



U.S. Department of Homeland Security

# DHS Support of the Enforcement of Labor and Employment Laws

## En español

The U.S. Department of Homeland Security plays an important role in ensuring that our nation's workplaces comply with our laws by supporting federal, state and local labor and employment agencies to accomplish their important work enforcing wage protections, workplace safety, labor rights, and other laws and standards. See the Oct. 12, 2021, [DHS Policy Statement 065-06 \(/publication/memorandum-worksite-enforcement\)](#), "Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual."

Workers are sometimes afraid to report violations of law by exploitative employers or to cooperate in employment and labor standards investigations because they fear removal or other immigration-related retaliation due to reports by an abusive employer. DHS's practice of offering discretionary protection on a case-by-case basis to victims who lack employment authorization directly increases the ability of labor and employment agencies to more fully investigate worksite violations and support them in fulfilling their mission and holding abusive employers accountable, which protects all U.S. workers. The process changes announced today will streamline the exercise of DHS's existing authority to grant such protection.

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## For Labor Agencies Submitting a Statement of Interest Form

Multiple mechanisms in our immigration laws can provide employment authorization to noncitizen workers and protect them from removal, including discretionary relief such as deferred action or parole in place and other forms of relief such as T and U nonimmigrant visas. There are also circumstances where a labor or employment agency may request expedited processing of a worker's pending application, petition, or request.

### A. Initial Requests for Deferred Action:

Labor and employment agencies can seek DHS support in an ongoing investigation or enforcement action by providing workers with a Statement of Interest that must be included as part of the worker's request for deferred action. The Statement of Interest must:

- Be addressed to the Department of Homeland Security;
- Detail the nature of the labor or employment agency's investigation or enforcement action and the need for DHS support;
- Describe the agency's enforcement interests that provide the basis for their request;
- Describe the worksite and the workers who may be helpful with the agency investigation or enforcement action; and
- Provide an agency point of contact who can address follow up questions from DHS.

**Labor agencies must submit a courtesy copy of any Statement of Interest to [laborenforcement@dhs.gov](mailto:laborenforcement@dhs.gov) (<mailto:laborenforcement@dhs.gov>).**

**After providing a courtesy copy of the Statement of Interest to DHS, labor agencies can then provide workers with this Statement of Interest, which must be included with the worker's prospective request to DHS for deferred action.**

Labor agencies submitting a Statement of Interest for the first time or that have questions about the process are encouraged to seek technical assistance prior to submission. To request such assistance, please contact [laborenforcement@dhs.gov](mailto:laborenforcement@dhs.gov) (<mailto:laborenforcement@dhs.gov>).

### B. Subsequent Requests for Deferred Action:

A noncitizen granted deferred action based on a labor agency enforcement interest may request a subsequent period of deferred action for an additional two years when there continues to be an ongoing labor agency need. Subsequent requests must be accompanied by an updated Statement of Interest from the labor agency explaining the continued need for workers to assist in their investigation or prosecution, or in the enforcement of any court order or settlement agreement. The updated Statement of Interest must include the required details listed above, and also describe the scope of workers who are in need of continued protection based on the procedural posture of the labor agency's investigation, prosecution, or enforcement actions.

