENT OF STATE

U.S. EMBASSIES AND CONSULATES

Once you have approval to hire foreign labor, the worker can apply for an H2A visa with the Department of State by completing the **DS-160 application**. The backlog at the embassies and consulates has been at a minimum.

SCHEDULING TIMELY APPOINTMENTS

If your worker's interview appointment is not scheduled within your needed timeframe, please check the online appointment system daily for cancelations.

CHANGES IN APPOINTMENT WAIVERS

As of February 2025, consular officials can waive interviews when applying for a new visa if the workers most recent visa was issued within 12 months. (It was previously 48 months) This change may affect workers who remained in the U.S. and transferred to another contract after their initial visa expired. The 12-month period begins the day after their initial visa expired.

ADMINISTRATIVE PROCESSING (AP)

If your worker is found ineligible for an H2A visa, their application will more than likely be sent to AP. Your worker can be found ineligible for many reasons. The most common are unlawful presence or overstay in the U.S.; violation of any federal or state law including driving violations, DUI, public intoxication, etc.; and failure to disclose any of the forementioned violations on their DS-160 application.

The AP wait time can be one to six months. Unfortunately, when the worker's application is placed in AP, our office is unable to provide a timeline or request an expedite, and we will not be able to provide any additional information regarding the worker's reason for AP.

YEARLY ADMINISTRATIVE PROCESSING

If your worker has been found ineligible for a U.S. visa, they will continue to be found ineligible and require AP each time they apply for an H2A visa. Each farmer will need to weigh the delay AP causes for their worker and its effects on their farm production to determine if it is worth requesting the worker to return each year.

PRIVACY RELEASE FOR DEPARTMENT OF STATE

- Click [here](#) to complete my privacy release.
- The privacy release must be completed with the H2A worker's information since this person is applying for the visa.
- Enter the farm address to confirm the worker is in the district.
- Select the Department of State as the agency involved.
- Must include the DS-160 confirmation number on the privacy release.

U.S. CUSTOMS AND BORDER PATROL I-94

Customs and Border Patrol no longer provides paper I-94/Arrival and Departure records at ports of entry. You can obtain a copy of the I-94 [here](#).

In 2024, my office saw an increase in errors on the I-94s such as incorrect visa categories and expiration dates. Your worker will be unable to get a driver's license or Social Security number until this information is corrected. The CBP will make these corrections for you if you email the worker's visa, 797B or 797A, to portoflittlerock@cbp.dhs.gov.

*** NEW INFORMATION ***

MEXICO WORKERS DOCUMENTING EXIT

If you are exiting the U.S. by land into Mexico, it is crucial to request an entry stamp from the Instituto Nacional de Migración (INM) upon entering Mexico. There has been an increase in Requests for Further Evidence by USCIS, asking individuals to provide proof of departure when applying for their next H-2A visa. If you do not obtain this entry stamp, USCIS may ask you to submit evidence that you left the U.S. before your visa expired.

ALWAYS CARRY EVIDENCE OF LEGAL STATUS

H-2A workers are required to carry evidence of their legal status at all times while in the U.S. This can include digital copies of their passport, work visa, and I-94 form when traveling away from their worksite.

PRIVACY RELEASE FOR CUSTOMS AND BORDER PATROL

- Click [here](#) to complete my privacy release.
- Enter your address to confirm you are in the district.
- Select other as the agency involved and add Customs and Border Patrol to the agency field.
- The information on the privacy release is the H2A worker and must have their signature on the form.
- Please attach a copy of the I-94 to the privacy release.

APPLYING FOR FEDERAL AND STATE IDENTIFICATION DOCUMENTS

SOCIAL SECURITY ADMINISTRATION

You will need a Social Security number (Social Security card) so your employer can report your wages to the Internal Revenue Service and to receive an Arkansas Driver's license. To begin this process, complete the SSA application [here](#). You will need to schedule an appointment at the local SSA office to provide your foreign passport, visa, 797B or A, and I-94 to prove your identity and work-authorized immigration status.

ARKANSAS STATE DRIVER'S LICENSE

You will need to pass both the written and skills portions of the driver's test to be issued an Arkansas driver's license. See page 9 for the driver's license renewal requirements or transferring a license from another state.

