Washington State
H-2A 2014 Annual Report

The Dignity of Legal Presence
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The Washington Farm Labor Association, a Washington nonprofit member corporation, is the premier human resource services provider for farm and seasonal employers in the Pacific Northwest.

Published December 2014

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A special thanks to Taylor Orchards for allowing us to interview their workers and to Mark Stennes and Dianne Thornton for their contributions to “The Counties that Could” story.
Overview of H-2A 2014

Thanks for your interest in the agricultural legal worker program and our 2014 Annual Report.

What a year! For a third straight year, H-2A usage has exploded. Washington growers continue to invest in their workforce, offer workers the dignity of legal presence, and demonstrate why they are head and shoulders above the pack. As the chart on page 11 demonstrates, the number of H-2A workers in 2014 increased by a staggering 43 percent compared to the previous year. And if you examine H-2A usage from 2011 through 2014, as measured by number of workers certified, the average annual increase is greater than 40 percent each year! The largest per capita H-2A usage is in Okanogan County. In light of the tragic Carlton Complex fire this year, we felt it appropriate to highlight this area in a story on page 10 called “The Counties that Could.”

Despite the dramatic growth of the program and an epic crash of the government visa printing system this summer, over 90 percent of our workforce arrived on time, making us tops in the industry. Delivering workers on time is our primary measurement metric, and we could not achieve success in this area without our partners. We highlight several of our partners on page 4.

Farmers benefit from the H-2A program, but the biggest beneficiaries are the 9,025 foreign workers who enjoy the dignity of legal presence and the thousands of domestic workers who benefit through higher wages, free housing, and the other contract guarantees of the legal worker program.

Our staff greatly enjoyed collecting the heart-warming stories of these worker participants. A handful of interviews are excerpted on pages 12 & 13. These workers are the twenty-first century equivalent of the great waves of immigrants who came seeking similar economic opportunity when our country was young. One of our partners, CSI Labor Services, is even offering H-2A opportunities in indigenous areas of Mexico. Thank you to CSI for visiting these villages and lifting folks out of poverty. I hope you enjoy reading these worker stories as much as I did.

Making it easier for domestic workers to use H-2A is a daunting task when you consider that referrals from the State Workforce Agency account for less than one percent of H-2A job seekers. The state tells us that domestic workers are simply not interested in agricultural jobs. Once people have stopped migrating and have settled in an area, they are generally not interested in jobs that last, on average, for five months or less. This is why agriculture needs a seasonal guest worker program, as we have said for several years.

Late last year, we solicited input from a traditional opponent of the legal worker program asking how we could improve the program. The response from Northwest Justice Project makes it easier for our clients to use H-2A. See page 21 story.

Other articles explore opportunities to make the program work better. On page 15 we describe the WAFLA self-audit program. Our inspection mimics a federal Wage and Hour inspection. We had fun working with members to put the program together, and I was extremely pleased with the result. On pages 17 – 20 we graphically depict different contract models. Finally, we end with an article about innovations: The WAFLA H-2A database project and the Washington Farm Bureau Legal Foundation. I know that you will appreciate our efforts to “think outside the box” to make your H-2A program work.

Thank you again for your interest in the agricultural legal worker program in Washington State.
The H-2A program involves interactions with five government entities and many suppliers in the U.S. and Mexico, all working together to form a seamless partnership. The hotels, bus companies, and agents act as our subcontractors – all working together with WAFLA and the employer to get you great workers on the day you need them. When it comes to our partners, our members deserve the best, and that’s why WAFLA partners with the best in their fields. Here are a few of them:

**CSI Labor Services**
Competent agents in Mexico are crucial to success in the H-2A program. In 2014, CSI Labor Services assisted in processing 24,000 H-2 workers. In addition to their main office in Monterrey, Mexico, CSI has additional processing offices throughout the rural Mexican states where farm workers live—meaning that they can contact great workers who will have the experience you need.

CSI was instrumental in getting workers to their appointments on or before the date of need and remaining in compliance in 2014. CSI Labor Services has successfully assisted H-2 employers in Mexico for over 13 years. CSI’s experience gave WAFLA confidence in the quality of our H-2A program south of the border, especially when it came to screening workers. Understanding a worker’s background is crucial to the H-2A recruitment process and determining whether workers are qualified for the program. WAFLA is fortunate to work with an organization like CSI.

