

petitioner's liability for liquidated damages. If the petitioner wishes to contest the allegations set forth in the notice of non-compliance, written notice must be received by ICE within 30 days of receipt of the notice of non-compliance. 8 CFR 214.2(h)(5)(vi)(C). If the petitioner fails to contest the finding of non-compliance, or the petitioner's response fails to raise an issue of material fact, ICE will communicate liability for liquidated damages to the H-2A petitioner and inform the petitioner that it will receive a demand letter for payment for liquidated damages directly from CBP.

CBP will collect all liquidated damage payments. The CBP demand letter will specify the manner in which payment must be made.

### III. Fee-Related Notifications

This Notice announces that on January 17, 2009, H-2A petitioners may begin filing fee-related notifications to USCIS pursuant to 8 CFR 214.2(h)(5)(xi)(A)(4). The notification must include the following information:

- (1) The USCIS receipt number of the H-2A petition;
- (2) The petitioner's name, address, and telephone number;
- (3) The employer's name, address, and telephone number, if it is different from that of the petitioner; and the
- (4) Name and address of the facilitator, recruiter, or placement service to which alien beneficiaries paid or agreed to pay the prohibited fees.

As previously stated, USCIS encourages the petitioner to submit notification electronically by e-mail. However, USCIS realizes that in certain instances, electronic notification may not be possible or feasible for the H-2A petitioner. Accordingly, the following two methods for notification are acceptable. Notification by mail must be postmarked before the end of the 2 workday reporting window.

*By e-mail: CSC.H2AFee@dhs.gov.*

*By mail: California Service Center, P.O. Box 10695, Laguna Niguel, CA 92607-1095.*

### IV. Paperwork Reduction Act

This Notice sets forth the procedures for H-2A petitioners to notify USCIS when:

- An H-2A worker fails to report to work within 5 workdays of the employment start date on the H-2A petition or within 5 workdays of the start date established by the petitioner, whichever is later;
- When the agricultural labor or services for which H-2A workers were hired is completed more than 30 days early; or

- When the H-2A worker absconds from the worksite or is terminated prior to the completion of agricultural labor or services for which he or she was hired.

H-2A petitioners must retain evidence of any such notification sent to USCIS, as well as evidence of an employment start date if different from the start date stated on the H-2A petition, for a one-year period.

This Notice further provides the procedures for H-2A petitioners to notify USCIS, after an H-2A petition has been filed, within 2 work days of learning that an H-2A alien worker paid a fee or other compensation to a facilitator, recruiter, or similar employment service as a condition of obtaining the H-2A employment.

These notification requirements are considered information collections covered under the Paperwork Reduction Act (PRA).

Since implementation will begin 30 days from the date of publication of this notice in the **Federal Register**, this new information collection has been submitted and approved by OMB under the emergency review and clearance procedures covered under the PRA. USCIS is requesting comments on this new information collection no later than January 17, 2009. When submitting comments on the information collection, your comments should address one or more of the following four points:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of the information on those who are to respond, including through the use of any and all appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of Information Collection

- a. *Type of information collection:* New information collection.
- b. *Title of Form/Collection:* H-2A's Petitioners Employment-Related or Fee-Related Notification
- c. *Agency form number, if any, and the applicable component of the*

*Department of Homeland Security sponsoring the collection:* No form number. U.S. Citizenship and Immigration Services.

d. *Affected public who will be asked or required to respond, as well as a brief abstract: Individuals or Households.* This information collection is necessary to provide employment related or fee related notification by an H-2A petitioner.

e. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,000 respondents at .50 (30 minutes) per response.

f. *An estimate of the total of public burden (in hours) associated with the collection:* Approximately 500 burden hours.

All comments and suggestions or questions regarding additional information should be directed to the Department of Homeland Security, U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, *Attention: Chief*, 202-272-8377.

**Paul A. Schneider,**  
*Deputy Secretary.*

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[CBP Dec. 08-48]

### Notice of H-2A Temporary Worker Visa Exit Program Pilot

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** General notice.

**SUMMARY:** This notice announces that U.S. Customs and Border Protection (CBP) is establishing a new land-border exit system for certain temporary agricultural workers, starting on a pilot basis, at certain designated ports of entry. Under this pilot program, aliens admitted to the United States as H-2A temporary workers who were admitted to the United States at the ports of San Luis, Arizona, or Douglas, Arizona, must depart from either one of those ports and provide certain biographic and biometric information at one of the kiosks established for this purpose. Any nonimmigrant alien admitted under an H-2A nonimmigrant visa at one of the designated ports of entry will be issued a CBP Form I-94, Arrival and Departure Record, and be presented with

information material that explains the pilot program requirements.

