



Preliminary Report

ESD administration of the H-2A temporary farmworker visa program

Jill Satran, Zane Potter, Ashley Trunnell





Legislative Auditor's Conclusion

The Employment Security Department complies with most requirements and applies many best practices when administering the federal H-2A program.

More work is needed to ensure effective coordination with other agencies, as required by state law.

JLARC directed to review ESD's administration of the H-2A program

**Assess ESD's compliance
with federal and state
requirements**

Effects of increased outreach
and compliance

ESD coordination with other
state agencies

ESD's approach to providing
culturally responsive services

H-2A temporary farmworker visa program is a federal program

Agricultural employers can get federal approval to hire foreign workers when there are insufficient U.S. farmworkers



Federal government establishes H-2A rules and policy

Initial work
in Washington

ESD

- Approves job orders
- Recruits U.S. workers
- Refers qualified applicants to employers
- Certifies temporary worker housing

After ESD
completes initial work

Federal

- Certifies temporary worker shortage
- Approves and issues visas

After H-2A
workers arrive

ESD

- Conducts field checks
- Receives worker complaints
- Conducts outreach and education

**This study
does not evaluate
the federal
program or rules**

Federal

- Enforces wage, health and safety rules

Initial work in Washington

Initial work
in Washington

ESD

Job orders • Recruiting •
Referrals • Housing

After ESD
completes initial work

Federal

After H-2A
workers arrive

ESD

Federal

Employers may be approved to use H-2A if two conditions are met

1

Labor shortage

Use the state's ag recruitment system to search for U.S. farmworkers

2

Does not adversely affect U.S. farmworkers

Offer U.S. workers the same or better wages and working conditions

ESD reviews job orders

ESD complies with federal requirements by reviewing job orders to ensure they meet H-2A rules such as:

- Wages
- Housing
- Hours
- Meals
- Transportation

H-2A Agricultural Clearance Order
Form ETA-790A
U.S. Department of Labor

b. H-2A

3. Begin Date *

4.

Require the worker to be on-call 24 hours a day and 7 days a week? *

tion 8. If "No", complete questions 6 and 7 below.

s of work per week *

	c. Monday		e. Wednesday		g. Fr
	d. Tuesday		f. Thursday		h.

services or labor to be performed. *

on C if additional space is needed.)



**ESD's U.S. farmworker
recruitment complies
with federal
requirements**

WorkSourceWA.com

Jobs are advertised in
Washington and
nationally

**Multilingual staff
help interested
workers**

Understand job
requirements and refer
to employers

Few U.S. farmworkers are hired. Many factors contribute to this.

1

Recruitment System

*relies heavily on
online job search
tools*

2

Timing

*recruitment starts
weeks before work
starts*

3

Employer Information

is redacted

2022 AGRICULTURAL AND SEASONAL WORKFORCE SERVICES REPORT

ASWS Committee
ASWS Office
Domestic Recruitment
Budget Overview
Worker Perspective
Employer Perspective



Agricultural and Seasonal Workforce Services Advisory Committee
October 2022



Increased recruitment of U.S. workers to agricultural jobs continues to be a top priority of committee

ESD is addressing recommendations provided

- ESD's customer experience study is designed to better understand the barriers to increased recruitment

ESD certifies temporary worker housing to U.S. Dept of Labor

DOH and L&I ensure health and safety standards are met

Some changes are being implemented

- Facilities housing small numbers of workers
- Hotels and motels being used as H-2A farmworker housing



After H-2A workers arrive

Initial work
in Washington

ESD

After ESD
completes initial work

Federal

After H-2A
workers arrive

ESD

Field checks • Complaints •
Outreach and education

ESD Office of Agricultural and Seasonal Workforce Services

Created by 2019 Legislature

Responsibilities include:

- Training and outreach

- Compliance activities per
federal requirements

State funding





ESD contacts H-2A farmworkers during site visits

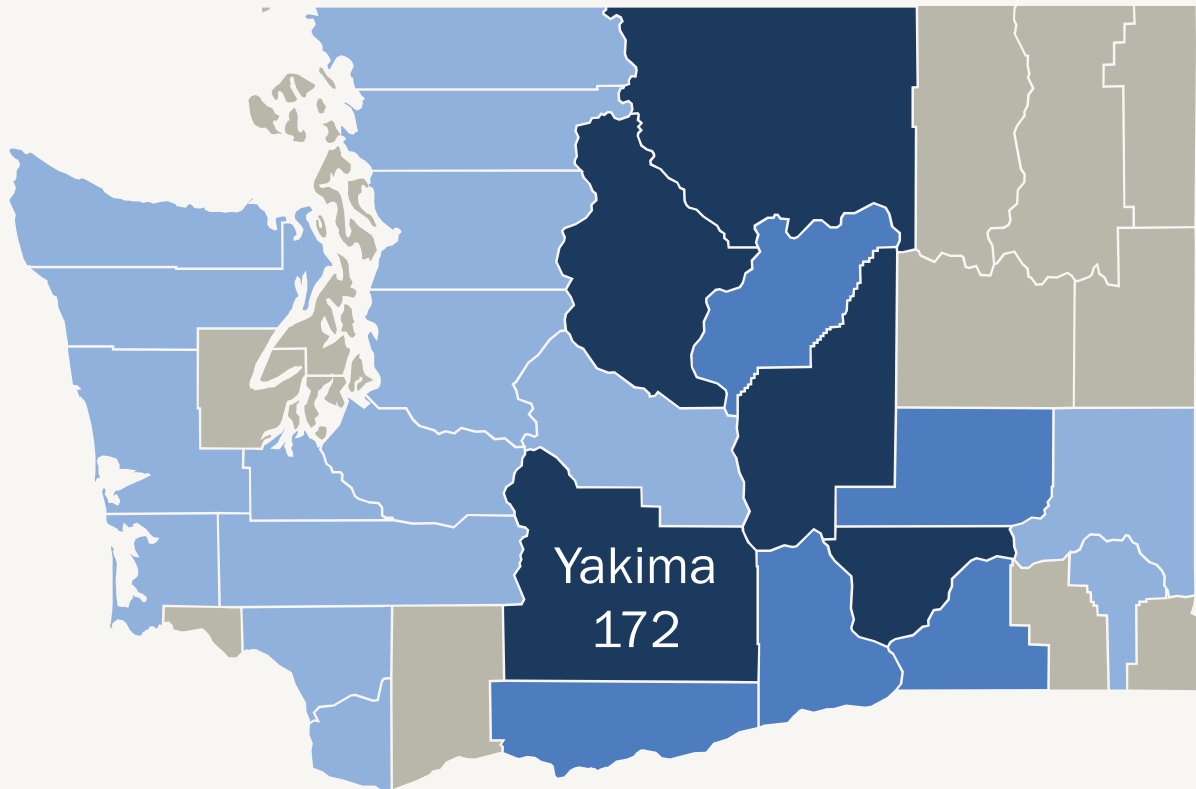
Site visits help farmworkers understand their rights and contract assurances

Allows ESD staff to observe working and living conditions of workers

ESD conducted 566 site visits in 2022

Number of 2022 site visits

● More than 35 ● 11-35 ● 1-11



ESD processes complaints and apparent violations

ESD informally resolved 69% of complaints and apparent violations in 2022

Complaints that were not resolved informally were either ineligible or referred to the appropriate enforcement agency

Complaints and apparent violations related to wages were the most common issue (29%) in 2022

Complaints and apparent violations increased in 2022

ESD's increase in site visits likely contributed to increase

Responsible unit reached full staffing in 2022



Field check: random, unannounced visit to a work site where a U.S. farmworker is hired

ESD determines whether wages, hours, working conditions, and housing are being provided as required

ESD conducted 10 field checks in 2022



Statute
**requires ESD to
coordinate**
with DOH, L&I, and
Agriculture
for field checks

ESD
**does not currently
coordinate**
with the agencies
for field checks

The agencies coordinate informally as needed
and for other activities

Legislative Auditor's Recommendation

ESD should work with DOH, L&I, and WSDA to provide a plan for determining interagency coordination for field checks

Next Steps

Proposed Final Report

April 2024

Full report

leg.wa.gov/jlarc



Contact Us

Research Analysts

Jill Satran

(360) 786-5679

jill.satran@leg.wa.gov

Ashley Trunnell

(360) 786-5181

ashley.trunnell@leg.wa.gov

Zane Potter

(360) 786-5293

zane.potter@leg.wa.gov

Project Coordinator

Valerie Whitener

(360) 786-5191

valerie.whitener@leg.wa.gov

Legislative Auditor

Eric Thomas

(360) 786-5182

eric.thomas@leg.wa.gov