**Tijuana Consulate**
WAFLA’s relationship with The Department of State (DOS), Tijuana Consulate is unique. Consulate interviews are the most important step in getting workers to the employer on the date they are needed, and unfortunately, scheduling consulate appointments can be more cumbersome than necessary. The federal government has hired a contractor, Computer Sciences Corporation

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**CSI LABOR SERVICES**
Your best option for H2 worker processing in Mexico

Because we have successfully provided H2 employers and workers our processing services for over 12 years, you can be sure we CAN do it for you too.

Some of our services are:
- Preferred worker location and processing
- New worker selection and processing
- Worker orientation
- US Consulate representation
- Transportation arrangement

CSI Labor Services is the reliable and reputable H2 agent you need.

Contact us at:
info.csi@prodigy.net.mx
Tel. 011 (52) 81 8372 2920 - 81 8375 0538

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continued
(CSC), to handle online scheduling of all consulate appointments. What CSC does not take into account is the time-sensitive nature of H2 appointments. The turnaround time between the time WAFLA receives an approval notice from United States Citizenship and Immigration Services (USCIS) and the date appointments are needed is typically a week—sometimes less. There is no work-around with CSC, which is why the Tijuana Consulate was instrumental to ensuring that WAFLA could get boots on the ground on the date of need. The consulate became our valued partner, as they understood the need for a quick turnaround, and appointment availability. Like every year, we faced some unanticipated challenges throughout the season. One of the biggest was the worldwide U.S. DOS database glitch that backlogged visas, which stranded some workers for up to three weeks this summer.

Although the DOS did not put H2 visas on their visa printing “priority” list, the Tijuana Consulate worked with WAFLA and our congressional representatives to print H2 visas in a timely fashion despite the circumstances. The Tijuana Consulate also worked closely with WAFLA to coordinate multiple groups and appointments for large groups of workers. In past years, employers bringing large numbers of workers would need to schedule appointments on multiple days, but working with the Tijuana Consulate allowed WAFLA to cross workers together on the same day. We appreciate the effort on the part of the Tijuana Consulate representatives; their support gives WAFLA confidence in the future success of its H-2A program.

**Customs and Border Protection**

Communication is key when working with state and federal agencies. The H-2A program requires the involvement of five different agencies, and the process can sometimes get hectic. Strong communication with the United States Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP), and Otay Mesa Port of Entry, directly contributed to getting boots on the ground on time in 2014.

USCIS; CBP; and the Port of Entry at Otay Mesa, Tijuana have greatly supported WAFLA in crossing workers. CBP is the last federal agency the workers have to clear on their way to their worksite, and the officers at Otay Mesa Port of Entry have continually worked with WAFLA in efforts to process workers as effectively and efficiently as possible. Otay Mesa CBP maintains open lines of communication with WAFLA and accommodates requests for processing large groups. We are grateful for the Port’s attentiveness and willingness to work so closely with our staff.

**Fronteras del Norte**

WAFLA has teamed up with this professional transportation company from southern California to get your workers safely to your location. “Boots on the ground” happens on time because of the dedication of Fronteras del Norte. The bus shown on the cover is a Fronteras bus with a full wrap display of WAFLA’s legal worker program.

Family owned and operated since 1991, Fronteras has been transporting over 250,000 people annually, first starting in southern California, then in northern California, and next expanding to Oregon and Washington. Their staff of 48 is committed to a high standard of excellence. Most of their staff and drivers have been with the company since it was founded. New drivers are put through a rigorous two-week training schedule of learning routes, being tested on Department of Transportation (DOT) regulations, and being thoroughly trained in vehicle safety/maintenance and out of service prevention. Their fleet features 15 buses with two of them newly purchased this year and two more soon to be added.
You get the benefit of Fronteras’ 25 years of experience and expertise, which is evident in the way they treat your workers with respect and dignity and in their excellent communication. They are concerned that your workers arrive on time when you need them. Fronteras Del Norte is a company totally devoted to the expeditious movement of workers, while continuing a high standard of safety, accountability, and communication.

City Express Tijuana Insurgentes Hotel

Making sure guest workers are safe and comfortable is of utmost importance. WAFLA has teamed up with City Express in Tijuana to ensure that workers are well taken care of. City Express has been a pleasure to work with. Their state-of-the-art facilities, friendly service, and monitored building make for a comfortable, enjoyable, and safe crossing for the workers. When workers arrive at the City Express, they immediately realize they are entering a first class operation, and are ready to work hard to impress their new employer from day one. In 2014, City Express assisted WAFLA by making rooms available for large groups at their facilities, as well as obtaining reservations at their sister hotels when they could not accommodate. City Express also has a large conference room where our CSI agent in Tijuana is able to review the contract with the workers, answer any questions, and provide instructions for the crossing appointments.