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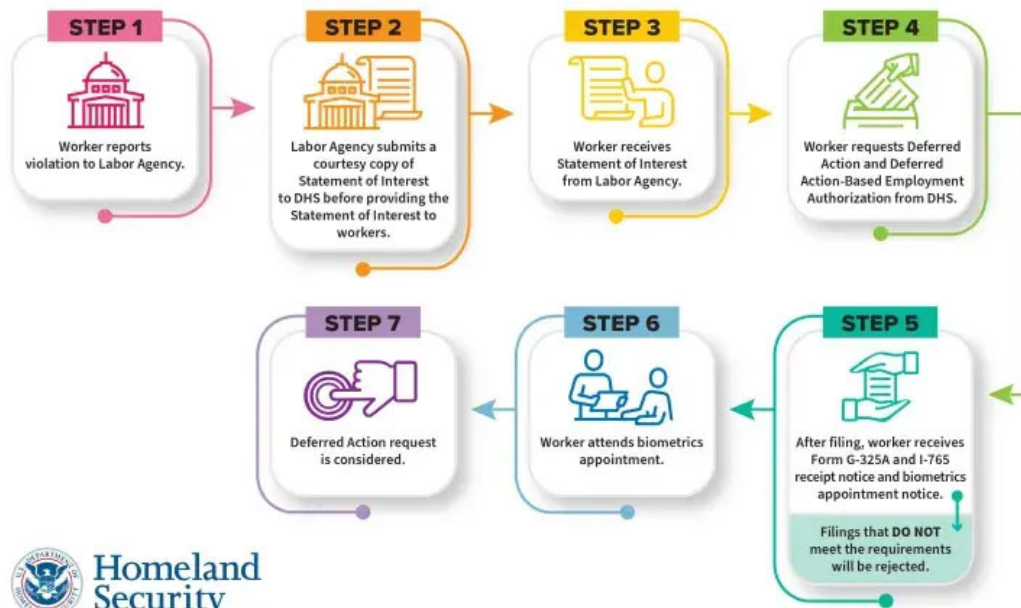
Labor agencies must submit a courtesy copy of any updated Statement of Interest to [laborenforcement@dhs.gov](mailto:laborenforcement@dhs.gov) (<mailto:laborenforcement@dhs.gov>). After providing a courtesy copy of any Statement of Interest to DHS, labor agencies can then provide workers with this Statement of Interest, which must be included with the worker's prospective, subsequent request to DHS for deferred action.

### C. Expedited Requests for Deferred Action:

In addition, labor agencies can seek expedited processing of a worker's pending immigration benefit request, such as an application for a change or adjustment of status. Such requests must be made by a senior-level agency official. If the request relates to employment authorization, the request should demonstrate that the need for a person to be employment-authorized is mission-critical and goes beyond a general need to retain a particular worker or person. Examples include, but are not limited to, a noncitizen victim or witness cooperating with a federal, state, or local agency who is in need of employment authorization because the respective agency is seeking back pay or reinstatement in an enforcement action or other court proceeding.

### Process for Workers Requesting Deferred Action

## REQUESTS FOR DEFERRED ACTION FOR WORKERS IN SUPPORT OF LABOR AGENCY INVESTIGATIONS



Process for Workers Requesting Deferred Action Infographic | [View Original](#) ([/medialibrary/assets/graphic/50668](#))

[Click here for the full size infographic](#) ([/publication/process-workers-requesting-deferred-action-infographic](#)). | [Solicitudes De Acción Diferida Para Trabajadores En Apoyo De Investigaciones De Agencias Laborales](#) ([/publication/proceso-para-trabajadores-que-solicitan-accion-diferida](#))

Deferred action is a form of prosecutorial discretion to defer removal action against a noncitizen for a certain period of time. Although deferred action does not confer lawful status or excuse any past or future periods of unlawful presence, a noncitizen granted deferred action is considered lawfully present in the United States for certain limited purposes while the deferred action is in effect. DHS can terminate deferred action at any time, at its discretion.

Under existing regulations, a noncitizen granted deferred action may apply for and obtain employment authorization for the period of deferred action if they demonstrate "an economic necessity for employment."

Noncitizen workers who fall within the scope of a labor agency investigation can submit their requests for deferred action to USCIS through a central intake point specifically established to handle requests for deferred action related to labor agency investigative efforts. USCIS will forward to U.S. Immigration and Customs Enforcement (ICE) any requests for deferred action from noncitizens who are in removal proceedings or have a final order of removal, so ICE can consider the request for deferred action.

As with any request for deferred action, DHS will review requests based on a labor agency investigation on a case-by-case basis. DHS will review all positive and negative factors when considering whether to exercise discretion to grant deferred action.