DOCUMENTS TO BRING TO TESTING APPOINTMENT OR THE DMV:

- 797A OR 797B
- Foreign passport
- H2A visa
- I-94
- **Social Security Card (as of 1/1/25)**
- Letter of Employment (The letter must be on company letterhead and include the worker's full name as it appears on the immigration document, date of birth, current address, and length of employment).
- An Arkansas state ID or fishing license is no longer required if you provide the documents listed.
- If you encounter any problems with the acceptance of your documents during your written testing, please contact Alisa Blackerby, Driver's License Coordinator, at (501) 618-8613 or (501) 681-5489 before leaving the test site.
- If you encounter any problems with the acceptance of your documents at the DMV, ask the manager to reach out to the Arkansas Department of Driver Services or contact the congressman's office.

THE APPLICANTS SHOULD FOLLOW THESE STEPS:

- Study for the written exam. The testing information can be found [here](#).
- Schedule an appointment [here](#) with the Arkansas State Police (ASP) to take the written test.
- Select #1 box, "Schedule License or Motorcycle Written Test Here."
- Select type of appointment, "Apply for a driver's license and motorcycle license."
- Complete the information on the form
- Primary document - choose "unexpired foreign passport."
- Secondary document - choose "Arkansas State ID" (This section does not list what you will bring to the appointment, but you must choose something to move forward)

REAL ID

H2A workers do not need to obtain a Real ID. Their foreign passports will allow them to board any international flight.

OTHER INFORMATION REGARDING DRIVER'S LICENSES FOR H2A WORKERS

- After the worker passes the written test, the ASP will issue the instruction permit with information for scheduling the skills portion of the test. There is no longer a waiting period for taking the skills test and the testing appointment can be scheduled as soon as one is available.
- Once the worker passes the skills test, go to the DMV for issuance of the driver's license. In addition to the I-797B approval notice, the DMV requires the same identification documentation as submitted to the ASP.
- The DMV will submit the applicant's information to the SAVE system for status verification. The SAVE approval should take place within minutes and the Arkansas driver's license will then be issued.
- The driver's knowledge test is offered in Spanish. The skills portion is only offered in English and no interpreter is allowed.
- If your worker has been issued a driver's license in another state and that license has not expired, or is expired for less than 30 days, and they are transferring to Arkansas for work, they will be able to apply for an Arkansas driver's license with no retest requirement.
- If your worker's out-of-state license has expired for 31 days, but less than a year, they will be required to take the written exam.
- If your worker's out-of-state license has expired for more than one year, they must take the written and the skills test to be issued an Arkansas DL.
- Arkansas' statute allows a person to drive for up to six months on their foreign license if they are not becoming a resident of Arkansas. However, you need to verify if your insurance policy covers a foreign licensed driver on your farm vehicles.
- Workers who are in-country transfers can apply to renew their driver's license up to 90 days before their current visa expires if they have been approved for a visa extension and have their I-797A.
- Reciprocal Countries, whose driving laws are comparable to Arkansas and deemed a match to allow reciprocation of driver's licenses are the following: Germany, France, South Korea, Taiwan and Manitoba, Canada.

SYSTEM ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE)

Each H2A worker who applies for a government benefit must have their immigration status verified through the SAVE system. Most workers' statuses will be verified within minutes. If a worker has incorrect information on their I-94 document, they will not receive a SAVE verification. Please see the CBP section of this guide for correcting the I-94.

H2A "in-country" transfers who did not leave the U.S. but transferred to another visa to continue to work, can experience tremendous delays with the SAVE system's verification. For these workers, SAVE requires the government entity to submit additional information for verification and the worker may wait two weeks to 90 days for a verification. This wait time is primarily experienced when applying for a driver's license.

If your worker is an "in-country" transfer, after their SAVE inquiry is submitted by the DMV, **they need to request a copy of their SAVE verification document to ensure the document shows "Case Under Review."** The worker will be notified when SAVE returns the confirmation.

You can check your SAVE status online [here](#).

My office is available to assist you during this SAVE verification process; however, there is no guarantee that the efforts to expedite the process for you will succeed. At a minimum, a congressional inquiry requires that SAVE respond with updates. It also ensures all the additional documentation for your case has been submitted properly. If your worker has been waiting longer than three weeks, please reach out to my office.

PRIVACY RELEASE FOR SAVE

- Click [here](#) to complete my privacy release.
- Enter the farm address to confirm the worker is in the district.
- Select the U.S. Citizenship and Immigration as the agency involved.
- The worker's information goes in the applicant fields and put N/A in the beneficiary fields. The worker must sign the release. Include the SAVE verification number and the DMV location where they applied.

FREQUENTLY ASKED QUESTIONS ABOUT THE H2A PROCESS

Can an H2A worker leave my farm at any time for another farm?