The H-2A program is complex. WAFLA is proud to work with professional and reliable partners who help make it more navigable. WAFLA is committed to maintaining strong relationships with competent and dependable organizations in order to continue providing the quality services our members expect and deserve.
Housing issues are the number one cause of delay for Washington farmers trying to get their H-2A program approved. The main reason for the delays appears to be confusion about the process and timeline of getting housing licensed and in compliance.

Seasonal farm worker housing is regulated by both the Washington State Department of Health (DOH) and the federal Department of Labor (DOL). Whether you are building and maintaining your own housing facilities or securing rental facilities for your workers (see page 8 “Steps” graphic), it is important that your housing complies with both sets of regulations (state and federal) at all times.

**DOH (state)**

In order for your H-2A application to be approved at the federal level, you will first have to prove that your housing is licensed by the state. Unless your housing has a capacity of less than 10 people, you will get this license from the WA Dept. of Health (DOH). The DOH will work with you in keeping your housing licensed and will inspect routinely (twice each year). The first inspection happens when your housing is vacant (at minimum, 60 days before your workers are to arrive), and the secondary inspection occurs when you are at housing capacity. To access DOH licensing information type this shortcut in your browser: bit.ly/DOHLicensingApp.

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**NOW TAKING RESERVATIONS**

for growers who want to lease beds for their EMPLOYEES & QUALIFYING INDIVIDUALS!

**RINGOLD Seasonal Farmworker Housing Mesa, WA**

- H-2A Certified
- Houses 96 individuals
- Year-round onsite manager
- Immaculately maintained

**ASK ABOUT THE SPECIAL RATE FOR GROWERS!**

(509) 366-2831 or (509) 269-4164 | wafia.org/housing

Owned and managed by Washington Farm Labor Association
Once your housing has passed the DOH inspection and is licensed by the state, you need to keep it in good shape. This is where the DOL regulation comes in.

**DOL (federal)**

Unlike DOH, the federal DOL does not set up routine visits. Instead they will just show up at your orchards or housing facilities, so your housing should always be ready for inspection. Under DOL regulations, the employer is solely responsible for keeping housing clean and in compliance. If the workers make a mess, leave food out, or break a screen door, the employer – not the worker – gets fined. So a good way to avoid DOL fines is to schedule daily walk-throughs and weekly detail inspections in order to catch anything that could be out of compliance. To access DOL housing regulations type this shortcut in your browser: bit.ly/DOLH2AHousingRegs.

**Common issues in H-2A housing facilities:**

- Grounds and open areas surrounding the shelters not maintained in a clean and sanitary condition free from rubbish, debris, garbage, or refuse.
- Exterior openings not effectively screened with 16-inch mesh material.
- Not enough square footage per person allotted where a worker stores and prepares food.
- Garbage containers not fly-tight/rodent-tight.
- Not an adequate supply of toilet paper.
- No first aid kits.

**WAFILA can help you by conducting a mock inspection or compliance check.**

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**New Construction?**

When a grower is new to the H-2A program and is building seasonal housing, it is very important to pre-schedule your license inspection, especially if you are building your facility to be used for the upcoming season. Contact Heri Chapula, WAFILA’s housing manager, for details and help with this.

WAFILA has partnered with three trusted builders and vendors that can build you quality seasonal farm worker housing that meets H-2A regulations (see page 10).
The largest provider of H-2A legal guest worker services on the West Coast has partnered with trusted farm worker housing builders and vendors.

NEED HOUSING?

ATTENTION employers who need H-2A COMPLIANT HOUSING or FARM WORKER HOUSING!

Tested • Backed • Best-Selling

Building Stick Built Worker Housing is Complex – Simplicity Makes it Easy

Self-Contained Living Quarters (Single/Two Story)
Multiple Man Bunk Housing (Bath, Laundry & Kitchen Common Building)

Standard Features
• Concrete Finished Floors
• Stainless Steel Countertops
• Integrated Floor Drains
• Forced Air - Heating & Cooling
• Appliances Included
• Customized to Fit Your Needs

Inquire Today for Lasting Stick Built Housing!
simplicity-homes.com

Farmworker Housing from a Name You Can Trust

The New Blueline Housing Division has partnered with the largest manufactured home builder in the nation to provide growers with reliable solutions to best meet their housing needs.