## Initial Requests:

To request deferred action under this centralized intake process, noncitizen requestors must submit the following:

- A written request signed by the noncitizen stating the basis for the deferred action request;
- A Statement of Interest from a labor or employment agency addressed to DHS supporting the request;
- Evidence to establish that the noncitizen falls within the scope of workers specified in the Statement of Interest, such as W-2s, pay stubs, time cards, and/or other documentary evidence such as a signed affidavit to demonstrate that the noncitizen was employed during the period identified in the labor or employment agency statement;
- Evidence of any additional factors supporting a favorable exercise of discretion;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the United States or other evidence relating to the noncitizen's immigration history or status;
- Form G-325A, Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the appropriate fee or request for a fee waiver; and
- Form I-765WS, Worksheet.

**If you are unable to pay the Form I-765 filing fee, you must file [Form I-912](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>), Request for a Fee Waiver. Additional information is available on the [fee waiver page](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>). Submit all of these materials to:**

USCIS

Attn: Deferred Action – Labor Investigations

10 Application Way

Montclair, CA 91763-1350

## Subsequent Requests:

To **submit a subsequent request for deferred action** for an additional two-year period under this centralized intake process, noncitizen requestors must submit the following:

- A written request signed by the noncitizen stating the basis for the deferred action request, including the continued need of the labor or employment agency;
- An updated Statement of Interest from a labor or employment agency addressed to DHS supporting the request;
- Evidence to establish that the noncitizen falls within the scope identified in the Statement of Interest, such as W-2s, pay stubs, time cards, and/or other documentary evidence such as a signed affidavit to demonstrate that the noncitizen was employed during the period specified in the labor or employment agency statement;
- Evidence of any additional factors supporting a favorable exercise of discretion, which may include evidence of the noncitizen's past participation or willingness to actively participate in the labor agency investigation;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the United States or other evidence relating to the noncitizen's immigration history or status;
- Form G-325A, Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the appropriate fee or request for a fee waiver; and
- Form I-765WS, Worksheet.

**If you are unable to pay the Form I-765 filing fee, you must file [Form I-912](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>), Request for a Fee Waiver. Additional information is available on the [fee waiver page](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>). Submit all of these materials to:**

USCIS

Attn: Deferred Action – Labor Investigations

10 Application Way  
Montclair, CA 91763-1350

## Replacement Employment Authorization Documents:

To request a replacement Employment Authorization Document (EAD), submit Form I-765 to:

### USCIS Chicago Lockbox U.S. Postal Service (USPS):

USCIS  
Attn: AOS  
P.O. Box 805887  
Chicago, IL 60680

### FedEx, UPS, and DHL deliveries:

USCIS  
Attn: AOS (Box 805887)  
131 S. Dearborn St., 3rd Floor  
Chicago, IL 60603-5517

## FAQs

### 1. What is deferred action?

Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against a noncitizen for a certain period of time. Although deferred action does not confer lawful status or excuse any past or future periods of unlawful presence, a noncitizen granted deferred action is considered lawfully present in the United States for certain limited purposes, while the deferred action is in effect. If granted deferred action, a noncitizen may be eligible for employment authorization. DHS can terminate deferred action at any time, at its discretion.

### 2. Has DHS already granted deferred action to noncitizens who are participating in labor agency investigations?

Yes. DHS grants deferred action to noncitizen workers on a case-by-case basis at its discretion.

### 3. How does the centralized deferred action process work?

A noncitizen requesting deferred action based on a labor agency investigation or need submits a written request for deferred action by submitting:

- A request for deferred action signed by the noncitizen which describes the basis for their request for deferred action;
- A Statement of Interest from a labor or employment agency addressed to DHS supporting the request;
- Evidence to establish that the worker falls within the category of workers identified in the Statement of Interest, such as W-2s, pay stubs, time cards, and/or other documentary evidence such as a signed affidavit to demonstrate that the worker was employed during the period specified in the labor or employment agency statement;
- Evidence of any additional factors supporting a favorable exercise of discretion;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the U.S. or other evidence relating to the noncitizen's immigration history or status;
- [Form G-325A \(https://www.uscis.gov/g-325a\)](https://www.uscis.gov/g-325a), Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the applicable, non-refundable fee;
- Form I-765WS, Worksheet; and
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable.