Yes. The farm being left has an obligation, no later than 2 working days, to notify DOL, the State Workforce Agency, and USCIS/Dept of Homeland Security of the worker abandoning their contract. If the worker leaves prior to the contract period end, the employer is not obligated to the remainder of the $\frac{3}{4}$ guarantee or outbound transportation costs. For more information [click here](#).

What procedures must the new farm employer adhere to in order to transfer and employ my worker?

They would have to file a I-129 petition with USCIS to transfer the worker.

In the event that I need to secure another H2A worker to replace one that has left, how do I need to initiate this process?

File another I-129 USCIS petition following the termination notice for a named or unnamed worker.

When I begin the H2A petitioning process, can I file an I-129 with an additional unnamed worker as a precaution in case one of my workers decides to leave?

USCIS will only grant as many workers as disclosed and certified from DOL. DOL's position is that you apply for the exact number of workers that you need. Applying for more workers than needed may result in DOL, upon investigation, asserting that you misrepresented your need and subjecting you to civil monetary penalties.

If a worker expresses a desire to transfer to another farm after their current visa obligation at my farm has expired, what obligations do I have and what role do I play in facilitating this transfer? Also, can the worker transfer back to my farm at a later point?

If the worker transfers to another farmer within the US after having completed your contract and that farmer doesn't provide the transportation and subsistence to that farm, you'd be obligated for those costs as outbound costs for your contract. The transferring worker will need to show that he/she has been working within 30 days prior to the transfer, and the worker has 30 days after the petition expiration date to transfer. They can transfer back to your farm at a later point through another petition to USCIS.

What are the specific criteria that need to be met for an H2A worker to be reported to the USCIS as absconding?

Abandonment will be deemed to begin after a worker fails to report to work at the regularly scheduled time for 5 consecutive working days without the consent of the employer. At that time, the farmer will need to report this abandonment to USCIS. For more information regarding absconding, [click here](#).

What tax withholdings does the IRS require for H-2A workers' compensation?

The H2A workers' compensation is exempt from U.S. Social Security and Medicare withholdings. And in most cases, it is not subject to mandatory withholding of U.S. federal income tax. For more information on IRS requirements, [click here](#).

Can I pay my American farm worker more than my H2A worker? Farmers must pay at minimum, their state's Adverse Wage Effect Rate for their H2A workers and the state minimum wage for U.S. workers. If these requirements are met, farmers can determine on a case-by-case how much to pay their workers.

If a worker is transferring to my farm but his petition has not been approved before the start date, can he begin working? Workers can begin working once the transfer petition has been received and a Receipt Notice has been issued, provided that the job's start date has already arrived. Prior to this new rule, the option for workers to work while a petition was pending was only available for E-Verify employers in good standing and employers transferring workers between petitions of the same entity. This rule opens that option up to all employers.

How long is the worker's grace period to leave the U.S. if his employment ends prematurely and unexpectedly (e.g., if the approved petition is revoked, they are terminated, etc.)? Workers will have a 60-day grace period to either find new employment or to return home. This has been increased from the current grace period of 30 days. This only applies to workers whose employment ends "unexpectedly" as in the manner described above. Workers who complete their contracts will still only have the usual 30-day grace period where CBP allows.

What is the new reset rule for workers who have worked for three consecutive years in the U.S.? Workers must be outside the U.S. for at least 60 days to reset their three-year limit in H-2A status.

Can I keep my workers' passports and other documents for safekeeping?

You may hold onto a worker's passport only if the following conditions are met:

- The worker voluntarily requests that you keep these documents safe.
- You return the documents to them immediately upon their request.
- You have not directed the worker to submit this request.
- The worker states, in writing, that the three conditions listed above have been met.
- You allow the worker ready access to their passport or other documents, at least during regular business hours and at a location that does not meaningfully restrict the worker's ability to access the passport or other documents.

ARKANSAS DELEGATION CONTACT INFORMATION

- **Senator Tom Cotton**
Cotton.Senate.Gov (501) 223-9081
- **Senator John Boozman**
Boozman.Senate.Gov (501) 372-7153
- **AR01 Congressman Rick Crawford**
Sherrie.Mitchell@mail.house.gov
Crawford.House.Gov (870) 203-0540
- **AR02 Congressman French Hill**
Hill.House.Gov (501) 324-5941
- **AR03 Congressman Steve Womack**
Womack.House.Gov (479) 464-0446
- **AR04 Congressman Bruce Westerman**
Westerman.House.Gov (870) 536-8178