Affordably priced, precision-built housing designed to provide strength and longevity, while offering comfortable amenities for a grower’s workforce.

Contact us Today to Learn More About our Available Floor Plans That can be Customized to Meet Your Needs.
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Statewide Homes – Family Owned and Operated for 14 Years

Farm Worker Housing
• Top Grade Materials
• Built to Last
• Comfortable Amenities
• Customized to Meet Your Needs

Providing Manufactured and Modular Homes Throughout the West!

Learn more about quality, and affordable options.

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The Counties that Could

In mid-July, the largest wildfire in Washington State history swept through huge portions of Chelan and Okanogan counties, affecting nearly 400 square miles of private and public land. Family homes, office buildings, schools, orchards, and even livestock were all in the path of the Carlton Complex fires through the Methow River valley. Reliable figures from local and state agencies estimate that 8%-10% of the crop in the Methow/Pateros area was lost.

Families and businesses – many of them WAFLA members who use the H-2A program – scrambled to protect foreign workers and worker housing while they pitched in to help neighbors in need. These are the stories of two growers who exemplify the spirit of Washington agriculture:

Stennes Orchards, Inc., Pateros, WA

After a nerve-wracking evening evacuating his home and making sure that his family was safe, Mark Stennes feared he had lost everything. When he found out that the family business office on Homestead Drive had been spared, the relief was indescribable. But what about the orchards and the 20 workers who had traveled all the way from central Mexico to work? The group had been picking stone fruit all summer and was scheduled to stay through October for apple and pear harvest. In addition, Stennes had a second contract, for an additional 26 workers who were set to transfer to Pateros using the sequential model after another H-2A job in the Columbia Basin:

“I called WAFLA and they told me the regulation has an emergency clause whereby I could cancel the contract due to an act of God and WAFLA could either send the guys home or place them somewhere else. Having someone to talk over options was a huge relief.”

Fortunately, the Stennes story has a happy ending. Only 7%-8% of their fruit was lost to the fire, all 46 foreign workers were safe and had picking to do, and the business is still going strong. And they’re not the only ones. In fact, despite the challenges they faced this year, there were numerous Okanogan County growers who were able to not only make the H-2A program work, but make it truly successful for their businesses and for the workers who travelled here to help out. According to Stennes, “Going through the fire, working to save lives and preserve jobs brought us closer to the workers – we trust each other more.”

Bronze Star, Inc., Tonasket, WA

Another of those successful H-2A growers was Geoff and Dianne Thornton at Bronze Star, Inc. When the fires hit, the Thorntons were getting ready to schedule appointments for their foreign workers. The Thorntons were able to hire a group of 21 foreign H-2A workers, using the shared contract model. Throughout the season, the workers were able to harvest on each different orchard as needed. The time that Dianne spent researching the H-2A program and weighing the pros and cons has finally paid off for her this year. Here is how Dianne describes her experience:

“First off, thank God we were not impacted by the fire. My heart goes out to people who lost homes or struggled in any way. For our part, we had already decided to commit to use H-2A when the fires hit our area. Luckily our orchards were not impacted, but of course like most people in town we were helping out other people. We never considered cancelling our H-2A program for a second, and I am glad we didn’t. After years without using H-2A workers, we used to work seven days a week for six weeks straight. Working
in this manner was stressful on workers and management. We experienced significant quality issues that impacted our fruit and pack out. We prayed for workers from California to show up. It seemed they were showing up later and later, if they came at all. We decided we couldn’t operate a business like that anymore and it was time to come up with a solution. That solution was to try H-2A in 2014. The gamble paid off. We plan on using the program next season. It’s the wave of the future.”

What made the Okanogan orchards so successful? Besides tenacity, hard work, and research to know what they were getting into, teamwork allowed growers to share the costs and logistical headaches of the federal program, making it work to fill the labor gaps in Okanogan and Chelan counties with a legal and stable workforce.
Spotlight on Workers

Q. What is your favorite part of the H-2A Program?

OSCAR
Foreign worker from Guerrero, Mexico
A. More than anything, saving money. I’m new to the program. One comes with the mentality to do something in Mexico, like building a house or having a better economic status. I don’t have a house right now. We [my family and I] live in a very simple house made of cardboard and I want to make one out of solid materials. With the money I earn this year, I can return and build my home. If I stayed working in Mexico, I might have been able to accomplish this in 8 years.