The noncitizen will submit this request to a central intake point at USCIS specifically established to support labor agency investigative and enforcement efforts. USCIS will refer to ICE any deferred action requests that fall within ICE's authority, including requests submitted by noncitizens who are in removal proceedings or have a final order of removal.

As with any request for deferred action, DHS will review requests by workers based on a labor agency investigation or need on a case-by-case

basis. DHS will review all positive and negative factors present in the requestor's case when considering whether to exercise discretion to grant deferred action.

A worker who is participating in or otherwise involved in a labor agency investigation may request deferred action for a period of up to two years.

#### **4. Can a noncitizen worker who would otherwise fit within the scope of a labor-related request for prosecutorial discretion described in this FAQ but who does not want to submit a Form I-765, Application for Employment Authorization, request deferred action?**

Yes. A noncitizen worker who falls within the scope of a labor agency investigation but who does not want to submit a Form I-765, Application for Employment Authorization, may request deferred action by submitting their request in accordance with the [general instructions for requesting deferred action \(https://www.uscis.gov/g-325a\)](https://www.uscis.gov/g-325a).

#### **5. May a noncitizen granted deferred action be eligible for employment authorization?**

Individuals granted deferred action may be eligible for employment authorization under existing regulations at 8 C.F.R. 274a.12(c)(14), which require them to demonstrate an economic necessity for employment. Noncitizens submitting a deferred action request through this centralized process must concurrently submit their Form I-765, Application for Employment Authorization, with the appropriate fee, if they are requesting employment authorization. If DHS grants deferred action, we will then adjudicate the Form I-765. Note that if DHS does not grant deferred action, we will not refund or return the Form I-765 fee. If the requestor does not want to file Form I-765 with their deferred action request, they can send their Form I-765 by following USCIS' [standard procedure \(https://www.uscis.gov/g-325a\)](https://www.uscis.gov/g-325a).

#### **6. What agency will be reviewing requests for deferred action from noncitizen workers?**

Requests for deferred action made by noncitizen workers who are participating in or otherwise necessary to a labor agency investigation should be submitted to USCIS through the central intake point specifically established to support labor agency investigative efforts for deferred action requests. USCIS will review the request, as well as the worker's immigration history, to determine which office within DHS has authority over the request. Upon reviewing the submission for completeness, USCIS will only forward to ICE requests for deferred action that are submitted by noncitizens who are in removal proceedings or have a final order of removal. USCIS and ICE, as appropriate, will consider and make a case-by-case determination of the deferred action request, and USCIS will consider all related Forms I-765, if submitted.

#### **7. If deferred action is granted through this process, when does it end?**

If deferred action is approved, it may be granted for a period of up to two years, subject to termination at any time. The recipient may also be eligible to make subsequent requests for deferred action (see question 14 below), which will be adjudicated on a case-by-case basis when a labor agency provides a basis for such a request as it relates to the labor agency's ongoing investigative or enforcement interests.

#### **8. What other immigration benefits can a noncitizen worker pursue if they are not granted deferred action?**

A noncitizen worker who is the victim of a crime or subject to exploitation by an unscrupulous employer and cooperating in a labor agency investigation may be eligible for other forms of immigration relief beyond deferred action, including eligibility for a [T or U nonimmigrant visa \(https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes\)](https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes) or parole in place.

#### **9. How can a labor agency find out more about this process?**

Labor agency representatives can contact [laborenforcement@dhs.gov \(mailto:laborenforcement@dhs.gov\)](mailto:laborenforcement@dhs.gov) to learn more about this process and request technical assistance.