**DATES:** The pilot program will commence August 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Erin M. Martin via e-mail at [ERIN.Martin@dhs.gov](mailto:ERIN.Martin@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 13, 2008, the Department of Homeland Security (DHS) published a Notice of Proposed Rulemaking in the **Federal Register** (73 FR 8230) proposing changes to requirements affecting temporary and seasonal agricultural workers within the H-2A nonimmigrant classification and their U.S. employers.<sup>1</sup> Among other things, DHS proposed to establish a visa exit program on a pilot basis that would require temporary agricultural workers within the H-2A nonimmigrant classification to register with CBP at the time of departure from the United States. DHS is publishing the final rule implementing the H-2A program in today's edition of the **Federal Register**, concurrent with this notice.

Specifically, the final rule implements the pilot program by adding 8 CFR 215.9, which provides that an alien admitted on an H-2A visa at a port of entry participating in the Temporary Worker Visa Exit Program must also depart at the end of his or her authorized period of stay through a port of entry participating in the program and present designated biographic and/or biometric information upon departure. Section 215.9 further states that CBP will publish a notice in the **Federal Register** designating which H-2A workers must participate in the Temporary Worker Visa Exit Program, which ports of entry are participating in the program, which biographical and/or biometric information would be required, and the format for submission of that information by the departing designated temporary workers.

The final rule indicates that the Temporary Worker Visa Exit Program will begin as a pilot. Accordingly, CBP is implementing the Temporary Worker Visa Exit Program, on a pilot basis. This notice contains all the required elements referenced in 8 CFR 215.9. Any alien subject to the program that is admitted into the United States at a designated port on or after August 1, 2009, is subject to the pilot program.

<sup>1</sup> The H-2A nonimmigrant classification applies to aliens seeking to perform agricultural labor or services of a temporary or seasonal nature in the United States. Immigration and Nationality Act (Act or INA) sec. 101(a)(15)(H)(ii)(a), 8 U.S.C. 1101(a)(15)(H)(ii)(a); see 8 CFR 214.1(a)(2) (designation for H-2A classification).

**General Requirements of the Temporary Worker Visa Exit Program Pilot**

Any alien subject to the Temporary Worker Visa Exit Program must depart from a designated port of entry and must submit certain biographic and biometric information at one of the kiosks established for this purpose.

*Aliens Subject to the Pilot Program*

Any alien admitted into the United States under an H-2A nonimmigrant visa at one of the designated ports.

*Designated Ports*

San Luis, Arizona; Douglas, Arizona.

*Entry Procedures*

Any nonimmigrant alien admitted under an H-2A nonimmigrant visa at one of the designated ports of entry will be issued a CBP Form I-94, Arrival and Departure Record, and be presented with information material that explains the pilot program requirements. The information material will instruct the alien to appear in person at one of the designated ports of entry and register his or her final departure from the United States at that port on or before the date his or her work authorization expires.

*Exit Procedures*

An alien admitted under an H-2A nonimmigrant visa must depart at a designated port on or before the date his or her work authorization expires. At the time of departure, the alien must present the following biographic and biometric information at a kiosk installed for this purpose:

- *1—Biographic information*—name, date of birth, country of citizenship, passport number, and the name of the Consulate where the alien's visa was issued. The biographic information will be provided by scanning the alien's travel document (visa). If the scan of the visa fails, the alien will scan his or her passport. If the scan of the passport fails the alien will manually enter the required biographic information.
- *2—Biometric information*—a 4-finger scan from one hand.
- *3—The departure portion of the CBP Form I-94*—this must be deposited into the kiosk and the departing alien will receive a receipt verifying a successfully completed checkout registration.

*Kiosks*

Instructions for departure registration will be available in both English and Spanish for use by departing aliens at the kiosks.

Officer assistance will be available in the event that an alien is unable to utilize the designated kiosk to record his or her departure.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5274-N-01]

**Notice of HUD-Held Multifamily and Healthcare Loan Sale**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice of sale of mortgage loan.

**SUMMARY:** This notice announces HUD's intention to sell an unsubsidized multifamily mortgage loan, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale (Pool 101 of MHLS 2009-1). This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

**DATES:** For Pool 101 of MHLS 2009-1, the Bidder's Information Package (BIP) was made available to qualified bidders on November 20, 2008. Bids for the loan must be submitted on the bid date, which is currently scheduled for December 19, 2008. HUD anticipates that an award will be made on or before December 22, 2008. The sale closing is expected to take place on December 30, 2008.

**ADDRESSES:** To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the HUD Web site at <http://www.hud.gov/fhaloansales.cfm>. The executed documents must be mailed and faxed to DebtX at: The Debt Exchange, 133 Federal Street, 10th Floor, Boston, MA 02111, Attention: MHLS 2009-1 Sale Coordinator, Fax 1-617-531-3499.

**FOR FURTHER INFORMATION CONTACT:** John Lucey, Deputy Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone 202-708-2625, extension 3927. Individuals with hearing or speech impairments may call 202-708-4594 (TTY). These are not toll-free numbers.