Q. What do you think about the H-2A Program?

CRYSTAL
Domestic worker from Othello, WA
A. It’s a benefit for all us Mexicans, for me here and for those that are on the other side. It’s a benefit that opens the doors for those Mexicans who aren’t from here, so they can have a better life [working here] than they do in Mexico. I support it. Thank you for doing it.

Q. What will the H-2A Program do for you?

ALDO
Foreign worker from Michoacán, Mexico
A. I can save money so I can continue my agricultural engineering studies when I return to Mexico. And I can learn about how things are done here that I can apply when I get back to school.
Q. Why did you decide to be a part of the H-2A Program?

**ALFREDO**  
*Foreign worker from Michoacán, Mexico*

A. I didn’t have anything. The first time I came, I had just gotten married and didn’t have a home. Now I am able to buy things for my house and purchased a truck. If I hadn’t come, I wouldn’t have anything because unfortunately if you live in Mexico you live day-by-day. I would’ve kept living day-by-day and wouldn’t have what I have today.

**LEONARDO**  
*Foreign worker from Durango, Mexico*

A. I came to work here to help my sister Salia who is going to school. I have to work hard in order to help her so she can focus on her studies. Without this opportunity, I could not have helped her, because there is so little work over there. God willing I will be back next year.

**ARMANDO**  
*Foreign worker from Michoacán, Mexico*

A. The opportunity was presented to me. At first I was afraid to come, but I had to drop out of school in Mexico and begin working and realized how hard it is to make money there. I have since been able to buy a car, land, start my own business, and have plenty of money when I go back to Mexico. I hope I continue coming back [to work under the program]. It doesn’t take long to make a great [monetary] reward by the end of the contract.

Q. Do you think the H-2A Program benefits the domestic workers?

**MIGRAM**  
*Domestic worker from Royal City, WA*

A. Yes. We all work really hard every day in order to provide our families with food and support. It’s a good program for me and the boys (the foreign workers). I’m very happy and comfortable with my job, and working with the foreign workers. They are good workers, and in this program I feel that we all get things explained better to us. I like that.
Moss Adams Foreign Worker Tax Service

Help workers who are trying to do the right thing

PROBLEM

H-2A workers are required to file U.S. tax returns and pay taxes on income they earn in the U.S. The tax return can be more complicated than a standard Form 1040. Foreign workers are not entitled to the same deductions as U.S. residents, so it’s important to have a qualified professional complete the return. There is a cottage industry of scammers who offer to prepare tax returns for H-2A workers and who have no idea how to complete a non-resident return. These scammers will take a worker’s money and file the wrong return (if they file anything at all), in some cases claiming credits or deductions that are not available to the worker. When an unlicensed preparer completes an improper return, the worker may be liable.

The unsuspecting worker won’t find out he is the victim of a scam until it is too late. In many cases the scammers don’t operate from an office. They are referred by others and meet in a restaurant or coffee shop, so the worker can’t go back and find the tax preparer.

SOLUTION

• Warn workers about unlicensed tax preparers. Workers should never give money to a person to file taxes until confirmation that the preparer is a licensed professional who is familiar with the filing requirements for non-residents. Workers should obtain a copy of the preparer’s current business license.

• Point workers in the right direction. WAFLA has partnered with Moss Adams to offer this service to workers, for only a $100 fee per worker. (The worker, not the employer, must pay the fee).

• Contact Moss Adams or WAFLA and urge workers to file taxes with the help of a reputable tax preparer (see ad below).
The Department of Labor (DOL) Wage and Hour Division (WHD) conducts unannounced inspections, called “investigations,” of some employers who use the H-2A program. In addition, Washington State is required to inspect a small number of H-2A employers who received a referral from the state. Employers can be subject to paying back wages and substantial civil money penalties if DOL determines there are violations of the regulation. The regulation at 20 CFR §501.19 describes the civil money penalties, and in the words of one DOL inspector, the fines can be “ridiculously” high.