#### **10. When can the labor agency distribute the Statement of Interest to workers to submit as part of their deferred action request?**

Labor agencies must provide a courtesy copy of the Statement of Interest to [laborenforcement@dhs.gov \(mailto:laborenforcement@dhs.gov\)](mailto:laborenforcement@dhs.gov) before providing the Statement of Interest to any workers. Once they have provided a courtesy copy, labor agencies can provide the Statement of Interest to the worker, who must include the Statement of Interest in their request for deferred action. Labor agencies submitting a Statement of Interest for the first time or that have questions about the process are encouraged to seek technical assistance prior to submission. For such assistance, please e-mail [laborenforcement@dhs.gov \(mailto:laborenforcement@dhs.gov\)](mailto:laborenforcement@dhs.gov).

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## 11. Will I receive a Social Security Number?

When you file a Form I-765, Application for Employment Authorization, you can apply for a Social Security Number (SSN) on the same form. If USCIS approves your application to work in the U.S. and you completed the section on the application to request an SSN card, then USCIS will send the Social Security Administration (SSA) the data needed to issue your SSN card.

If USCIS approves your application, you will receive two documents – your Employment Authorization Document (EAD), also known as the “USCIS I-766 card” or “work permit”, and in another envelope your SSN card. The SSA will mail your SSN card to the address you listed on your I-765 application. You should receive your SSN card no later than 7 business days after you receive your EAD from USCIS.

If you do not receive your SSN card within 7 business days after receiving your EAD, please call or visit an SSA office. For more information, please review this [flyer](#).

[https://www.uscis.gov/sites/default/files/document/flyers/EBE\\_Flyer\\_Apply\\_for\\_your\\_Social\\_Security\\_Number\\_While\\_Applying\\_for\\_Your.pdf#:~:text=If%20you%20did%20not%20re%20766%29%20from%20USCIS](https://www.uscis.gov/sites/default/files/document/flyers/EBE_Flyer_Apply_for_your_Social_Security_Number_While_Applying_for_Your.pdf#:~:text=If%20you%20did%20not%20re%20766%29%20from%20USCIS)

## 12. Will DHS consider a request submitted by a labor or employment agency to expedite a worker’s pending immigration benefit request on the basis of a labor agency’s need?

Yes. On a case-by-case basis, USCIS will consider a request submitted by a senior-level official of the labor or employment agency for expedited processing of a worker’s pending immigration benefit request, including but not limited to Form I-765, Application for Employment Authorization, submitted outside of a request for labor investigation-based deferred action under the centralized intake process, Form I-485, Application to Register Permanent Residence or Adjust Status, Form I-130, Petition for Alien Relative, U Bona Fide Determination, or other pending immigration benefit request.

If the expedite request relates to employment authorization, the request should demonstrate a critical and otherwise compelling need for a person to be employment authorized. Examples include, but are not limited to, a noncitizen victim or witness cooperating with a federal, state, or local agency who is in need of employment authorization because the respective agency is seeking back pay or reinstatement in an enforcement action or other court proceeding.

More information on how to request expedited processing can be found on the [How to Make an Expedite Request](https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request) (<https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>) page.

## 13. I need a replacement Employment Authorization Document (EAD). Where do I submit my request?

To request a replacement EAD after you receive a grant of deferred action, submit Form I-765 to:

### USCIS Chicago Lockbox U.S. Postal Service (USPS):

USCIS  
Attn: AOS  
P.O. Box 805887  
Chicago, IL 60680

### FedEx, UPS, and DHL deliveries:

USCIS  
Attn: AOS (Box 805887)  
131 S. Dearborn St., 3rd Floor  
Chicago, IL 60603-5517

## 14. Is deferred action based on a labor agency interest renewable?

A: A noncitizen granted deferred action based on a labor agency enforcement interest may request an additional two-year period of deferred action when there continues to be a labor agency need. Subsequent requests must be accompanied by an updated labor agency Statement of Interest explaining the continued labor agency need. The Statement of Interest must also describe the scope of workers who are in need of protection based on the procedural posture of the labor agency’s investigation, prosecution, or enforcement action.

