



Labor Stability with WAFLA

A New Opportunity to Use the H-2A Program to Stabilize Your Workforce

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What is H-2A?



- Visa work program
 - Agricultural employer has proven labor shortage
 - Diminishing U.S. workers ready, able and willing
 - Aging labor population, lower U.S. birth rates, decreasing migration
 - Seasonal job needs, 10-months or less
 - International guest workers get legal pathway to work and return home
 - Highly regulated
 - U.S. Department of Labor, Office of Foreign Labor Certification and Wage/Hour Division (DOL)
 - U.S. Citizenship and Immigration Services (USCIS)
 - U.S. Custom and Border Protection (CBP)
 - CA Employment Development Department, State Workforce Agency (SWA) (local oversight)
 - CA Dept of Housing and Community Development (licensing)
 - U.S. (Mexican) Consulate



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H-2A Laws and Regulations

- Immigration Reform and Control Act (IRCA), 1986 created H-2A
- H-2A Application Regulation – 20 CFR, Part 655, Subpart B
 - Labor Certification Process for Temporary Agricultural Employment in the U.S. (H-2A Workers)
- H-2A Enforcement Regulation – 29 CFR, Subtitle B, V, A, Part 501
 - Enforcement of Contractual Obligations for Temporary Agricultural Workers Admitted Under Section 218 of the Immigration and Nationality Act



H-2A Core Worker Protections

- Efforts to actively recruit and hire U.S. workers
- Offer comparable or prevailing wages
- Offering comparable benefits to U.S. workers
- No strikes or lockouts of U.S. workers
- Protection from retaliation
- Lay-off protections for U.S. workers
- Housing, insurance, and transportation



Overall H-2A Program Benefits

- Employer
 - Labor stability when needed during seasonal labor-intensive jobs
 - Reliable employees motivated to work
 - FICA tax savings
 - May not provide other benefits (healthcare, retirement) for H-2A seasonal employee**
 - After a few months experience, can be highly productive
- Employee
 - Legal, safe, migration for worker in/out of U.S.
 - U.S. earnings 5-13 times what can earn in Mexico
 - Spending power in home country, life-changing
 - Highly regulated, many worker resources to address issues



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H-2A 101

- Job order (ETA 790) discloses details of job
 - Length of contract, hours offered, duties, wages, and working conditions
- Must recruit U.S. workers and hire through 50% of contract period
- Provide free, licensed housing
- Farmer pays transportation to/from home country to farm (reimbursement)
 - And daily to/from worksite
- Pay H-2A and domestic workers Adverse Effect Wage Rate (AEWR)
 - California 2025 = \$19.97/hour
 - May also require specified prevailing (piece) rate wages for harvest activities
- Guarantee 3/4 contract hours
- No Social Security and Medicare taxes (FICA savings)



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H-2A Timeline

- 90-75 days prior to Date of Need (DON = Start and End Dates)
 - Identify housing, obtain licensing
 - Draft work contract (terms and conditions)
- 75-60 days prior to DON
 - Submit contract to CA EDD for approval
- 45 days prior to DON
 - Submit contract to Federal DOL for approval
 - Housing must be licensed prior to DOL approval
- 30 days prior to DON
 - Submit application to USCIS for worker visas
- 7-3 days prior to DON
 - Workers go to consulate city, get approved for visas, cross border to U.S. farm



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H-2A Timeline (Emergency Filing)



- Removes normal filing deadlines – employers may ask for any start date as long as DOL believes it has enough time to test domestic labor market first.
- Employers who did not use H-2A the previous year or have “good and substantial cause” can qualify.
- All other H-2A requirements still apply.



WAFLA



- Mission: *Providing labor solutions, advocating for fair and sustainable labor practices, and championing the success of agricultural and seasonal industries.*
- Established in 2007 to help farmers use H-2A program
- Non-profit business association representing agriculture
 - Member board of directors
 - Retained earnings go to member services, resources and advocacy
- H-2A support
 - +300 contracts
 - +18,000 H-2A workers
 - Contracts from 1 to 3,000 H-2A workers
- Primarily supporting western U.S. agriculture (WA, OR, ID, CA)
 - Understand unique state labor issues
 - Agriculture human resource expertise



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WAFLA's *All-Inclusive* services cater to smaller farmers that need trusted service partners



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Best Practices

- Get in-depth H-2A technical training, train management/supervisors
- Know and comply with state and federal labor laws
- Human resource policies/procedures
- Define clear job descriptions
- Identify tested and trusted service providers (ask for referrals, testimonials)
- Know the government players
- Plan for language barriers (verbal, written)
- Plan for personal barriers (foreign worker living/working in U.S.)
 - First time travel long distance, for long time
 - First time cooking, cleaning, washing clothes
 - First time shopping, budgeting
 - First time sending home (Mexico) money



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H-2A Costs

- WAFLA Contract Drafting/Filing
 - \$4,270 (\$1,330 are gov. fees)
 - FELS Subscriber Exclusive Savings
 - Free membership with WAFLA (\$300)
 - \$500 discount 1st year contract filing
 - \$250 discount subsequent year filing
 - FELS Contract = \$4,270-\$500 = \$3,770 (1st year) / \$4,020 (2nd year and after)
- Per Worker H-2A “All-Inclusive” Fees
 - \$1,475 (high est.)
 - Transportation home to farm and back
 - Hotels and subsistence for travel time
 - Government fees
 - Vendor fees
 - Worker transfer between employer contracts, can save \$600 per worker
- Per night housing estimate
 - \$18-\$25 per bed per night
- Per labor hour H-2A overhead estimate (assume 160 & 320 hour scenario)
 - Sole employer = \$12.97 (\$8.36)/hour
 - Transfer employer = \$9.22(\$6.48)/hour



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Sharing H-2A Workers

- Transfer of workers between contracts (CA to growers north)
 - No more than 30-days lapse between end of 1st and start of 2nd contract
 - Can offset \$600 in H-2A per worker overhead cost
- Cherries start
 - Oregon, early June
 - Washington, mid June
- Apple thinning
 - Washington, early June
- Pear/Apple harvest
 - Oregon/Washington, early to mid-August



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Please Scan For a Visa Consultation



Go to: wafla.org/h-2a/



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