Bottom line: prudent employers choose to conduct self-audits. WAFLA has developed a comprehensive program that mimics the DOL investigation. Here is how it works:

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**EMPLOYEE RIGHTS UNDER THE H-2A PROGRAM**

The Immigration and Nationality Act (INA) allows for the employment of temporary, non-immigrant workers in agriculture (H-2A WORKERS) only if the employment of U.S. workers would not be adversely impacted. To ensure that U.S. workers are not adversely impacted, H-2A WORKERS and OTHER WORKERS employed on an H-2A work contract or by an H-2A employer in the same agricultural work as the H-2A workers have the following rights:

**DISCLOSURE**
- To receive accurate, WRITTEN INFORMATION about the wages, hours, working conditions, and benefits of the employment being offered
- To receive this information prior to getting a visa and no later than on the first day of work
- To receive this information in a language understood by the worker

**WAGES**
- To be PAID at least twice per month at the rate stated in the work contract
- To be informed, in writing, of all DEDUCTIONS (not otherwise required by law) that will be made from the worker’s paycheck
- To receive an itemized, written STATEMENT OF EARNINGS (pay stub) for each pay period
- To be guaranteed employment for at least THREE-FOURTHS (75%) of the total hours promised in the work contract

**TRANSPORTATION**
- To be provided or, upon completion of 50 percent of the work contract period, reimbursed for reasonable costs incurred in the place of employment for transportation and subsistence (lodging incurred on the employer’s behalf and meals)
- Upon completion of the work contract, to be provided or paid for return transportation and subsistence
- For workers living in employer-provided housing, to be provided TRANSPORTATION, at no cost to the worker, between the housing and the workplace
- All employer-provided transportation must meet applicable safety standards, be properly insured, and be operated by licensed drivers

**HOUSING**
- For any worker who is not reasonably able to return to his/her residence within the same day, to be provided HOUSING AT NO COST
- Employer-provided housing must meet applicable safety standards
- Workers who live in employer-provided housing must be offered three meals per day at no more than a DOL-specified cost, or provided free and convenient cooking and kitchen facilities

**ADDITIONAL PROVISIONS**
- To be provided state WORKERS’ COMPENSATION insurance or its equivalent
- To be provided, at no cost, all TOOLS, SUPPLIES, and EQUIPMENT required to perform the assigned duties
- TO BE FREE FROM DISCRIMINATION or DISCHARGE for filing a complaint, testifying, or exercising your rights in any way or helping others to do so
- Employers MUST comply with all other applicable laws (including the prohibition against holding workers’ passports or other immigration documents)
- Employers and their agents, including foreign recruiters, or anyone working on behalf of the employer, MUST NOT receive payment from any worker for any costs related to obtaining the H-2A certification (such as application and recruitment fees)
- Employers MUST display this poster where employees can readily see it
- Employers MUST NOT lay off or displace similarly employed U.S. workers within 60 days of the date of need for H-2A workers
- Employers MUST hire any eligible U.S. worker who applies during the first 50 percent of the approved work contract period

Workers who believe their rights under the program have been violated may file confidential complaints.

For additional information:

**1-866-4-USWAGE**
(1-866-487-9243)
TTY: 1-877-889-5627

**WWW.WAGEHOUR.DOL.GOV**

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Mandatory Department of Labor Wage and Hour Division H-2A Employee Rights poster.
The employer who is ready to start the self-audit process notifies WAFLA and schedules a date for the mock inspection.

One week prior to the inspection, WAFLA sends the member a self-audit checklist and DOL question list. The 12 page checklist and 32 DOL questions were developed by analyzing the regulation, meeting with DOL inspectors, and interviewing members who have completed the inspection process. The checklist is a tool to walk the employer through the inspection process.

On the date of the mock inspection, a team of WAFLA employees who have received special training in the process, meet with the employer's designated H-2A team to review the checklist.

After documents are inspected, the WAFLA team moves on to employee interviews and inspection of the housing. The team can also inspect vehicles used to transport workers if they are available.

The process of document review, employee interviews, and housing inspection takes most of a day. That evening, WAFLA inspectors write a short, confidential report of their findings. The next morning, WAFLA staff review their findings with designated management.

Interested in finding out more or scheduling a self-audit? Go to wafla.org/dolcompliance. Current WAFLA H-2A member participants may request the self-audit guide at any time.

Whether you conduct the self-audit on your own or ask WAFLA to help, it pays to be prepared.
Shared, Sequential, and Packing House Models: Which program is right for you?

H-2A is a costly program, and the cost associated can hinder program participation. WAFLA has developed 3 different programs in efforts to reduce the financial burden to employers. The following are examples of cost-saving programs, available only through WAFLA:

Shared Contract Model
The shared worker or shared contract model works when there are multiple growers. In order to use the shared contract model the employers listed on the contract must have one common crop, and they must have the same period of need. The shared contract model allows employers to bring in a larger number of workers on the same contract and save application costs. This model also allows all the employers listed on the contract to share workers amongst themselves, if needed.