## 15. How can a labor agency submit an updated Statement of Interest in support of a subsequent request for deferred action?

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A: A labor agency that has a continued need for workers to help in their investigation or prosecution of a case, or any related enforcement action, may support a noncitizen's subsequent request for deferred action by providing an updated Statement of Interest. The labor agency should make an assessment of the continuing need for worker participation and should reassess the scope of workers in need of protection based on the phase of the agency's enforcement effort at that time.

Labor agencies must provide workers with this updated Statement of Interest, which must be included as part of the worker's subsequent request for deferred action. Labor agencies must submit a courtesy copy of the Statement of Interest to [laborenforcement@dhs.gov](mailto:laborenforcement@dhs.gov) (<mailto:laborenforcement@dhs.gov>) before providing the Statement of Interest to any workers.

## 16. How does a noncitizen request a renewal of deferred action?

A noncitizen requesting a subsequent request for deferred action must submit:

- A written request signed by the noncitizen stating basis for the deferred action request, including the continued need of the labor or employment agency;
- A Statement of Interest from a labor or employment agency addressed to DHS supporting the request;
- Evidence to establish that the worker falls within the scope specified in the Statement of Interest, such as W-2s, pay stubs, time cards, and/or other documentary evidence including a signed affidavit to demonstrate that the worker was employed during the period identified in the labor or employment agency statement
- Evidence of any additional factors supporting a favorable exercise of discretion, which may include evidence of the worker's past participation or willingness to actively participate in the labor agency investigation;
- Proof of the noncitizen's identity and nationality;
- If applicable, any document used to lawfully enter the United States and/or other evidence relating to the noncitizen's immigration history or status;
- [Form G-325A](https://www.uscis.gov/g-325a) (<https://www.uscis.gov/g-325a>), Biographic Information (for Deferred Action);
- Form I-765, Application for Employment Authorization, with the appropriate fee or request for a fee waiver; and
- Form I-765WS, Worksheet.

If you are unable to pay the Form I-765 filing fee, you must file [Form I-912](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>), Request for a Fee Waiver. Additional information is available on the [fee waiver page](https://www.uscis.gov/i-912) (<https://www.uscis.gov/i-912>).

The noncitizen will submit this request to the same central intake point at USCIS specifically established to support labor agency investigative and enforcement efforts:

USCIS

Attn: Deferred Action – Labor Investigations  
10 Application Way  
Montclair, CA 91763-1350

USCIS will refer to ICE any requests for deferred action that fall within ICE's authority, including requests submitted by noncitizens who are in removal proceedings or have a final order of removal.

As with any request for deferred action, DHS will review requests by workers based on a labor agency investigation or need on a case-by-case basis. DHS will review all positive and negative factors present in the requestor's case when considering whether to exercise discretion to grant deferred action. Deferred action will generally be granted for a period of 2 years, subject to termination at any time at the discretion of DHS.

## 17. When can I request renewal of deferred action?

Workers should submit any subsequent request for deferred action to DHS, including the updated Statement of Interest from the labor agency, 120 days prior to the expiration of the original period of deferred action. Subsequent requests for deferred action received by DHS with less than 120 days remaining in the original period of deferred action could result in delays in adjudications and gaps in deferred action and related employment authorization.

### Topics

[IMMIGRATION AND CUSTOMS ENFORCEMENT \(/TOPICS/IMMIGRATION-AND-CUSTOMS-ENFORCEMENT\)](#)

### Keywords

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[ENFORCEMENT \(/KEYWORDS/ENFORCEMENT\)](#) [IMMIGRATION \(/KEYWORDS/IMMIGRATION\)](#)

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