Shared – Non-Related Farms
Sequential Contracts Model

The sequential model creates substantial cost savings, but also requires additional planning by the employers involved. In the sequential model, there are multiple periods of need, and workers transfer between employers accordingly. This model is especially beneficial to growers with very short periods of need. The sequential model provides employers the workers they need, for the period of time they need, and does not bind employers to long periods of time under the required higher wage rate.

Contract #1
Mid March - Late May
VEGETABLES
Jefferson County, OR

Contract #2
Late May - Mid July
CHERRIES
Yakima County, WA

Contract #3
Mid July - Late August
CORN DETASSELING
Benton County, WA

Contract #4
Late August - Late October & Beyond
APPLES
Okanogan County, WA

Workers Arrive
Mid March

Workers Return Home
Late October & Beyond
Packing House Model
What’s your packing house doing for you? Packing houses are indirectly involved in finding labor for their growers by spreading the word about the need for workers throughout the areas they cover. What if your packing house did more? In 2014 an innovative packing house took it upon themselves to help their growers navigate the complex H-2A program. This packing house facilitated the H-2A process for the growers involved by helping them locate licensed housing, providing a contact person to work with WAFLA, and keeping employers informed on the status of the application and their requirements. The packing house model is a version of the shared contract model—the differences are that workers stay at the same housing, and the packing house acts as a liaison for sharing workers amongst each of the growers listed in the contract.

Request a consult today at wafla.org/guestworkers to find out which model best suits your needs, and pick a plan (see page 20). We can connect you with other growers.
1. Choose a model that fits your needs (page 17) or file a single employer application.

2. Pick a plan

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<th>Gold Recommended</th>
<th>Silver 2+ years of H-2A Experience</th>
<th>Bronze 4+ years of H-2A Experience</th>
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A challenge for H-2A employers is successfully integrating foreign and domestic workers.

Recruiting domestic labor is an essential part of a successful H-2A program, and it makes economic sense. It is more cost effective to hire domestic workers as compared with workers who come from several thousand miles away.

In December of 2013 WAFLA received an insightful letter from the Northwest Justice Project (NJP), a non-profit law firm, outlining how they believe the H-2A program discourages domestic workers.

WAFLA actively sought this input and treated it as constructive criticism. In 2014, we focused on streamlining the recruitment process in an effort to attract more domestic workers. Below are the requests by NJP and WAFLA’s responses.

1. Simplify the hiring process. Make it easier for applicants to apply for seasonal jobs in person, as they would traditionally.

**WAFLA Response:** Agreed, and done. WAFLA worked on simplifying H-2A contracts and the application process. Ultimately, only the employer is able to make a hiring decision, so it makes sense for job seekers to apply in person. Unfortunately, WorkSource has not embraced this idea and continues to ask workers in the area of intended employment to contact WAFLA rather than apply in person with the employer. WAFLA hopes to continue this conversation with WorkSource in order to implement this idea.

---

**Northwest Justice Project**

December 20, 2013

Dan Fazio
Washington Farm Labor Association
8810 Tiller Lane NE, Suite 6C
Lacey, WA 98516

Re: Hiring practices for Local Workers

Dear Dan:

This is in response to your suggestion for a meeting in Olympia to discuss how to make the H-2A program work better for local workers. I appreciate your interest in hearing from worker advocates. Given time constraints this month, I thought that I would respond by putting down some thoughts in writing instead of scheduling a meeting.

Hiring of domestic workers:

1. Simplify the hiring process. Traditionally, the hiring of farm workers in Washington has been a matter of workers showing up at the farm to ask for work, often on the basis of word of mouth from friends and relatives. The H-2A program has created too many steps, which discourage local workers. Eliminate duplicative requirements that workers be required to fill out applications, screen with WorkSource and then in addition, call to schedule a telephone interview.

   Example of a simplified process:
   a. Candidates can apply either by going to the worksite listed below or by applying at a Worksource office.
   b. At the worksite, or at Worksource, candidates will be asked about their qualifications for the job. If they are qualified, they will be told that they are hired and given instructions to report for an orientation on the Date of Need.

2. Train the foreman who will be talking with job applicants on-site as to what information is needed from applicants, what the hiring process is, and how to keep track of applicants. Inform the foreman that even though the farm has filed an application for H-2A workers, that the farm will still be hiring qualified domestic workers who apply and that local workers have preference over H-2A workers for the jobs even after the jobs have started until 50% of the contract is completed.

3. Provide workers with a card or other written documentation that they have a job and should show up on “X” date, and include a telephone number that workers can call for updates as to the start date.
2. Train foreman on how to respond to inquiries regarding the H-2A program.

**WAFLA Response:** Supervisor training is essential to a successful H-2A program. WAFLA has created a leadership training program along with increased visits by WAFLA field staff for H-2A employer training. Foreman and crew leaders are encouraged to contact WAFLA at any time should they have questions regarding the implementation of the H-2A program.

3. Provide workers with something (i.e. card) to document they are hired.

**WAFLA Response:** WAFLA will pass this on to its members. H-2A employers communicate a hiring decision to workers based on their internal company policies. If an H-2A employer determines a job candidate is able, willing, and qualified, the hiring decision is communicated to the worker in accordance with each company’s policy.


**WAFLA Response:** Once again, this is an internal decision. And it probably doesn’t make sense for a company to recruit its full time staff for seasonal job openings, any more than it would make sense for Macy’s to recruit its full time staff for holiday sales positions.

To increase awareness among domestic workers, WAFLA has approached WorkSource to jointly conduct a job fair for domestic workers, slated to take place in early spring, and to advertise using local Spanish radio stations.
Farm Bureau Legal Foundation Helps H-2A and Labor Issues

The reality of the H-2A program is that there are powerful, well-funded opponents of the legal worker program whose apparent goal is to deny workers the dignity of legal presence by making it more difficult to use the program and to discourage growers from entering the program. In order to thrive in this reality, growers need a vehicle to fund precedent-setting litigation and a public awareness education program.

Such a vehicle currently exists, in the form of the Washington Farm Bureau Legal Foundation. Individuals or businesses can make a confidential contribution, and these contributions can be designated for a particular issue such as an H-2A labor issues.

What kind of case would be considered precedent-setting? This year, the Department of Labor attempted to force employers who use the H-2A program to provide housing for non-employee family members of domestic workers. Can you imagine a worker with a family of six demanding housing for his family a month after the start of the season when nearly all beds are full? This is an issue we escaped in 2014 but could cause litigation in 2015. If so, the industry needs the funds to fight it.

The legal foundation has many advantages for the grower. Contributions are confidential, and in most cases, tax deductible (check with your tax professional to confirm your circumstances). Next, although this is not insurance and should not be construed that way, it is essential to have a vehicle that is protecting the H-2A program. Growers will be asked to contribute based on total acreage and H-2A program use. Although no one can prevent someone who uses the program from being a free rider, our input from members thus far indicates that growers want the fund, and want to contribute their fair share.

When you receive a call from WAFLA about this program, we hope you ask questions and consider a contribution. And we thank you for working with us to overcome the challenges of the H-2A program in order to make a legal and stable workforce the reality in our industry!

Database – Tracking Workers, Buses, and Visas!

Imagine that you could log onto the internet, type in a worker name or code, and see that the worker was on a bus heading toward you and would arrive in two hours. Now imagine a mobile app on a smart phone that could scan a barcode on the worker’s passport and generate a report telling you this worker had passed his consulate interview and would arrive in one day.

All these things are possible, and we are working on them right now. WAFLA has created a relational worker database and we are uploading information – in a secure environment – about all of the workers we have arranged to come to Washington State in the past four years. Our database is currently linked to our agent in Mexico, so that passport information, address, qualifications, etc. are available at our fingertips. And we are hoping to integrate this system with the onboard computers of our bus company, so that real time locations of workers and buses are available to our members.

A key component of our database is the ability for an employer to sign in and receive information about requested workers. We hope to have this service in place by spring of 2015. In other words, look for big changes in 2015 and stay tuned for status updates.
Thanks for another Great Year.
We look forward to serving your labor needs for 2015!

Pictured top row (left to right) Montserrat Walker, Dan Fazio, Kim Bresler, Oscar Trevino. Bottom row (left to right) Maria Escalera, Heri Chapula, Roxana Macias, Lorraine Stephens (Not pictured, new employee, Theresa Madden).

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decrease paperwork, save time, reduce rates

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seeking guidance, forms, or proper regulatory postings

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